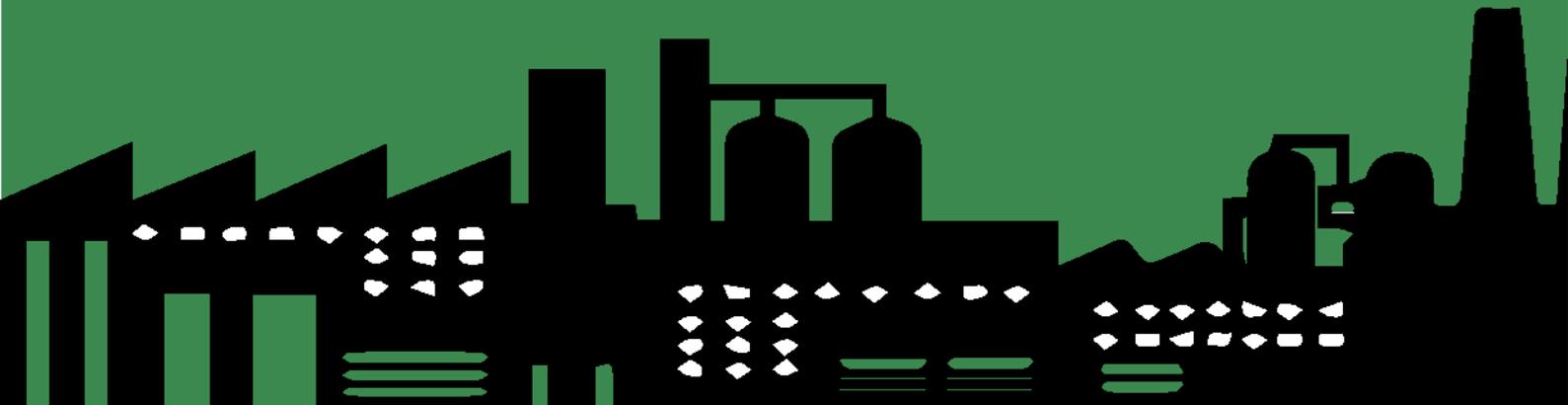


# Draft South African Article 6 Framework

## Management of International Credits/ Offsets & Other Article 6 Related Activities



**forestry, fisheries  
& the environment**

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Forestry, Fisheries and the Environment  
REPUBLIC OF SOUTH AFRICA



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# **1 DRAFTING NOTE**

Promethium Carbon and Climate Legal have been appointed by the NDC Partnership, in collaboration with the Department of Forestry, Fisheries and the Environment, to provide services related to the development of a Framework for Article 6 of the Paris Agreement in South Africa, for the management of international offsets and other Article 6 related activities.

The draft Framework that follows is presented largely in the present tense, with conceptual and associated text options denominated in square brackets.

## 2 TERMS AND DEFINITIONS

Term	Definition
<b>Additionality</b>	<p>A GHG mitigation project is “additional” if it has resulted in GHG emissions reductions or removals above and beyond those that would have occurred in the absence of the project.</p> <p>In relation to methodologies developed under the Article 6.4 Mechanism: Paragraph 38 of Section B of Part V of the Annex to Decision 3/CMA.3 provides: <i>“Additionality shall be demonstrated using a robust assessment that shows the activity would not have occurred in the absence of the incentives from the mechanism, taking into account all relevant national policies, including legislation, and representing mitigation that exceeds any mitigation that is required by law or regulation, and taking a conservative approach that avoids locking in levels of emissions, technologies or carbon-intensive practices incompatible with paragraph 33...”</i>.</p> <p>Paragraph 33 of Section B of Part V of the Annex to Decision 3/CMA.3 provides: <i>“Mechanism methodologies shall encourage ambition over time; encourage broad participation; be real, transparent, conservative, credible and below ‘business as usual’; avoid leakage, where applicable; recognise suppressed demand; align with the long-term temperature goal of the Paris Agreement; contribute to the equitable sharing of mitigation benefits between the participating Parties; and, in respect of each participating Party, contribute to reducing emission levels in the host Party, and align with its NDC, if applicable, its long-term low GHG emission development strategy, if it has submitted one, and the long-term goals of the Paris Agreement”</i>.</p>
<b>Authorised Mitigation Outcome and AMO</b>	<p>Authorised Mitigation Outcome is a mitigation outcome, or carbon credit, measured in t CO<sub>2</sub> eq, that has been issued under a recognised carbon programme or standard, and which has been provided Authorisation for International Transfer (AIT), by the South African Designated Focal Point (DFP) prior to first transfer, for use towards achievement of NDCs and/or for use for Other International Mitigation Purposes (OIMP).</p> <p>The scope of such authorization will be at three levels, at the level of a cooperative approach, at the level of entities that are to partake under the cooperative approach from both parties, as well as the level of the ITMO (the unit).</p>

Term	Definition
	<p>It is also key to note that even the article 6.4 Emissions Reduction (6.4 ER) becomes an ITMO once it is authorised. Standards seeking host country authorization, in this case South Africa – will be subjected to this framework.</p> <p>An AMO becomes an ITMO, once it is transferred to a participating Party which is also obligated to adhere to requirements for cooperative approaches, authorisation, transfer, corresponding adjustments and use of ITMOs.</p>
<b>Authorisation for International Transfer and AIT</b>	A letter, that authorises an issued AMO for international transfer for use towards achievement of NDCs and/or for use for OIMP. The authorisation is granted by the DFP.
<b>Article 6 Registry</b>	An electronic database that acts as an ownership repository for the MOs, carbon credits measured in t CO <sub>2</sub> eq, that are in the South African mitigation system.
<b>Article 6.4 Mechanism</b>	The mechanism described in Article 6.4 of the Paris Agreement, and which is administered in terms of the rules, modalities and procedures (RMPs) contained in the Annex to Decision 3/CMA.3.
<b>Article 6.4 Emission Reductions and A6.4ER</b>	The carbon credits, expressed in t CO <sub>2</sub> eq, issued under the processes established by the Article 6.4 Mechanism.
<b>Article 6.4 Letter of Approval (LoA)</b>	A formal document issued by the host Party to the Article 6.4 Supervisory Body as part of the ex-ante approval process for a specific activity under the Article 6.4 Mechanism.
<b>Article 6.8</b>	Article 6.8 of the Paris Agreement provides for integrated, holistic, and balanced non-market approaches (NMAs) to assist Parties in implementing their nationally determined contributions (NDCs). These approaches cover various aspects, including mitigation, adaptation, finance, technology transfer, and capacity building, aiming to promote ambition, enhance public and private sector participation, and facilitate coordination across instruments and institutional arrangements.
<b>Carbon Programme/ Standard</b>	A programme that provides a set of rules, guidelines and criteria that define the requirements for quantifying, monitoring, and verifying greenhouse gas (GHG) emissions reductions or removals. Such programmes provide a framework for projects activities to generate carbon credits or offsets. These programmes or standards ensure

<b>Term</b>	<b>Definition</b>
	transparency, consistency, and environmental integrity in assessing and accounting for emission reductions or removals. Some examples include the Article 6.4 Mechanism, the Gold Standard, and the Verified Carbon Standard (VCS).
<b>Carbon Offset Administration System COAS</b>	The South African Carbon Offset Administration System was established in terms of sub-regulation 5, read with sub-regulation 6 of the Carbon Offset Regulations and is the digital platform used by the South African government to manage and facilitate the administration, tracking, and reporting of carbon offset projects and carbon credits.
<b>Carbon Offset Regulations</b>	GN 1556 of 29 November 2019: Regulations on carbon offsets under section 19 of the South African Carbon Tax Act (Government Gazette No. 42873) (as amended).
<b>Carbon Tax Act</b>	The South African Carbon Tax Act (No. 15 of 2019, as amended) imposes a tax on greenhouse gas emissions from specific activities, guided by the "polluter-pays" principle. This tax encourages a shift to a low-carbon economy, aiding South Africa in meeting international climate commitments. Government-set tax rates and allowances, subject to periodic review, provide regulatory flexibility for effective environmental management.
<b>Carbon Tax rates</b>	The carbon tax rate is a charge imposed on GHG emissions generated in South Africa. It is calculated as Rand value per t CO <sub>2</sub> eq emitted by tax payers. The rate is set in the periodic South African Taxation Laws Amendment Acts.
<b>Climate change</b>	The UNFCCC defines climate change as: 'a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods. The UNFCCC thus makes a distinction between climate change attributable to human activities altering the atmospheric composition and climate variability attributable to natural causes.
<b>Conference of the Parties serving as the meeting of the Parties to the Paris Agreement or CMA</b>	The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.

<b>Term</b>	<b>Definition</b>
<b>Cooperative Approaches</b>	The bilateral and multilateral approaches assisting towards compliance with NDC commitments anticipated under Article 6.2 of the Paris Agreement. (see also: “Guidance on Cooperative Approaches”)
<b>Party</b>	A Party to the Paris Agreement, i.e., a national state that has ratified and/or acceded to the Paris Agreement.
<b>Corresponding Adjustment</b>	The accounting adjustment that country Parties are required to make for all mitigation outcomes transferred internationally as ITMOs, to ensure that double counting is avoided in accordance with Article 6.2 of the Paris Agreement, and pursuant to paragraph 36 of decision 1/CP.21.
<b>CORSIA</b>	The Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) is a carbon offset and carbon reduction scheme to lower CO <sub>2</sub> emissions for international flights, to curb the aviation impact on climate change. It was developed by the International Civil Aviation Organization and adopted in October 2016.
<b>Crediting Period</b>	The period of time for which net GHG emissions reductions or removals will be verified under a carbon programme/ standard. The crediting period is set by the respective carbon programme.
<b>DFFE</b>	Department of Forestry, Fisheries and the Environment
<b>DIRCO</b>	Department of International Cooperation and Relations
<b>DMRE</b>	Department of Mineral Resources and Energy
<b>DNA Regulations</b>	Regulation 1478 of 24 December 2004, Regulations Under Section 25(3) of The National Environmental Management Act, 1998: Establishment of a Designated National Authority for the Clean Development Mechanism.
<b>Domestic Carbon Price</b>	The domestic carbon price in South Africa is the government-mandated carbon tax rate applied annually to each tonne carbon dioxide equivalent (t CO <sub>2</sub> eq). This rate quantifies the economic cost of emitting CO <sub>2</sub> eq, incentivising businesses to reduce their carbon footprint. Additionally, the domestic carbon price encompasses the valuation of carbon offset credits, which companies can accrue by engaging in certified emission reduction projects. These credits can be used to offset a company’s carbon tax liability or be exchanged within the carbon market. As of the year 2024, South Africa’s carbon tax is set at ZAR 190 per t CO <sub>2</sub> eq.

<b>Term</b>	<b>Definition</b>
<b>Designated Focal Point and DFP</b>	The government body responsible for the administration of the Article 6 Framework.
<b>Designated National Authority and DNA</b>	The designated national authority (DNA) for the Article 6.4 Mechanism, as required by section IV (Participation Responsibilities), paragraph 26(c) of the RMP contained in the Annex to Decision 3/CMA.3
<b>Entity</b>	An Entity, for example a private, public, nonprofit organisation or other entity, that owns the mitigation action that gives rise to MOs under the Article 6.2 cooperative approaches.
<b>Extended Letter of Approval and ELoA</b>	The document required to confirm that a South African project is eligible to supply offset credits into the South African carbon tax system, in terms of paragraph 8 of the Carbon Offset Regulations. This document is based on the LoA as issued by the South African DNA for project participation in the Clean Development Mechanism (CDM), with an additional paragraph that states that the project also complies with the eligibility criteria as required under the South African carbon tax regime. The ELoA may be granted to a project activity that is registered under one of the recognised carbon programmes/standards stipulated in the Carbon Offset Regulations.
<b>Framework or Article 6 Framework</b>	A Framework for Article 6 of the Paris Agreement in South Africa (management of international offsets and other Article 6 related activities)
<b>Guidance on Cooperative Approaches</b>	“Guidance on cooperative approaches referred to in Article 6.2, of the Paris Agreement” (Decision 2/CMA.3) as elaborated by “Matters relating to cooperative approaches referred to in Article 6.2, of the Paris Agreement” (Decision 6/CMA.4)
<b>Greenhouse Gas and GHG</b>	GHGs are those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and emit radiation at specific wavelengths within the spectrum of terrestrial radiation emitted by the Earth’s surface, the atmosphere itself and by clouds. This property causes the greenhouse effect. The Paris Agreement deals with the following GHGs, carbon dioxide (CO <sub>2</sub> ), nitrous oxide (N <sub>2</sub> O), methane (CH <sub>4</sub> ), Sulphur hexafluoride (SF <sub>6</sub> ), hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs).
<b>Host Party</b>	A country Party within which a mitigation project activity, registered under a recognised carbon programme or standard, is located.

Term	Definition
<b>Internationally Transferred Mitigation Outcome and ITMO</b>	<p>Internationally transferred mitigation outcomes (ITMOs) from a cooperative approach are:</p> <ul style="list-style-type: none"> <li>a) Real, verified and additional;</li> <li>b) Emission reductions and removals, including mitigation co-benefits resulting from adaptation actions and/or economic diversification plans, when internationally transferred;</li> <li>c) Measured in metric t CO<sub>2</sub> eq in accordance with the methodologies and metrics assessed by the IPCC;</li> <li>d) From a cooperative approach referred to in Article 16.2;</li> <li>e) Generated in respect of or representing mitigation from 2021 onward;</li> <li>f) Authorized by a participating Party for use for international mitigation purposes other than achievement of an NDC;</li> <li>g) Article 6.4 emission reductions when they are authorized for use towards achievement of NDCs and/or authorized for use for other international mitigation purposes</li> </ul>
<b>Issuance</b>	<p>The action by a carbon standard/programme that follows on the verification of an emission reduction or a carbon removal that results in the creation of a carbon credit in the Registry account of the Entity that owns the mitigation activity.</p>
<b>International Transfer Authorisation Letter and ITA</b>	<p>A letter of authorisation that is granted to an Entity that authorises the international transfer of Mitigation Outcomes that are listed in the South Africa Registry. This Authorisation is granted on the credit level. (refer to AMO above for the full scope of authorization)</p>
<b>Just Transition and Just Energy Transition</b>	<p>A strategic policy initiative designed to facilitate an equitable transition towards a resilient, sustainable, and low-carbon economy. The Just Transition framework is committed to enhancing the quality of life for all South Africans by bolstering climate resilience, striving for net-zero GHG emissions by the year 2050, and promoting inclusive social development. The Just Transition prioritises the needs of communities most susceptible to the impacts of economic and environmental changes, notably the impoverished, women, individuals with disabilities, and the youth.</p> <p>The Just Energy Transition focuses on the transition of South Africa’s energy sector as the country shifts away from coal towards cleaner sources of energy.</p>
<b>Letter of Approval and LoA</b>	<p>A letter granted by the DNA in terms of the DNA Regulations. This letter is addressed to the Executive Board of the CDM confirming</p>

<b>Term</b>	<b>Definition</b>
	<p>host party approval of the mitigation project activity, further confirming that the project complies with South Africa's sustainable development criteria.</p> <p>Due to the transition of the CDM to the Article 6.4 Mechanism, this letter will now be addressed to the Supervisory Body of the Article 6.4 Mechanism, confirming host party approval of the mitigation project activity, further confirming that the project complies with South Africa's sustainable development criteria.</p>
<b>Mitigation or Mitigation Action/Activity</b>	The reduction in GHG emissions below a baseline, or the removal of carbon from the atmosphere through enhancement of carbon sinks.
<b>Mitigation Outcome and MO</b>	The result of a Mitigation Action that results in an issued carbon credit, denominated in t CO <sub>2</sub> eq.
<b>Mitigation Outcome Purchase Agreement and MOPA</b>	A legally binding agreement in which an Entity, or other owner of Mitigation Outcome, sells the Mitigation Outcome to a buyer. This buyer could be either in South Africa (domestic), or from a foreign country.
<b>Nationally Determined Contribution and NDC</b>	The Nationally Determined Contribution that each country Party to the Paris Agreement has communicated under Article 4 of the Paris Agreement.
<b>Non-market Approach and NMA</b>	Non-market Approach as described under Article 6.8 of the Paris agreement, effectively does not result in carbon credits or offsets.
<b>Other International Mitigation Purposes and OIMP</b>	Mitigation outcomes authorised by a participating Party for use for international mitigation purposes other than achievement of an NDC or authorised for other purposes as determined by the first transferring participating Party. As provided for in Part I of the Annex to Decision 2/CMA.3.
<b>Project Level Approval and PLA</b>	A letter granted to an Entity by the DFP that qualifies the Project as being eligible to generate Mitigation Outcomes, that could be later considered for International Transfer in terms of Article 6.2 guidance.
<b>Paris Agreement</b>	The Paris Agreement contained in the Annex to Decision 1/CP.21 that was adopted on 12 December 2015 at the Paris climate

<b>Term</b>	<b>Definition</b>
	conference (COP21) and which entered into force on 4 November 2016.
<b>Recognised Carbon Programme/ Standard</b>	A carbon programme or standard, recognised by the South African government as being eligible to issue MOs (carbon credits in t CO <sub>2</sub> eq), that may be authorised as ITMOs for use in Article 6 activities.
<b>Reference Carbon Price</b>	The reference carbon price, under a price-based approach, functions as a benchmark to govern ITMO transfers within carbon market transactions. This approach mandates that the prices for ITMOs must be established at a level equal to or higher than the reference carbon price, detailed in section 0. Serving as a mechanism for capping ITMO transfers, the reference carbon price ensures that transactions positively contribute to the South African carbon market by maintaining prices at or above the specified reference level in the year of ITMO delivery to the purchasing entity and/or receiving Party
<b>Rules, Modalities and Procedures and RMPs</b>	Rules, Modalities and Procedures for the mechanism established by Article 6.4, of the Paris Agreement (Decision 3/CMA.3) as elaborated by “ <i>Guidance on the mechanism established by Article 6.4 of the Paris Agreement</i> ” (Decision 7/CMA.4)
<b>Share of Proceeds</b>	An international levy on activities and/or emission credits generated under Article 6.4 and encouraged under Article 6.2, intended to assist developing countries in for climate change adaptation measures. The scope also encompasses Share of Proceeds for administrative expenses for various activities during the project cycle carried out by the Designated National Authority.
<b>Mitigation Contribution Unit (MCU)</b>	It is the mitigation benefit accruing to a host country, effectively host country benefit which seeks to enable emissions reduction within a host country, effectively sharing of mitigation outcomes under a co-operative approach. This is consistent with article 6.4c of the Paris Agreement.
<b>Subsidiary Body for Scientific and Technological Advice and (SBSTA)</b>	The SBSTA is involved in developing guidelines, modalities, and procedures for the implementation of Article 6. It works to ensure that the provisions of Article 6 are effectively and transparently operationalised. This includes providing guidance on issues such as accounting for ITMOs and the use of market mechanisms to achieve emissions reduction targets

<b>Term</b>	<b>Definition</b>
<b>Supervisory Body</b>	The Supervisory Body designated under paragraph 2 of Decision 3/CMA.3 to supervise the Mechanism established by Article 6.4 of the Paris Agreement
<b>Tonnes of Carbon Dioxide Equivalent and t CO<sub>2</sub> eq</b>	Tonnes of Carbon Dioxide Equivalent (t CO <sub>2</sub> eq) used to quantify MOs (carbon credits)
<b>United Nations Framework Convention on Climate Change and UNFCCC</b>	The United Nations Framework Convention on Climate Change which entered into force on 21 March 1994
<b>Validation</b>	An audit performed according to the rules of a specific carbon standard/ programme by auditors accredited by that standard/ programme, that results in the registration of an MO project activity with that standard/programme
<b>Verification</b>	An audit performed according to the rules of a specific carbon standard/ programme by auditors accredited by that standard/ programme that results in MOs being issued into the registry account of the Entity at the standard/programme

## CONTENTS

1	Drafting Note	4
2	Terms and Definitions.....	5
3	Introduction	16
4	Context	17
4.1	Paris Agreement	17
4.1.1	CMA Decisions.....	18
4.1.2	Principles	19
4.2	Domestic Policy Environment .....	19
4.3	Existing Legal Framework .....	23
4.3.1	Carbon Tax Act and Carbon Offset Regulations .....	23
4.3.2	The National Environmental Management Act and its Regulations .....	25
4.3.3	NEMAQA and its Regulations .....	25
4.3.4	Climate Change Act.....	26
5	Principles of South Africa’s Framework .....	27
6	Article 6.2	29
6.1	Legal Framework .....	30
6.1.1	Authorisations and Approvals.....	30
6.1.2	Technical Infrastructure (Registry).....	31
6.1.3	Other Elements Not Requiring Legal Empowerment.....	32
6.2	Institutional Arrangements .....	32
6.3	Bilateral/Multilateral Agreements and MOPAs .....	33
6.3.1	Memorandum of Understanding and/or Implementation Agreements .....	33
6.3.2	Mitigation Outcome Purchase Agreements .....	34
6.4	Internationally Transferred Mitigation Outcomes.....	34

6.4.1	ITMO Lifecycle .....	35
6.4.2	Project-level Authorisation .....	36
6.4.3	Credit-level Authorisation for International Transfer.....	37
6.4.4	ITMO Management and Accounting .....	38
7	Article 6.4	39
7.1	Legal Framework .....	39
7.2	Institutional Arrangements.....	41
7.2.1	Structures	41
7.2.2	Article 6.4 Letter of Approval .....	42
8	Article 6.8	43
8.1	Legal Framework .....	45
8.2	Institutional Arrangements.....	45
9	Technical Infrastructure (Registry).....	46
9.1	Legal Framework .....	48
9.2	Institutional Arrangements.....	48
10	Linkages	49
11	Revisions of the Article 6 Framework .....	49
12	Annexures	50
12.1	Sample Letters, Templates and Forms .....	50

### 3 INTRODUCTION

In the face of the global climate crisis, nations worldwide are seeking collaborative and innovative solutions to meet the objectives of the Paris Agreement. Article 6 provides for various mechanisms, under the Paris Agreement, for countries to enhance their climate change ambition and to collaborate in the implementation of their respective Nationally Determined Contributions (NDCs) to the global climate response. In view of the cross-sectoral, multi-institutional and procedurally complex nature of Article 6, many Paris Agreement country Parties are developing national Article 6 frameworks as the means to support its domestic implementation.

This South African Article 6 Framework (Framework) seeks to perform this function for South Africa by clarifying the evolving procedural and related requirements under the Paris Agreement and related rules, for the implementation of Article 6 in South Africa and proposing how these can be given effect to and operationalised domestically. It then sets out the related governance, institutional and legal arrangements that will need to be developed or revised to achieve these objectives.

This Framework adopts a comprehensive approach to Article 6, encompassing not only the intricacies of Article 6.2 but also extending its horizon to include Article 6.4 and Article 6.8. As a country Party to the Paris Agreement, South Africa articulates its position both to transfer and potentially receive Internationally Transferred Mitigation Outcomes (ITMOs). This dual approach illustrates the country's broad support for and understanding of the global climate response while preserving its national flexibility in seeking to achieve its NDC.

This Framework is a strategic alignment of South Africa's national priorities with the global imperative to address climate change. As outlined in the National Climate Change Response Policy and National Development Plan 2030, South Africa's climate policies are intricately linked to fulfilling the national sustainable development agenda.

The approach adopted for the Framework seeks to pragmatically align with and build upon South Africa's existing legislative and regulatory frameworks, and related institutional arrangements.

The approach adopted for the Framework seeks pragmatically to align with, and to build upon, South Africa's existing legislative and regulatory frameworks and related institutional arrangements. This approach accordingly expands upon institutional capacity and memory, takes advantage of existing mechanisms operative under South Africa's offset landscape, whilst also streamlining and evolving these governance and procedural mechanisms to adapt to Article 6 needs. South Africa will continue to build upon this approach, through a process of 'learning by doing'. This initial phase of the Framework is a direct response to the rapidly changing domestic and international circumstances that may require this approach to evolve in future.

## 4 CONTEXT

The Framework is developed within the context of the Paris Agreement and South Africa's domestic policy environment, including the specifications set out in the NDC.

### 4.1 Paris Agreement

Negotiations giving rise to the Paris Agreement were concluded in 2015. South Africa ratified the Agreement on 2 November 2016 and became a country Party to the Paris legal regime, which, together with the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, forms the triangular multi-lateral legal framework underpinning the global response to climate change. One of the fundamental goals of the Paris Agreement is to limit global warming to well below 2 degrees Celsius above pre-industrial levels, with an aspirational target of 1.5 degrees Celsius. One of the key mechanisms to achieve this temperature goal, is the requirement that each country successively develop and maintain an NDC, the contents of which are self-determined, but which are geared at achieving the overarching goals of the Paris Agreement. Each successive iteration of an NDC must represent a progression from the previous one and reflect a country's highest possible ambition.

Article 6 anticipates voluntary cooperation between country Parties in the achievement of their NDCs. Article 6 has three key operative paragraphs:

- **Article 6.2** provides an accounting framework for international cooperation and allows for the international transfer of mitigation outcomes (MOs) between countries based on mutual agreements. MOs transferred under this mechanism are referred to as ITMOs once authorised.
- **Article 6.4** establishes a central UN mechanism to contribute to mitigation of greenhouse gas emissions and support sustainable development, emission reductions generated through specific projects, analogous to the Clean Development Mechanism (CDM). Key amongst its aims is the promotion of mitigations of GhGs, incentivise participation of public and private sector entities authorised by a Party; contribute to reduction of emissions in the host country; deliver Overall Mitigation to Global Emissions (OMGE) The carbon credits to be generated under Article 6.4 are termed Article 6.4 Emission Reductions (A6.4 ERs).
- **Article 6.8** establishes a work programme for non-market approaches; the scope generally does not result in carbon credits/ offsets but focusses on those activities that contribute to advancing the NDCs and climate action in general. The non-market approaches are efforts, actions or activities that can be described as policies, strategies, regulations, bilateral and voluntary agreements, education and awareness programmes. Also, research and development projects as well as fiscal instruments that promote the development of, amongst others, renewable energy and energy efficiency technologies that support participating parties to achieve their climate change commitments. Recalling and in accordance with Article 6.8, South Africa recognizes and

acknowledges that the non-market-based approaches could also include, but not limited to, other additional Nationally Appropriate Mitigation Actions (NAMAs); adaptation actions, international finance, technology transfer and capacity building expressing the support needs and requirements as appropriate to the country’s attendant circumstances within the context of sustainable development and poverty eradication.

Many of the activities undertaken in line with the Article 6 paragraphs above must be reported on as per the requirements of Article 13 of the Paris Agreement. Article 13 establishes an enhanced transparency framework for action and support under the Paris Agreement. South Africa is a developing country with limited capacity to implement the transparency framework but is nevertheless committed to providing information on its climate change action and support. South Africa will also participate in the technical expert review of its information and will receive support for the implementation of the transparency framework.

[A detailed Article 13 Standard Operating Procedure will be developed, to guide reporting as required by the Enhanced Transparency Framework. The Article 13 Standard Operating Procedure will outline the reporting requirements related to Article 6.2 (referred to in section 6.2), Article 6.8 (referred to in section 8.2) and also Registry related requirements (referred to in section 9.2).]

#### **4.1.1 CMA Decisions**

The decisions related to the Paris Agreement and various aspects of its implementation, including article 6.2 cooperative approaches, the article 6.4 mechanism, work programmes on non market approaches and transparency frameworks, are made by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA). These decisions, listed below, are subject to potential updates and may evolve in response to changing circumstances or the needs of the Paris Agreement's objectives.

**Table 1: CMA Decisions**

<b>Theme</b>	<b>Reference</b>	<b>Decision</b>
Paris Agreement		Decision 1/CP.21
Cooperative Approaches	Article 6.2	Decision 2/CMA.3 Decision 6/CMA.4
Article 6.4 Mechanism	Article 6.4	Decision 3/CMA.3 Decision 7/CMA.4
Non-market mechanisms	Article 6.8	Decision 4/CMA.3 Decision 8/CMA.4
Reporting	Article 13	Decision 18/CMA.1 Decision 5/CMA.3

These decisions may be updated from time to time.

### **4.1.2 Principles**

The CMA established a set of requirements for participation in the Paris Agreement, particularly focusing on Articles 6.2, 6.4, and 6.8. For Article 6.2, parties are expected to have a robust infrastructure, including a registry to track ITMOs. This is crucial for ensuring accurate accounting and preventing double counting. Detailed reporting is also a key requirement, with parties engaging in ITMOs needing to provide structured summaries that align with the transparency framework. Additionally, corresponding adjustments are mandatory when ITMOs are used towards achieving NDCs.

Regarding Article 6.4, parties participating in the Mechanism must designate a national authority and communicate this designation to the secretariat. There is also the possibility for registered project activities under the CDM to transition to the Article 6.4 mechanism, provided they meet certain conditions that ensure the integrity and alignment with the goals of the Paris Agreement. The conditions for the transition are as follows:

1. Only eligible CDM project activities and programmes of activities can transition to the Article 6.4 Mechanism. A list of eligible projects is provided by the UNFCCC.
2. Project participants must submit transition requests through a dedicated transition portal, which is accessible only to focal points, to prevent misuse.
3. The deadline for submitting transition requests was 31 December 2023 and failure to meet this deadline will result in exclusion from the transition process.
4. The host Party must submit an approval of transition after fulfilling the requirements for participating in the Article 6.4 Mechanism.
5. The transition must adhere to the standard and procedure effective from 1 January 2024, as outlined by the UNFCCC. The Mechanism's primary aim is to contribute to the mitigation of GHG emissions while supporting sustainable development.
6. Article 6.8 emphasises the significance of non-market approaches in promoting mitigation and adaptation. These approaches involve finance, technology transfer, and capacity building.

## **4.2 Domestic Policy Environment**

The following table provides a comprehensive overview of South Africa's existing policies and strategies relevant to the integration of Article 6 within its climate change framework. The components outlined in the table cover various aspects, from the national GHG emissions trajectory and sectoral emissions targets, to monitoring and evaluation, carbon budgets, pollution prevention plans, and the carbon tax. Each component specifies its applicability, the corresponding legal foundation, and potential impacts of incorporating Article 6. Additionally, the table includes a section on other policies and strategies, such as the National Development Plan-2030, South Africa's NDC, Low Emission Development Strategy 2050, Draft Framework for Approval of Domestic Standards, Integrated Resource Plan, Integrated Energy Plan, and the Just Transition Framework with the Just Energy Transition Investment Plan. The relevance of each policy or strategy to the Article 6 Framework is highlighted, offering a comprehensive overview of South Africa's climate change mitigation landscape.

**Table 2: South Africa' Policy Environment**

<b>Policy</b>	<b>Objective</b>	<b>Key Mitigation Measures</b>	<b>Article 6 Integration / Considerations</b>
National Energy Efficiency Strategy (2005)	The National Energy Efficiency Strategy focuses on revising the post-2015 strategy for energy demand and operates in conjunction with building regulations to enhance energy efficiency within buildings.	Revise the strategy for energy demand post-2015 and operate collaboratively with building regulations to promote energy efficiency within buildings.	Does not directly promote or discuss the use of carbon markets.
National Climate Change Response Policy (2011)	Foundational climate change policy.	Underpins the development of a six-component Post-2020 Mitigation System.	Mentions the use of the carbon market for mitigation, including emissions offsets or trading mechanisms.
Agriculture, Forestry, and Other Land Use (AFOLU) (2015) (2017) (2018)	Various plans within the AFOLU sector, including the Climate Change Adaptation and Mitigation Plan (2015), the Conservation Agriculture Policy (2018), and the Agroforestry Strategic Framework (2017). These policies mention carbon markets to varying degrees as part of their objectives.	Develop the Climate Change Adaptation and Mitigation Plan for the South African Agricultural and Forestry Sectors. Implement the Conservation Agriculture Policy and apply the Agroforestry Strategic Framework for South Africa.	Carbon market considerations mentioned in AFOLU policies.
Green Transport Strategy (2018)	Aims to promote sustainable mobility by supporting bus rapid transit, road-to-rail initiatives, and the adoption of electric vehicles. It acknowledges the impact of CORSIA on aviation emissions but does not engage with other transport sector offset opportunities.	While acknowledging the impact of CORSIA on aviation emissions, the strategy does not explore other offset opportunities within the transport sector and does not discuss engagement with carbon markets. Overall, the focus is on fostering environmentally friendly transportation solutions to contribute to sustainable mobility goals.	Does not directly promote or discuss engagement with carbon markets.
Integrated Resource Plan and Integrated	Guides energy infrastructure investments and policy development,	The 2019 version does not expressly mention carbon markets.	Potential future decarbonisation

<b>Policy</b>	<b>Objective</b>	<b>Key Mitigation Measures</b>	<b>Article 6 Integration / Considerations</b>
Energy Plan (2019)	projecting future energy requirements.		efforts could impact the carbon market.
National Development Plan -2030	Supports the implementation of the National Climate Change Response Policy, elevating climate change to a national priority.	Proposes a regulatory framework for a domestic market in carbon offsets.	Advocates for carbon pricing, including carbon taxes and budgets.
Industrial Policy Action Plan for 2018/19 to 2020/21	Applies to the industrial sector with a focus on green industry investment. The Industrial Policy Action Plan envisages the development of policy roadmaps for climate-compatible industrial development for each sector, potentially addressing the role of carbon markets therein.	Apply the Industrial Policy Action Plan to the industrial sector focussing on green industry investment. – There is a need to develop policy roadmaps for climate-compatible industrial development in each sector.	Does not directly address or discuss carbon markets.
National Waste Management Strategy (2020)	Aims to promote the circular economy. While it does not engage meaningfully with carbon market opportunities, it emphasises the importance of transitioning towards a circular economy in pursuit of the United Nation’s Sustainable Development Goals and sustainable development. It underscores how job opportunities through the circular economy can provide a platform to achieve a Just Transition.	Promote the circular economy and emphasise transitioning towards a circular economy as per the United Nation’s Sustainable Development Goals and sustainable development. It also highlights job opportunities for a Just Transition.	Does not directly address or discuss engagement with carbon market opportunities.
The National Adaptation Strategy (2020)	Short to medium-term strategy guiding adaptation across government levels and sectors.	Does not currently address carbon markets in the context of adaptation.	No specific considerations for carbon markets mentioned.
Low Emission Development Strategy 2050 (2020)	A roadmap for achieving long-term sustainability goals, guiding a transition to a net-zero carbon economy by 2050.	Silent on carbon market but discusses measures for specific sectors and cross-cutting strategies.	The current version does not address carbon markets explicitly.

<b>Policy</b>	<b>Objective</b>	<b>Key Mitigation Measures</b>	<b>Article 6 Integration / Considerations</b>
Nationally Determined Contribution (2021)	Solidifies National Climate Change Response Policy and National Development Plan objectives, expressing GHG mitigation targets.	Commits to GHG mitigation targets covering various sectors.	Expresses an intention to use Article 6 for hosting projects and cooperative approaches with other countries.
Draft Framework for the Approval of Domestic Standards (2022)	Provides a framework for the future approval of one or more South African domestic carbon credit programmes/ standards.	Focuses on integrity, reducing administrative burdens, and accommodating South African-specific projects.	Demonstrates intentions for the future development of the carbon market.
Energy Action Plan (2022)	Aims to increase electricity supply by improving Eskom's power stations, accelerating new generation capacity procurement, doubling gas power generation, and increasing private investment in generation capacity. It also encourages rooftop solar investments and establishes the National Energy Crisis Committee.	Aims to tackle South Africa's energy challenges. It involves improving the efficiency of existing Eskom power stations and accelerating the acquisition of new generation capacity, particularly by doubling procurement for gas power through REIPPP bid window 5. The plan prioritises the review of the IRP to ensure alignment with current energy needs. Additionally, it aims to encourage investments in rooftop solar for businesses and households by introducing a feed-in tariff administered by Eskom, promoting the adoption of sustainable and diverse energy sources across the country.	No explicit mention or promotion of carbon markets.
Just Transition Framework (2022) and Just Energy Transition Investment Plan	Provides coherence and coordination for just transition planning, focusing on social and economic consequences.	Emphasises the role of fiscal instruments like the carbon tax in mobilising capital for a just transition.	The document does not specifically address the role of Article 6 or the carbon market but could be explored during implementation.

The analysis of South Africa's domestic policy environment reveals a multifaceted landscape in relation to the integration of Article 6 within the country's climate change framework. The overview provided in Table 2 assesses key policies and strategies, ranging from foundational documents like the National Climate Change Response Policy to more specific plans such as the Energy Action Plan and the National Energy Efficiency Strategy. Each policy or strategy is examined for its objectives, key mitigation measures, and considerations for Article 6 integration. The table explains the climate mitigation and adaptation approaches undertaken by South Africa, with emphasis on transition planning. While some policies explicitly mention or advocate for carbon markets, others are more indirect in their potential impact on the carbon market landscape. This overview assists in understanding the interactions between South Africa's climate change mitigation goals and the potential role of Article 6 within its domestic policy context.

### **4.3 Existing Legal Framework**

#### **4.3.1 Carbon Tax Act and Carbon Offset Regulations**

The Carbon Tax Act came into operation on 1 June 2019. Its intended purpose, it to ensure that firms and consumers take the negative adverse costs (externalities) of GHG emissions into account in their future production, consumption and investment decisions, ultimately giving effect to the polluter pays principle. The Act provides for the introduction of a domestic carbon tax in a phased manner with the first phase running from 1 June 2019 to 31 December 2025, and with the second phase extending from 1 January 2026 to 31 December 2030. At its inception, carbon tax was imposed at a base rate of ZAR120/t CO<sub>2</sub> eq but has increased to ZAR159/t CO<sub>2</sub> eq for the 2023 calendar year and will continue to rise to ZAR462/t CO<sub>2</sub> eq in 2030.

The Carbon Tax Act provides for a series of allowances and deductions to enable carbon taxpayers to reduce their liability. One of the allowances is an “offsets allowance” ranging between 5 and 10%. National Treasury has indicated that it intends to increase the offset allowance by a further 5% in 2026. In terms of this allowance, tax liable entities are entitled to reduce their tax liability by purchasing and retiring carbon offsets in accordance with the prescribed Carbon Offset Regulations, as discussed below.

The Carbon Offset Regulations permit taxpayers to reduce their tax liability by using carbon offsets generated under the CDM, the Verified Carbon Standard (VCS) and the Gold Standard, as well as any approved domestic standard, which are generated within South Africa and meet various eligibility requirements. The Regulations provide that the offsets are considered eligible under the Carbon Tax Act if they carried on in the Republic on or after 1 June 2019, and concern an activity that is not itself subject to the carbon tax.<sup>1</sup> They also contain a negative list of activities in respect of which carbon offsets are considered to be ineligible.<sup>2</sup> Further, the

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<sup>1</sup> Regulation 2(1),

<sup>2</sup> Regulation 4.

Regulations determine the date upon which carbon tax eligible offsets are deemed to be created, utilised, and extended, with varying periods for CDM, VCS, and Gold Standard projects, respectively.<sup>3</sup>

The Regulations also set out the administration of the offset system. It designates the Director General of the DMRE or his/her delegate within the clean energy branch of the DMRE as the administrator of the Carbon Offset Regulations and of COAS. The Administrator is tasked with creating an offset registry (COAS) and is responsible for maintaining it. COAS must contain a project database containing information about approved projects, the persons undertaking them and the documents that were submitted to the administrator. This includes an ownership repository consisting of an electronic database reflecting the listing, transfer of ownership and retirement of offsets.<sup>4</sup> As such, COAS contains information about which credits are registered, which reflects where ownership is transferred between parties, which have been issued certificates for retirement and which have actually been retired, or which have been revoked.<sup>5</sup>

To register on COAS, trade and ultimately claim an allowance, applicants (which can include a wide number of parties such as the owner of the project, a trader or a taxpayer) must register with the administrator and submit the relevant prescribed documents for registration. Applicants must then submit an application for an ELoA for the project. An ELoA is a letter confirming that the project complies with the Offset Regulations, as well as other related requirements.<sup>6</sup> The applicant must then apply to have the relevant credits listed, the application for which includes an ELoA for the project and a certificate of voluntary cancellation that complies with the requirements of the Carbon Offset Regulations.<sup>7</sup> Once listed, the administrator issues a listing confirmation. Should ownership of the listed credit change whilst listed on COAS, the Administrator must also ensure that the ownership information on COAS is duly altered. Should a taxpayer wish to retire an offset it holds on COAS, it can apply to the Administrator for a certificate in terms of Regulation 8(e) and Regulation 11<sup>8</sup> that would enable them to retire the relevant offsets and use them in claiming the offset allowance under the Carbon Tax Act.

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<sup>3</sup> Regulation 3.

<sup>4</sup> Regulation 6(2)

<sup>5</sup> Regulation 6(3)

<sup>6</sup> Specifically, in the case of the CDM and Gold Standard compliance projects, it confirms that the project complies with the sustainable development requirements under the DNA Regulations, or in the case of a VCS or Gold Standard voluntary project, that it meets the registration requirements of the relevant standard. (Regulation 10).

<sup>7</sup> Regulation 9(e)

<sup>8</sup> A regulation 11 certificate must contain: a unique number that must be allocated for each offset that is registered by the administrator; the geographical location of the activity undertaken in respect of which the offset is created; the identity of the person conducting or managing the conducting of the activity in respect of which the offset is created; the methodological basis in respect of which the approved project is developed as contemplated in the definition of "approved project" in regulation 1; the date of the commencement of the activity in respect of which the offset is created; the offset creation and utilisation period as stipulated by regulation 3; a statement that the certificate issued is non transferrable; and the tax period in respect of which the certificate is issued.

### **4.3.2 The National Environmental Management Act and its Regulations**

The National Environmental Management Act 107 of 1998 (NEMA) is South Africa's framework environmental legislation governing all aspects of the natural environment. It has a dedicated chapter on International Obligations and Agreements.<sup>9</sup> Section 25(3), empowers the Minister to make regulations to give effect to international environmental instruments.

In 2005 the Minister of Environmental Affairs published the Designated National Authority (DNA) Regulations in terms of Section 25(3) of NEMA, to support the development and implementation of CDM projects under the Kyoto Protocol of the UNFCCC. They designate the Director General of the DMRE as the DNA for South Africa, also empowering him or her to delegate this function to the Clean Energy Branch of the DMRE. The DNA's functions are set out in Regulation 3, namely, to establish and administer an evaluation procedure for CDM projects, confirming that they comply with the prescribed sustainable development criteria and any other guidance issued by the DNA for such projects.<sup>10</sup> The DNA is tasked with issuing Letters of Approval (LoA) confirming that the CDM project complies with the international and national criteria for CDM projects. Where appropriate the DNA also comments on Project Design Documents. It also has a wider function of facilitating the beneficial and effective participation of South Africa (including the public) within the CDM, promoting the establishment of CDM projects in South Africa, and monitoring and reporting to the Minister of Mineral Resources and Energy on CDM projects and activities.<sup>11</sup>

The Regulations further provide for the establishment of an inter-Departmental Steering Committee to oversee the functions of the DNA,<sup>12</sup> the role of which is to provide supervision and advice, make recommendations to the DNA in relation to projects that have applied to it, facilitating the issuance of administrative guidelines, facilitating cooperative governance between government departments on issues relating to the CDM, "addressing issues" arising from projects and activities submitted to it, and monitoring and reviewing the performance of the DNA, and related matters.<sup>13</sup> Whilst the DNA still has this function, the Regulations are underutilised at present as market participants no longer register their projects under the CDM, in light of its transition under Article 6.

### **4.3.3 NEMAQA and its Regulations**

NEMAQA was promulgated in 2004 and is designed to reform the laws regulating air quality. In 2014, NEMAQA was amended to introduce and amend Section 53 (a) and (aA). These provisions empower the Minister of Forestry, Fisheries and the Environment to develop regulations regarding "any matter necessary to give effect to the Republic's obligations in terms

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<sup>9</sup> Chapter 6.

<sup>10</sup> Regulation 6.

<sup>11</sup> Regulation 3.

<sup>12</sup> Regulation 4.

<sup>13</sup> Regulation 5

of an international agreement relating to air quality and climate change” and “information relating to energy that is required for compiling atmospheric emissions”.

Under NEMAQA, the Minister published National Greenhouse Gas Emission Reporting Regulations in 2017.<sup>14</sup> They require certain emitters to report their GHG emissions and they create a single reporting system that informs the National Greenhouse Gas Inventory. It is intended that reporting under the National GHG Emissions Reporting Regulations will also assist South Africa in its reporting obligations under the UNFCCC and Paris Agreement and inform the development and implementation of future legislation and policy. Reporting of data must be done by emitters through the South African GHG Emissions Reporting System (SAGERS). The SAGERS is a dedicated module of the National Air Emissions Inventory System.

#### **4.3.4 Climate Change Act 22 of 2024**

The Climate Change Act seeks to introduce legal measures for an effective climate change response and a long-term, just transition to a low-carbon and climate-resilient economy and society. One of the specific objectives of the Act is to “give effect to the Republic’s international commitments and obligations”. In its current form it does not provide for the regulation of carbon markets and carbon credits or Article 6 in any specificity. It does, however, grant the Minister of Forestry Fisheries and Environment relatively wide powers to develop regulations. Specifically, the Minister may make regulations relating to “any matter necessary to give effect to the Republic’s international climate change commitments and obligations”, including:

- The management of climate change responses including incentives and disincentives to encourage a change in behaviour towards the generation of greenhouse gases amongst all sectors of society; and
- The promotion of the effective monitoring, evaluation and assessment of national progress in relation to climate change matters and climate change data and information, including information relating to direct and indirect greenhouse gas emissions, for the purposes of planning, analysis and monitoring and the compilation of the National Greenhouse Gas Inventory, which will inform how the Republic may comply with any international obligations.<sup>15</sup>

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<sup>14</sup> National Greenhouse Gas Emission Reporting Regulations (GN 275 in *Government Gazette* 40762 of 3 April 2017) as amended by Amendments to the National Greenhouse Gas Emission Reporting Regulations (GN 994 in *Government Gazette* 43712 of 11 September 2020).

<sup>15</sup> Sections 27(1)(a) and (b) of the Climate Change Act.

## 5 PRINCIPLES OF SOUTH AFRICA'S FRAMEWORK

Within the Paris Agreement, Article 6 constitutes an important role by providing a structure for collaborative efforts among nations to reduce emissions. Article 6 introduces both market and non-market-based mechanisms, emphasising the necessity of international cooperation to efficiently achieve climate goals.

Article 6.2 focuses on market mechanisms related to ITMOs, allowing countries to engage in emissions trading and cooperative projects. Article 6.4 establishes a carbon credit mechanism to contribute to the mitigation of GHG emissions and support sustainable development. Both Article 6.2 and 6.4 are market-based mechanisms designed to enhance flexibility, promote cost-effectiveness, and encourage global collaboration.

Additionally, Article 6.8 outlines a structure for activities relating to non-market approaches (NMAs). These activities, encompassing climate-related capacity-building, technology transfer and cooperative initiatives, involving both the private and public sectors, must contribute to sustainable development.

The development of the South African Framework is built upon the following principles:

1. **Alignment with South Africa's NDCs:** this Framework establishes Article 6 infrastructure in line with the current NDC context, while recognising the evolution of the NDC within the prescribed five-year update cycles.
2. **Unit of measurement:** South African ITMOs are measured in t CO<sub>2</sub> eq, which is the standard unit of measurement for carbon credits. However, the Framework allows for flexibility in future for non t CO<sub>2</sub> eq units, if required by the country's NDCs.
3. **Environmental integrity:** South Africa is committed to upholding the environmental integrity of ITMOs through the utilisation of third-party carbon programmes as an initial strategy. This approach may evolve over time, potentially leading to the development of a customised South African Article 6.2 approach which does not utilise third-party carbon programmes to ensure environmental integrity. This principle builds on the domestic carbon tax legal regime, which acknowledges specified carbon standards and programmes for generating 'quality carbon credits'. This pragmatic approach prioritises the core function of third-party carbon programmes/standards – which is to ensure environmental integrity. The use of third-party carbon programmes serves to alleviate the administrative burden on the government while facilitating independent issuance or rejection of project activities and MOs. The Department of Mineral Resources and Energy (DMRE) has played a significant role in advancing this approach, particularly evident in the drafting of the Framework for the Approval of Domestic Carbon Standards.
4. **Rainbow list:** South Africa's Article 6 Framework puts no categorical constraints to the inclusion or exclusion of carbon project activity types, sectoral scopes or technologies, on the condition that carbon projects meet the requirements of the third-party carbon programmes/standards with which they are registered. An analysis to

determine low “hanging fruits” such as low-cost high mitigation abatement technologies to be preserved for domestic sectors, which will be informed an analysis.

5. **Sustainable development:** ITMOs must actively contribute to fostering sustainable development within South Africa. This aligns with South Africa’s approach to meeting the United Nation’s Sustainable Development Goals
6. **Increased ambition:** All ITMO projects must:
  - **Demonstrate additionality:** such as, among others, establishing the necessity of carbon finances for the implementation of the underlying mitigation project that generates emissions reductions or the demonstration of significant barriers to the implementation of the project activity.
  - **Prove surplus to regulatory requirements:** by indicating how the project activity goes beyond what is mandated by the host country's laws. For example, if new regulations were to be implemented requiring all new buildings to install solar water heaters to provide hot water, then project activities entailing the roll-out of solar water heaters would not be eligible.
  - **Demonstrate positive contribution to the South African carbon market:** By implementing a price-based approach that ensures the prices for ITMOs are set equal to or higher than the reference carbon price. The reference carbon price is [the annual domestic carbon price in South Africa, as specified in the periodic Tax Laws Amendment Acts][the carbon price in the receiving country Party. In the event that the receiving country Party does not have a reference price, the reference carbon price is the annual domestic carbon price in South Africa, as specified in the periodic Tax Laws Amendment Acts]. The reference carbon price acts as a mechanism for capping the transfer of ITMOs, ensuring that transactions contribute positively to the South African carbon market by maintaining prices at or above the specified reference level in the year of ITMO delivery to the purchasing entity and/or receiving Party. Using the domestic carbon price as the reference carbon price for exporting carbon credits can contribute to South Africa's national objectives. For example, by setting a higher threshold for exporting credits, South Africa can encourage investment in domestic carbon reduction projects, which can lead to economic diversification and job creation; enhancing energy security and driving technological innovation and sustainable development. This aligns with the national objective of developing and implementing local solutions to climate change. Furthermore, by setting a higher standard for carbon credits, South Africa can position itself as a leader in global climate action. This aligns with its objective of playing a proactive role in international environmental affairs.
  - **Provide for Share of Proceeds towards Adaptation and building climate resilience:** This will be applicable to both 6.2 cooperative approaches as well as 6.4 mechanism. Regarding levied SOP s under cooperative approaches, that will be channel towards as specific domestic fund that the country will decide on. The destination for SOP in respect of

- **Host Country benefits:** The scope of this entails having to also reduced emissions within the country – modalities for that on specific details could be further elaborated in the regulations and further articulated through the MOUs to be entered into with various countries.
7. **Provide enabling environment for development of the green economy in South Africa:** The expansion of the green economy is pivotal for achieving South Africa’s decarbonisation targets as outlined in our NDCs, concurrently fostering sustainable development and facilitating a just transition in South Africa. To ensure uninhibited growth in the domestic carbon market:
    - heavy emitters will be taxed; and
    - [no fees] [limited fees] [[limited] Article 6.2 local share of proceeds] will be levied for government services associated with Article 6 project activities. The aim is to support carbon project developers or activities that have positive environmental outcomes by reducing financial burdens.
    - Progressive fee structure will be levied for Share of Proceeds towards administrative costs, subject to the formulae to be decided.
  8. **Climate Change Act:** The Framework must be aligned with the provisions of the Act once it is officially approved.
  9. **Mechanism for international transfer:** All Authorised Mitigation Outcomes (AMOs) must be listed in the South African Article 6 Registry, to ensure efficient and effective ITMO tracking, accounting and management by South Africa.
  10. **Polluter Pays Principle:** captured in NEMA 107 of 1998, as well as the Climate Change Act. The Climate Change Act underscores the importance of the South African response achieving a just transition towards low-carbon, climate-resilient and ecologically sustainable economy and society which contributes to the creation of decent work for all, social inclusion and the eradication of poverty.
  11. **Commitment to Coordination of Non-market Approaches:** South Africa is dedicated to facilitating the utilisation and coordination of NMAs as integral components of Parties' efforts to implement their NDCs. Crucially, these actions will be contextualised within the overarching goals of sustainable development and poverty eradication.

## 6 ARTICLE 6.2

Article 6.2 constitutes a central framework for country Parties to engage voluntarily in cooperative approaches aimed at facilitating the achievement of their NDCs. It underscores the importance of sustainable development, environmental integrity, and robust accounting practices, all critical in preventing duplication of efforts. Parties are mandated to officially authorise the use of ITMOs as part of their strategies to meet their NDCs.

Each country Party participating in a cooperative approach that involves the use of ITMOs shall ensure that its participation in the cooperative approach and the authorisation, transfer

and use of ITMOs, including corresponding adjustments, are consistent with the Guidance on Cooperative Approaches and relevant CMA decisions.

This section outlines South Africa's participation in Article 6.2 by expanding on the legal frameworks responsible for enabling and implementing Article 6.2 cooperative approaches, the associated institutional arrangements and bilateral or multilateral agreements required between Participating Parties. The South African ITMO lifecycle is also outlined, with a focus on the various levels of authorisations.

## **6.1 Legal Framework**

Certain elements of Article 6.2 require empowering provisions in law to implement, whilst others only require policy or guidelines. For example, the conclusion of a bilateral agreement with another country on ITMOs does not require a legal empowering provision, however, the issuing of authorisations does.

Regulations are required to legally empower institutional arrangements related to authorisations and approvals, as well as the development and implementation of the required technical infrastructure (registry) for Article 6.2.

This section outlines the existing legal frameworks which have been used as a basis to build the legal framework required Article 6.2.

### **6.1.1 Authorisations and Approvals**

*[Option 1: makes provision for Articles 6.2 and 6.4 in one set of regulations]*

The DNA Regulations were developed to provide for the approval of project activities under the CDM and were established under the provisions of the National Environmental Management Act (NEMA). These regulations are to be [revised under the provisions of the **NEMA,**] [newly drafted under the provisions of the **Climate Change Act** when it becomes law,] [revised under NEMA and carried over to the **Climate Change Act** when it becomes law,] to reframe the regulations' purpose and objective, and introduce a series of provisions to accommodate Article 6.2 and 6.4 activities.

The institutional arrangements also require significant revision so that they address both the DMRE's role in Article 6.4 and the DFFE's role as the Article 6 Designated Focal Point (DFP).

The [revised] [new] DNA Regulations must provide for, among others:

- Establishment of the DFP, with provisions setting out its powers and functions, including empowering provisions as well as mandatory provisions in relation to Article 6.2, various rights and duties of third parties (applicants) in relation to the authorisation process;
- Provisions addressing Article 6.4, the role of the DMRE (or other institutional entity elected to carry out these functions), and related powers and duties, the rights of third parties, and related procedural requirements;

- Provisions establishing a Registry (for all carbon credits) and linkage provisions [that connect the Registry to the COAS and the Carbon Offset Regulations and the GHG Reporting Regulations, SAGERS and the National Air Emissions Inventory System.]

*[Option 2: makes provision for Article 6.2 in a new set of regulations. These Regulations would be the primary Article 6.2 regulations. The provisions for Article 6.4 would be accommodated in revised DNA Regulations, discussed under Option 2 in section 7.1 below]*

New Article 6.2 Regulations are to be drafted under [the Climate Change Act (once it becomes an act),] [under NEMA,] to cater for Article 6.2 functions. The new Article 6.2 Regulations must provide for, among others the establishment of the DFP, with provisions setting out its powers and functions, including empowering provisions as well as mandatory provisions in relation to Article 6.2, various rights and duties of third parties (applicants) in relation to the authorisation process.

The Article 6.2 Regulations will give effect to Article 6.2 through the institutional arrangements referred to in section 6.2 below.

The Regulations will also articulate the rights and procedural responsibilities of applicants for project level authorisations (PLAs) and credit level authorisations known as authorisation for international transfer (AITs) that include the documentation, process and timeframes for submitting applications for these authorisations, rights of appeal, rights of the DFP to amend and withdraw authorisations, and related administrative law rights. The prescribed contents of the applications for PLAs and AITs are discussed in sections 6.4.2 and 6.4.3 below, and these in turn will be articulated in the regulations.

The approvals and process required to implement the Article 6.4 Mechanism in South Africa are described in chapter 7.

The Article 6.2 Regulations will contain provisions that provide for additional functionalities to be added to the Article 6 Registry.

### **6.1.2 Technical Infrastructure (Registry)**

The South African Article 6 Registry will be established under a new set of Registry Regulations. [A new Article 6 Registry will be developed] [The existing COAS Registry will be adapted and expanded]. The Registry Regulations are considered in section 9.1 below.

The Registry Regulations will specify the functions that the [new Article 6 Registry] [revised COAS Registry] will perform to cater for Article 6.2. For example, these will include duties in relation to AMO transfers within the Registry and the execution of corresponding adjustments. Where required, the Registry Regulations and the DNA Regulations [and the Article 6 Regulations] will cross refer to each other.

### **6.1.3 Other Elements Not Requiring Legal Empowerment**

In respect of Article 6 memoranda of understanding, implementation agreements and Mitigation Outcome Purchase Agreements (MOPAs), these can be concluded or entered into without empowering legislation.

In relation to Article 6 memoranda of understanding and MOPAs, procedurally, the DFP is obligated to engage with the Chief State Law Advisor to conclude such agreements. This process will follow the requirements of sections 231(1) - (3) of the Constitution of the Republic of South Africa, which governs the conclusion of international agreements concluded by the Republic.

## **6.2 Institutional Arrangements**

Institutional arrangements are required at various levels to implement Article 6 in South Africa. These levels include:

- Bilateral/ multilateral levels
- Project level (including entities)
- ITMO use level
- ITMO accounting and reporting levels

The bilateral/multilateral level cooperation with foreign governments requires involvement from the Department of International Cooperation and Relations (DIRCO) and relevant legal advisors. [DIRCO is therefore responsible for authorising bilateral and multilateral agreements.]

At the technical negotiations towards cooperative approaches, project and ITMO level, the DFP is the central body involved in coordinating and managing these Article 6.2 activities. The DFP is housed within the DFFE which is responsible for the implementation of the UNFCCC, Kyoto Protocol and Paris Agreement, on behalf of the South African government.

The DFP's role and responsibilities include:

1. Issuing PLAs for Article 6.2 project activities, that result in AMOs (authorised issued carbon credits)
2. Issuing credit level AITs of AMOs
3. Powers to request additional data or information in relation to any of the above
4. Execute corresponding adjustments to account for ITMO transfers
5. Collect annual data related to ITMO authorisations, transfers and cancellations
6. Facilitate the international transfer of AMOs to recipient Parties using the Registry
7. Reporting responsibilities under the Paris Agreement, including Biennial Transparency Reports and the collection and reporting of annual data related to ITMO authorisations, transfers and cancellations, as required by the Enhanced Transparency Framework articulated in Article 13 of the Paris Agreement

8. [Management of the issued AMOs that are surrendered by project entities for Article 6.2 Share of Proceeds]

When granting PLAs for Article 6.2 MOs, it is the responsibility of the DFP to ensure the project activity adheres to the principles of the South African Article 6 Framework, including alignment with the NDC and enhancement of ambition, among others. In issuing credit level AITs, the DFP is responsible for ensuring the issued AMOs adhere the requirements for an ITMO, as set out in Decision 2/CMA.3.

The ITMO lifecycle in the South African Framework is designed to leverage the existing carbon pricing system and infrastructure. Consequently, the ITMO lifecycle aligns with the South African carbon offset project cycle, as explained in section 6.4.1. However, Article 6 authorisations are distinct from both the Extended Letter of Approval (ELoA) necessary for projects wishing to provide carbon credits into the South African Carbon Tax system, as well as the Letter of Approval (LoA) required for project activities wishing to participate under Article 6.4. The ELoAs and Article 6.4 LoAs are issued by South Africa's DNA, situated within the DMRE.

Article 6.2 and Decision 2/CMA.3 mandates the accounting and management of ITMOs through corresponding adjustments. This involves concurrent processes: employing technical infrastructure, namely the South African Article 6 Registry, for the accounting and transfer of ITMOs, and implementing corresponding adjustments for both ITMOs and authorised OIMPs. The DMRE oversees the COAS and is responsible for listing and retiring carbon credits used as offsets under the South African carbon tax. This role extends to the administration of the South African Article 6 Registry.

## **6.3 Bilateral/Multilateral Agreements and MOPAs**

### **6.3.1 Memorandum of Understanding and/or Implementation Agreements**

Participating Parties are required to authorise Article 6.2 cooperative arrangements. These may include Memorandum of Understanding and/or Implementation Agreements (sometimes also termed “Cooperation Agreements”) which are concluded between Parties to the Paris Agreement and are used to frame the cooperative, operational and commercial arrangements that have been agreed to pursuant to Article 6.2. It is anticipated that South Africa will seek to conclude such arrangements with a variety of Parties to concretise the Article 6.2 approaches, aligned with this Framework.

The voluntary Article 6 arrangements with country Parties will also be aligned with the most recent CMA decisions. Where possible, South Africa will seek to standardise the format of such arrangements, to avoid the risk of having to deal with a proliferation of different contractual and operational approaches to Article 6.2.

### **6.3.2 Mitigation Outcome Purchase Agreements**

MOPAs refer to commercial contracts for the purchase and sale of ITMOs. MOPAs may be entered into by different types of entities, including private sector and non-governmental organisations, as well as sovereign states.

MOPAs will provide for linkages between the transfer of AMOs and the achievement of NDCs, within the frame of cooperation agreements under Article 6.2. MOPAs will also need to include contractual parameters relating to corresponding adjustments, registries, safeguards and authorisation of transfer. A sovereign-to-sovereign MOPA under Article 6.2 might address unique issues such as integrating provisions related to the host country's NDC and matters relating to compliance with NDC targets.

The principles underpinning MOPAs may include, but are not limited to:

- Clear identification of and description of the counterparties and their respective rights, duties and obligations
- Mechanisms for project origination, development, implementation and investment including assigning relevant responsibilities for each of these aspects
- Mechanisms for generation and monetisation of AMOs and for regulating the disbursement of income received from such generation and monetisation
- Mechanisms for the facilitation of corresponding adjustments in the respective national GHG inventories
- An overarching management mechanism for dealing with relationships and communication between the parties, and for general project management, e.g., a steering committee constituted according to a set of principles provided for in the MOPA and operated under a by-law that is either provided for in the MOPA or designed by the steering committee as a first-order of business
- Deadlock-breaking and dispute resolution mechanisms

## **6.4 Internationally Transferred Mitigation Outcomes**

An ITMO, as stipulated in Decision 2/CMA.3, constitutes real, verified, and additional mitigation outcomes, encompassing emission reductions and removals. In the context of South Africa's NDC and Article 6 Framework, ITMOs are carbon credits that are measured in tonnes CO<sub>2</sub> equivalent. South Africa's future NDCs may consider ITMOs in different, non-GHG metrics, whereupon the Article 6 Framework may be revised accordingly.

Therefore, for the purposes of this Framework, an ITMO is an issued carbon credit, issued under a recognised carbon programme, authorised for use in achieving an NDC or for OIMPs.

This section delineates the ITMO lifecycle, specifying the necessary project-level approvals and authorisations, along with credit-level authorisations for the generation of AMOs and subsequently, the transfer of ITMOs. It encompasses both Article 6.2 cooperative approaches and approval requirements related to the AMOs arising from the Article 6.4 Mechanism.

Further information pertaining to approvals for Article 6.4 Mechanism emission reductions (A6.4 ERs), as well as the institutional structures relevant to the approvals, is provided for in Section 7.

#### **6.4.1 ITMO Lifecycle**

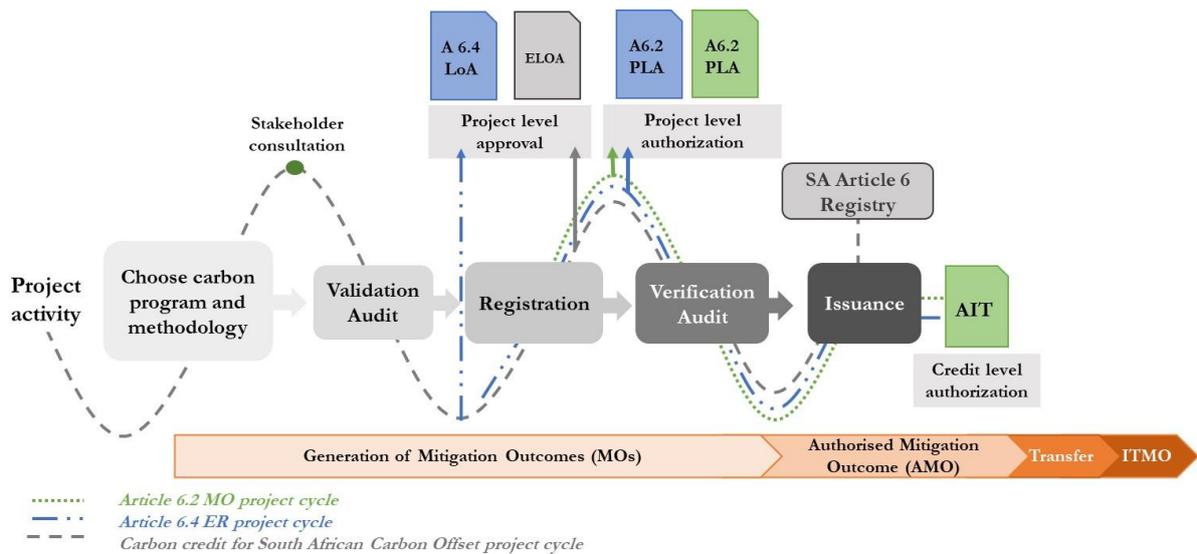
All ITMOs are generated through the registration of project activities and the issuance of MOs (carbon credits) under the recognised carbon programmes or standards that are eligible in South Africa's existing mitigation system, as outlined in the Carbon Tax Offset Regulations. These include the:

- Article 6.4 Mechanism;
- Gold Standard for Global Goals;
- Verified Carbon Standard; and
- Any other carbon programme/standard that the Minister of Energy may approve.

The Article 6.2 ITMO lifecycle necessitates a PLA (Project Level Authorisation), post the registration of a mitigation activity with one of the recognised carbon programmes. The Article 6.2 PLA is issued by the DFP, which is responsible for coordinating and managing aspects of cooperative approaches related to Article 6.2. Application requirements and procedures for the Article 6.2 PLA are outlined in section 6.4.2 below.

Following third-party verification and the issuance of MOs (carbon credits) by the recognised carbon programme, the project entity may transfer the MOs into the South African Article 6 Registry, as outlined in Section 9. If the project entity intends to transfer these MOs to a Participating Party for use against its NDC or OIMPs, the project entity must initiate the application for a credit level authorisation, through the AIT (Authorisation for International Transfer) process. This authorisation transforms a MO into an AMO (Authorised Mitigation Outcome) and is issued by the DFP. The requirements for authorisation of the AIT are outlined in section 6.4.3.

The following figure outlines the ITMO lifecycle within the context of South Africa's mitigation system, which comprises South African offsets that are utilised within South Africa's carbon tax system. The ITMO lifecycle builds on the existing systems, processes and infrastructure used in South Africa's existing mitigation system.



*A 6.2 PLA = Article 6.2 Project Level Authorization for A6.2 MOs and A6.4 ERs that intend to be transferred as ITMOs*  
*A 6.4 LoA = Article 6.4 Letter of Approval*  
*AIT = Authorization for International Transfer for A6.2 MOs and A6.4 ERs.*  
*ELOA = Extended Letter of Approval for listing as carbon tax eligible*

**Figure 1: South African ITMO Lifecycle**

All MOs seeking authorisation as ITMOs must obtain both PLA and AIT. Note that in the case of A6.4 ERs, these authorisations are required in addition to Article 6.4 approval. As per the Article 6.4 rules, approval is required prior to the registration of the project activity with the Article 6.4 Mechanism. This approval is obtained by the project entity through the Article 6.4 Letter of Approval (LoA), issued by the DNA. Information on the institutional arrangements and the Article 6.4 LoA are contained in section 7.

The receipt of the PLA will allow the issued MOs, originating in any of the recognised carbon programmes/standards, to be listed in the South African Article 6 Registry as AMOs. This is to ensure that these carbon credits are distinguished from South African carbon offsets, which may only be used in the domestic carbon tax system.

To initiate the international transfer of an AMO, the project entity must request transfer of AMOs from the South African Article 6 registry, so that these may be listed in the receiving Party's registry. Transfer occurs when the receiving Party lists the AMO in its registry, after which it becomes an ITMO. The legal agreements required to be in place to facilitate the transfer are described in section 6.3 above.

The Participating Parties must be notified of transfers so that the necessary corresponding adjustments can be made to their respective GHG inventories. ITMO management and accounting are further elaborated on in section 6.4.4.

## 6.4.2 Project-level Authorisation

The authorisation of Article 6.2 projects and/or entities will be undertaken as prescribed by the latest CMA decisions and guidance.

In the South African Article 6.2 system, project entities are required to apply to the DFP for an Article 6.2 PLA, following successful registration with a recognised carbon programme. The PLA allows the issued MOs, originating in any of the recognised carbon programmes/standards, to be listed in the South African Article 6 Registry as AMOs.

Project entities must provide supporting documentation for DFP consideration when applying for an Article 6.2 PLA. These documents include, but are not limited to:

1. The project description or project design document used to successfully register the project activity and entity/ies with one of the recognised carbon programmes/standards.
2. The validation report submitted by the third-party auditor, for the mitigation activity submitted.
3. Supporting evidence demonstrating that the MO aligns with the Principles of the South African Framework, such as evidence of alignment with South Africa's NDC and target trajectory may be required.
4. For Article 6.4 project activities planning to transfer MOs to become ITMOs, the submission of the Article 6.4 LoA is required.  
Additional documents, forms, or templates as deemed necessary.

#### **6.4.3 Credit-level Authorisation for International Transfer**

The authorisation of Article 6.2 ITMOs will be undertaken as prescribed by the latest CMA decisions and guidance.

In the South African Article 6.2 system, project entities may initiate the application process for the AIT upon the completion of a third-party verification audit and the subsequent issuance of MOs by the recognised carbon programme/standard. The DFP is responsible for receiving AIT applications and issuing successful AITs.

Project entities must provide supporting documentation for DFP consideration when applying for an Article 6.2 AIT. These documents include, but are not limited to:

1. The PLA issued for the project activity and entity/ies.
2. The verification report generated by an independent third-party auditor for the registered mitigation activity, containing the unique project number.
3. The monitoring report providing details pertaining to the issued MOs, including:
  - a. The vintage of the MOs,
  - b. The quantity of MOs issued,
  - c. The crediting period of the mitigation activity.
4. A cancellation letter from the carbon programme/standard, officially affirming the permanent removal of the specified emission reduction/removal volumes from circulation in that registry of origin. The cancellation letter must include the unique serial numbers associated with the MOs that are applying for AIT.
5. The executed MOPA between the project entity and the purchasing entity.

Any supplementary documents, forms, or templates deemed essential for the process.

#### **6.4.4 ITMO Management and Accounting**

ITMOs play a pivotal role in advancing South Africa's climate goals, offering a tangible pathway for realising cooperative approaches outlined in Article 6. Central to the ITMO lifecycle, as outlined in section 6.4.1, is the transfer of ITMOs between Participating Parties, following which there is an obligation for accounting and reporting of the transfer by both Participating Parties.

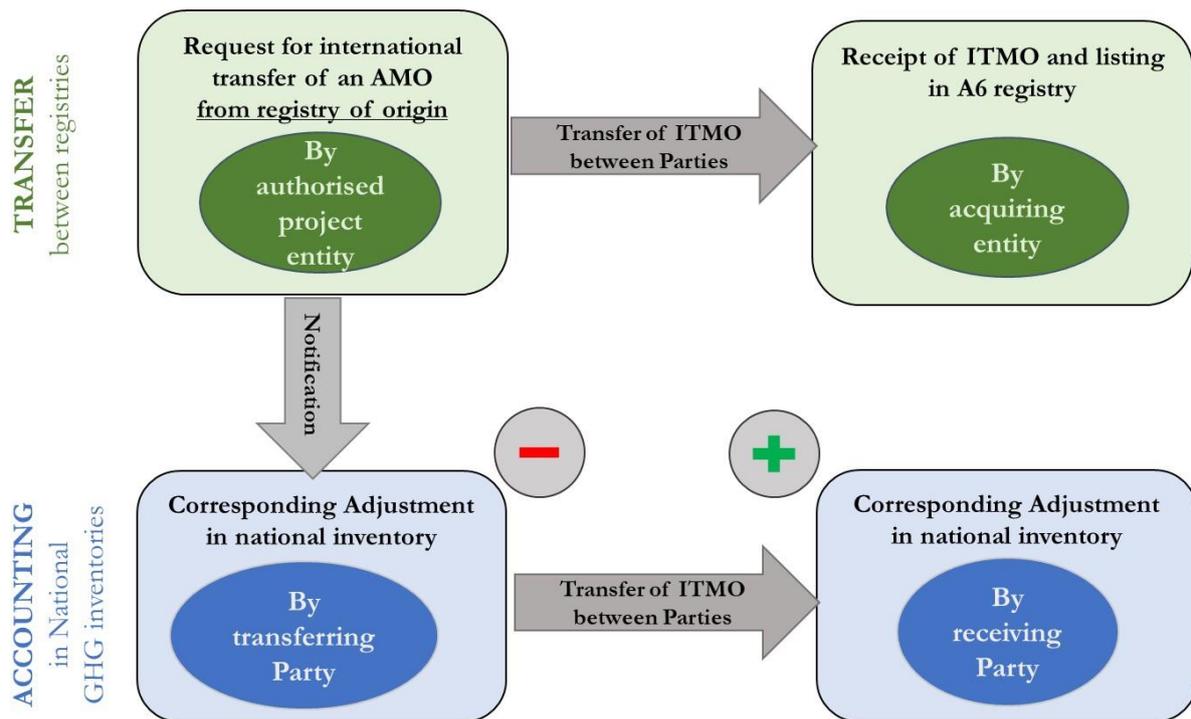
'Corresponding adjustments' is an accounting mechanism provided for under Article 6 to avoid double counting of the same ITMO within different Party inventories. Countries are required to apply corresponding adjustments based on the formulation of their NDC. South Africa has adopted a multi-year NDC approach, wherein an annual target or emissions budget is set throughout the implementation period. This model includes a trajectory indicating the expected progression of emissions levels each year, working towards achieving the NDC's ultimate target by the conclusion of the implementation period.

In line with *CMA.3 Guidance on cooperative approaches referred to in Article 6.2*, only emission reductions that have been authorised as ITMOs by the host or transferring Party will be subject to corresponding adjustments. Corresponding adjustments are also required after the first transfer of authorised mitigation outcomes for OIMP.

Furthermore, each Participating Party is required to apply corresponding adjustments in a manner that ensures transparency, accuracy, completeness, comparability and consistency and, is required to ensure that participation in cooperative approaches does not lead to a net increase in emissions within and between NDC implementation periods or across participating Parties.

For a multi-year NDC such as South Africa's, the *CMA Guidance on cooperative approaches* requires that corresponding adjustments are applied annually for the total amount of ITMOs first transferred and used each year in the NDC implementation period. The cumulative number of transferred ITMOs are calculated at the end of the NDC implementation period.

Applying corresponding adjustments requires deducting the quantity of ITMOs transferred from the Host Party in the calendar year when the mitigation outcomes contribute to the NDC's implementation and achievement, from its national GHG inventory. Simultaneously, the Receiving Party must add the quantity of ITMOs authorised for first transfer for the calendar year when the mitigation outcomes contribute towards its NDC's implementation and achievement, to its national GHG inventory. This process is illustrated in Figure 2 below.



**Figure 2: Process for corresponding adjustments**

South Africa’s Article 6 Registry will be developed in accordance with these requirements.

## 7 ARTICLE 6.4

The Paris Agreement introduced the Article 6.4 Mechanism, an international mechanism aimed at contributing to climate change mitigation and supporting sustainable development. Similar to its predecessor, the CDM, the centralised Article 6.4 Mechanism allows developers of emissions reduction and removal projects to engage in the trading of carbon credits referred to as A6.4 ERs. The mechanism’s operation is overseen by a UN Supervisory Body.

The Article 6.4 Supervisory Body plays a crucial role in overseeing the Article 6.4 Mechanism. It is responsible for developing procedures that govern the activity cycle, methodology development, and the share of proceeds, which support adaptation efforts and cover administrative costs of the Article 6.4 Mechanism.

South Africa, as a Host country, has the discretion to authorise A6.4 ERs to become ITMOs, for use towards NDC targets or OIMP.

### 7.1 Legal Framework

In accordance with Article 6.4 of the Paris Agreement, South Africa recognises the need to enhance its legal framework to facilitate and regulate participation in the Article 6.4 Mechanism, to contribute to emission reduction efforts in host Parties and to deliver an overall mitigation in global emissions (OMGE). The Article 6 Framework needs to align with the evolving landscape and the transition from the CDM to the Article 6.4 Mechanism. The revised

legal foundation ensures compliance with participation requirements, reporting obligations under Article 13, and the dynamic nature of international climate agreements.

***[Option 1: makes provision for Articles 6.2 and 6.4 in one set of regulations]***

The [revised] [new] DNA Regulations are described in section 6.1 above. The [revised] [new] DNA Regulations will subsequently cater for Article 6.4 Mechanism functions.

***[Option 2: makes provision for Article 6.4 in revised DNA Regulations. These Regulations would be the primary Article 6.4 regulations.]***

The revised DNA Regulations under NEMA will articulate the criteria for South Africa's participation in Article 6.4 activities. This includes being a Party to the Paris Agreement, maintaining its NDC, stipulating the responsibilities of the DNA and publicly indicating contributions to sustainable development. In addition, the DNA Regulations will recognise that the CDM terminated on 31 December 2020, and (under the Paris Agreement) the CDM is currently being transitioned to become the foundation of the Article 6.4 Mechanism. The DNA Regulations will include provisions for Article 6.4, addressing powers, duties and procedural requirements, which would need to be aligned with latest CMA Decisions.

Accordingly, the DNA Regulations will outline the following powers, rights and functions, among others:

1. New roles and responsibilities relating to communication and authorisations. Powers to apply for and issue an Article 6.4 LoA is required before project registration. The regulations will cater for the submission requirements and related procedural and administrative law rights and duties to obtain an LoA. Additionally, the regulations will entail handling A6.4 ERs within the [new Article 6 Registry] [existing COAS Registry] and obtaining approval for listing an entity as eligible to pay carbon tax. This is to clearly differentiate which A6.4 ERs may be used under Article 6.2 as ITMOs, and which A6.4 ERs may be used in the South African carbon tax system, as carbon offsets.
2. The DFP, responsible for the implementation and management of the Article 6 Framework, must also be legally empowered to provide project-level authorisations (PLAs) for A6.4 ERs intending to be transferred as ITMOs. In addition, the DFP will be provided legal powers to grant credit-level authorisations for credits/MOs to be internationally transferred (AIT) after issuance.
3. Furthermore, the Regulations will reflect the Article 6.4 requirements that 2% of the volume of issued A6.4 ERs must be surrendered by project entities for the OMGE account and 5% must be surrendered for the Adaptation Fund Share of Proceeds account for Article 6.4 transactions. This latter account is intended to assist developing country Parties particularly vulnerable to the adverse effects of climate change in meeting the costs of adaptation.

The Regulations will also need to specify updated reporting obligations under Article 13 of the Paris Agreement, ensuring transparency and accountability in the implementation of Article 6.4.

Separately, the Carbon Offset Regulations will be amended to cater for Article 6.4, specifically by removing references to the CDM and replacing it with references to the Article 6.4 Mechanism. In doing so, A6.4 ERs would also be eligible under the Carbon Tax.

## **7.2 Institutional Arrangements**

### **7.2.1 Structures**

There are established structures to oversee and approve Article 6.4 projects. These entities are responsible for assessing the alignment of proposed projects with South Africa's NDC, long-term low GHG emission development strategy and the principles of South Africa's Framework as set out in section 4.1.2 above.

The roles and responsibilities of the respective structures for Article 6.4 operation in South Africa include:

1. Building upon the existing DNA for the CDM, housed in the DMRE, the DNA plays a crucial role in communicating with the Article 6.4 Supervisory Body (UNFCCC).
2. The DNA may specify the crediting periods and types of Article 6.4 activities it would consider approving, along with how these activities and associated emission reductions contribute to achieving its NDC, its long-term low GHG emission development strategy and the long-term goals of the Paris Agreement. It has been established that South Africa's Article 6 Framework is impartial to incorporating or omitting carbon project activity types, sectoral scopes, or technologies, as long as these carbon projects adhere to the Framework principles stipulated in section 4.1.2, as well as requirements of the accepted third-party carbon programmes or standards under which they are registered. DNA approval of Article 6.4 Mechanism project activities and entities is provided through LoAs, detailed in section 7.2.2 below.
3. In addition to receiving an Article 6.4 Mechanism LoA from the South African DNA, projects that are seeking to convert A6.4 ERs into ITMOs must also obtain PLAs (project-level authorisations) under Article 6.2, as well as AITs (credit-level authorisations). The PLA and AIT processes are facilitated by the DFP, housed in the DFFE, as detailed in sections 6.2 and 6.4 above.

External roles and responsibilities for the operation of the Article 6.4 Mechanism include:

4. The UNFCCC Supervisory Body, responsible for:
  - 4.1. Overseeing the Article 6.4 Mechanism of the Paris Agreement, including development of procedures and guidelines related to, among others:
    - Activity cycle procedures for projects and programmes of activity
    - Activity standards for projects and programmes of activity

- Validation and verification standard for projects and programmes of activity
  - An accreditation standard and procedure;
- 4.2. Establishing the requirements and processes necessary to operate the mechanism;
  - 4.3. Accrediting operational entities;
  - 4.4. Reporting annually to the CMA; and
  - 4.5. Overseeing the approval and authorisation process for Article 6.4 activities, ensuring alignment with sustainability objectives, contribution to GHG emissions reduction, and compliance with South Africa's climate objectives.

### **7.2.2 Article 6.4 Letter of Approval**

In order for South Africa to participate in the Article 6.4 Mechanism, the DNA needs to issue an LoA prior to registration of the project with the Article 6.4 Mechanism. The LoA shall include the following information:

1. Confirmation that the project meets the eligibility criteria and the sustainable development indicators of South Africa;
2. Approval of the project design document and the baseline and monitoring methodology;
3. Approval of any potential renewal of the crediting period, if the DNA intends to allow the project to continue beyond the first crediting period;
4. Explanation of how the project relates to the implementation of South Africa's NDC and how the expected emission reductions or removals contribute to South Africa's NDC and the purposes referred to in Article 6.1 of the Paris Agreement;
5. Authorisation of public or private entities to participate in the project as activity participants under the Article 6.4 Mechanism;
6. Statement specifying whether the DNA authorises A6.4 ERs issued for the project for use towards achievement of NDCs and/or for OIMP, as defined in Decision 2/CMA.3, and if so, any relevant information on the authorisation, such as any applicable terms and provisions;
7. Specification of how the DNA defines "first transfer" of A6.4 ERs consistently with paragraph 2(b) of the annex to Decision 2/CMA.3;
8. The LoA shall be submitted to the Supervisory Body along with the request for registration of the project; and
9. The DNA shall also apply corresponding adjustments for A6.4 ERs that are authorised for use towards NDCs or towards OIMPs and for the associated A6.4 ERs levied for the Article 6.4 share of proceeds and cancelled for OMGE, in accordance with the relevant chapters of the modalities and procedures for the A6.4 Mechanism, being a contribution of 5% and 2% of the volume of A6.4 ERs issued respectively.

[A detailed Article 6.4 Mechanism Standard Operating Procedure will be developed, to guide the participating entities in the procedures and processes required for the implementation of mitigation project activities under the Article 6.4 Mechanism.]

## 8 ARTICLE 6.8

Within the framework of the Paris Agreement lies Article 6.8, defined by Decisions 4/CMA.3<sup>16</sup> and 8/CMA.4<sup>17</sup>. Article 6.8 charts the course for NMAs (non-market approaches), providing Parties with a voluntary cooperative mechanism to advance their NDCs while emphasising sustainable development and poverty eradication.

South Africa is dedicated to upholding the principles that guide the implementation of the framework for non-market approaches, as mandated by Article 6, paragraph 9, and Decision 1/CP.21, paragraph 39, of the Paris Agreement. These principles underpin South Africa's approach to addressing climate change comprehensively as follows: integrating NMA into NDC implementation, fostering linkages and synergies across diverse climate action facets, and actively participating in voluntary cooperative actions as discussed in section 0.

South Africa is responsible for identifying Article 6.8 measures, focusing on areas aligned with the Framework's provisions. South Africa evaluates experiences related to linkages, synergies, and NMA implementation, aiming to enhance existing connections.

The UNFCCC web-based platform for Article 6.8 will be used to record and share NMA-related information. South Africa will report Article 6.8 progress to each session of the CMA. This reporting will be based on information derived from the implementation of the Article 6.8 work programme activities, encompasses several key aspects, including the results achieved through the work programme activities, recommendations for enhancing existing linkages, creating synergies, and facilitating coordination and implementation of NMAs.

Additionally, South Africa will provide recommendations on how to facilitate support for NMAs, including engagement with relevant bodies, institutional arrangements, and processes connected to the Convention and the Paris Agreement, particularly in relation to mitigation, adaptation, finance, technology development and transfer, and capacity-building. Finally, South Africa will offer insights and recommendations regarding further work programme activities to effectively implement the Framework.

Potential project opportunities to consider under 6.8 in South Africa could include:

- **National Energy Grid Stabilisation and Diversification:** Implementing measures to stabilise, strengthen, and diversify South Africa's national energy grid. Funding would be directed towards grid infrastructure improvements, to accelerate renewable energy integration and coal phase-out. Funding purposes can include covering operational losses, addressing decommissioning costs, managing long-term power purchase

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<sup>16</sup> Decision 4/CMA.3 Work programme under the framework for non-market approaches referred to in Article 6, paragraph 8, of the Paris Agreement.

<sup>17</sup> Decision 8/CMA.4. Matters relating to the work programme under the framework for non-market approaches referred to in Article 6, paragraph 8, of the Paris Agreement.

agreement liabilities, and supporting individuals reliant on the coal industry. Such initiatives may be aligned with the Just Energy Transition Investment Plan, to fulfil South Africa's NDC and contribute to the goals of the Paris Agreement.

- **Sustainable Forest Management and Conservation:** Projects for enhancing and fortifying protected areas. These projects can include implementing sustainable management practices to reduce deforestation and degradation as well as reforestation initiatives to sequester carbon and enhance biodiversity. By engaging with local communities, these activities can lead to the creation of sustainable jobs and foster environmental awareness.
- **Education and Capacity Building:** Projects including scholarships programmes to study environmental sciences to enhance capacity building towards climate change in South Africa. This may include, for example, R&D climate initiatives managed by the Department of Science and Innovation.
- **Urban Greening and Sustainable Infrastructure:** The development of sustainable infrastructure projects in urban areas, such as parks, green roofs, and sustainable buildings, along with the integration of nature-based solutions to improve urban resilience to climate change. These projects foster sustainable jobs.
- **Renewable Energy Access in Underserved Communities:** Projects providing renewable energy solutions to communities with limited access to electricity, with an emphasis on community engagement and participation of local stakeholders in project development and implementation.
- **Waste-to-Energy Initiatives:** Projects converting organic waste into energy, contributing to waste management, and reducing methane emissions from landfills.
- **Capacity Building for Climate-Resilient Technologies:** Programmes to build the capacity of local communities in adopting and utilising climate-resilient technologies. Programmes may include, among others, training on sustainable practices, including renewable energy technologies and efficient resource use.
- **Eco-Tourism and Conservation Projects:** Support for initiatives promoting eco-tourism and conservation, contributing to biodiversity protection and sustainable economic development. Ensuring local communities benefit from tourism activities and integrating conservation efforts.
- **Water Resource Management:** Implementation of projects focused on efficient water resource management, addressing issues of scarcity and promoting conservation, with a community-based approach.
- **Community-Based Climate Adaptation Plans:** Projects facilitating the development of community-based climate adaptation plans, encouraging the incorporation of traditional knowledge and practices into adaptation strategies.

Within this framework, South Africa has the opportunity to explore sectors for international collaboration, aligning with specific NDC targets. These identified sectors under NMAs can serve as incremental milestones, strategically contributing to the overarching aim of achieving South Africa's NDC targets. By incorporating a specified NDC target within the context of

NMAs, South Africa can effectively utilise international cooperation as a steppingstone towards fulfilling its broader climate commitments.

## **8.1 Legal Framework**

South Africa's approach is characterised by a commitment to a comprehensive and balanced NDC implementation, involving various stakeholders, such as the public and private sectors and civil society organisations.

The focus extends beyond mitigation and adaptation, encompassing finance, technology development and transfer, and capacity-building. The voluntary nature of participation involves more than one Party, creating the need for bilateral or multilateral agreements between Parties.

NMAs under this Framework do not involve the transfer of MOs but are aimed at facilitating the implementation of NDCs of host Parties while contributing to the Paris Agreement's long-term temperature goal. These actions are to be carried out with respect for human rights, including the rights of indigenous peoples, gender equality, and the principle of intergenerational equity, and with a focus on minimising negative environmental, economic, and social impacts. As such, there are no requirements for specific Article 6.8 regulations in South Africa, as the legal requirements for Article 6.8 projects are contained in the country's existing legislative system.

## **8.2 Institutional Arrangements**

Cooperation with foreign governments requires involvement from DIRCO and relevant legal advisors. DIRCO also manages any bilateral and multilateral agreements in terms of Article 6.8. [DIRCO is therefore responsible for authorising bilateral and multilateral agreements.]

The DFP, situated within DFFE, is the authority responsible for coordinating and overseeing the implementation of Article 6.8 activities within South Africa. Accordingly, [the DFP will be responsible for authorising projects and entities].

In addition, the DFP is responsible for reporting related to Article 6.8. Reporting requirements include use of the UNFCCC web-based platform for Article 6.8, to record and share NMA-related information. South Africa will also report Article 6.8 progress to each session of the CMA and in various other reports, such as the Biennial Transparency Report and National Communications, as required by the Enhanced Transparency Framework articulated in Article 13 of the Paris Agreement.

South Africa integrates the Glasgow Committee on NMAs into the institutional framework and ensures active participation and collaboration with this committee to align South Africa's efforts with global strategies. South Africa actively participates in the Glasgow Committee on NMA committee's activities as specified in the Article 6.8 Framework. This committee

provides opportunities for cooperation, shares best practices, and ensures alignment with the broader goals of the Paris Agreement.

## **9 TECHNICAL INFRASTRUCTURE (REGISTRY)**

The effective implementation of Article 6 of the Paris Agreement necessitates the establishment of a transparent registry to track and manage international cooperative approaches and the use of market and non-market mechanisms. South Africa recognises the pivotal role of a well-structured Article 6 registry. The registry will be developed in alignment with relevant CMA decisions to ensure integrity while facilitating international collaboration and increased ambition.

South Africa's Article 6 Registry will be a single information repository for ITMOs going into and flowing out of South Africa's national borders. Accordingly, all ITMO trades must go through South Africa's Article 6 Registry.

[The Article 6 Registry will comprise a new registry.] [The Article 6 Registry will build upon the existing COAS Registry. Leveraging the proven effectiveness of the COAS system provides a valuable foundation for this new registry.]

The COAS registry will be consolidated and merged with the relevant domestic inventories, including:

- The database held in the DNA of all LOAs for the CDM
- SAGERS database

The consolidation of these inventories in a single registry will ensure consistency, avoid duplication and ensure integrity within the system and to also avoid fruitless and wasteful expenditure on registry administration.]

All Article 6 and domestic carbon tax MO listings will take place on the Article 6 Registry. Importantly, the registry will not function as a trading platform but rather as a comprehensive recording and authorisation system within the national borders.

The South African Article 6 Registry will be designed to manage both project-level approvals (in the case of Article 6.4 Mechanism and carbon tax offsets) and Article 6.2 project authorisations, as well as Article 6.2 credit-level authorisations, ensuring a comprehensive and streamlined process.

At the project level, the registry will facilitate the approval and authorisation of emission reduction project activities by providing a transparent platform for project entities to submit the required documentation. The registry will also accommodate Article 6.2 credit-level authorisations, allowing for the issuance, transfer, and retirement of ITMOs (emission reduction credits) generated by authorised projects. This dual-functionality will enable

stakeholders to track the progress of individual projects while ensuring the accurate accounting of ITMOs.

MOs (carbon credits) that are transferred into the registry are classified in several categories to distinguish credits that are eligible for use under the South African carbon tax (carbon offsets) or eligible for international transfer as ITMOs.

MOs are only eligible for use in the carbon tax system if an ELoA is issued. MOs are only eligible for use as ITMOs if they have received both a PLA and AIT.

There are different use-categories relating to MOs in the South African Article 6 Registry, with different requirements for approval or authorisation:

MO Use-category	Approval and/or Authorisation
Eligible for carbon tax but not eligible for international transfer	<ul style="list-style-type: none"> <li>• Project approval required: ELoA</li> <li>• Credit approval required: listing approval</li> </ul>
Eligible for international transfer but not carbon tax	<ul style="list-style-type: none"> <li>• Project approval required for Article 6.4 Mechanism project activities and entities: LoA<sup>18</sup></li> <li>• Project authorisation required for all Article 6.2 project activities and entities: PLA</li> <li>• Credit authorisation required for all Article 6.2 AMOs, for these to be transferred internationally: AIT</li> </ul>

The Article 6 Registry will feature interoperability with the Article 6.4 Mechanism Registry, ensuring accurate information exchange. This interoperability is critical for the effective implementation of cooperative approaches under the Paris Agreement. By establishing a connection with the global mechanism registry, South Africa aims to contribute to international collaboration and the exchange of emission reduction units while upholding the transparency and integrity of the Article 6.4 Mechanism.

The Article 6 Registry will ensure interoperability with other country-specific Article 6 registries where a Bilateral or Multilateral Agreement exists. This connectivity facilitates the transfer and tracking of emission reduction units between nations, allowing a collaborative approach to climate action. By establishing interoperability, South Africa aims to enhance transparency, trust, and the overall effectiveness of international cooperative initiatives under

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<sup>18</sup> Note that Article 6.4 project activities and MO will also require Article 6.2 PLA and ITA for international transfer of ITMOs.

the Paris Agreement. Furthermore, this feature will ensure correct accounting for corresponding adjustments.

South Africa's Article 6 Registry will account for ITMOs and maintain comprehensive records of all ITMO-related transactions. This ensures accurate and transparent tracking of emission reductions associated with international cooperation. By maintaining detailed records, the registry enables stakeholders to confidently participate in cooperative approaches while upholding the principles of environmental integrity and accountability.

The South African Article 6 Registry will assign unique identifiers to all ITMOs in compliance with Article 6 requirements to ensure traceability. These identifiers will serve as a key component in tracking and verifying the origin and status of each mitigation outcome. The use of unique identifiers enhances the credibility of the registry.

## **9.1 Legal Framework**

The South African Article 6 Registry will be established under a new set of regulations. [These regulations will be enacted under the Climate Change Act, once the Act is passed into law, given its focus on implementing the Paris Agreement and provisions expressly contemplating regulations to give effect to international obligations and commitment.] [These regulations will be enacted under the under NEMAQA and moved over to the Climate Change Act once promulgated.]

[The creation of new regulations for the establishment and operation of the Registry Regulations will also entail cross references to the Carbon Offset Regulations, which will be amended accordingly, to ensure alignment.]

The Registry Regulations will detail the mandatory information and design considerations for the South African Article 6 Registry including, for example, specification of the various accounts needed, such as a pending account, holding account, retirement account, cancellation account, account for cancellation towards OMGE and an Article 6.4 share of proceeds for adaptation account [and an Article 6.2 share of proceeds account] [and any administration fees], as well as a holding account for each Party and each public or private entity authorised to participate in Article 6.2.

The regulations will make provision for the linking of the South African Article 6 Registry to international registries and requirements to align with the Agreed Electronic Format. The regulations will also detail the process for listing credits, trades, and related approvals and authorisations.

## **9.2 Institutional Arrangements**

There are established structures to oversee and manage South Africa's Article 6 Registry, provided for in the DNA which is housed in the DMRE. The DNA will continue to be responsible for South Africa's MO system, to ensure the alignment of proposed projects with

South Africa's NDC, long-term low GHG emission development strategy and the principles of South Africa's Framework as set out in section 4.1.2 above.

The DFP, housed in the DFFE, will be responsible for the reporting of ITMOs in Biennial Transparency Reports, or more frequently, as otherwise required under the Enhanced Transparency Framework provided for under Article 13 of the Paris Agreement.

## **10 LINKAGES**

The South African Article 6 Framework builds upon the country's existing mitigation system. Accordingly, there various linkages, including:

- Drafting of successive NDCs in five-year cycles, as required by the Paris Agreement: the South African Article 6 Framework must be aligned with the provisions of new or revised NDCs
- DIRCO: the bilateral/multilateral level cooperation with foreign governments requires involvement from DIRCO and relevant legal advisors.
- SAGERS and national GHG inventory accounting: corresponding adjustments of ITMOs must be reflected the South African national GHG inventory
- Reporting: Many of the activities undertaken in line with the South African Article 6 Framework must be reported on as per the requirements of Article 13 of the Paris Agreement. [A detailed Article 13 Standard Operating Procedure will be developed, to guide reporting as required by the Enhanced Transparency Framework. The Article 13 Standard Operating Procedure will outline the reporting requirements related to Article 6.2, Article 6.8 and Registry related requirements.]
- National Treasury and the South African Revenue Service: the accounting of carbon offsets used in the South African carbon tax system must be distinguished from the AMOs that may be internationally transferred as ITMOs. Such linkages also relate to provisions in the Carbon Tax Act and Carbon offset Regulations.

## **11 REVISIONS OF THE ARTICLE 6 FRAMEWORK**

The South African Article 6 Framework is a living document, which may be updated periodically as required. The two category of factors that may drive a revision include:

- International factors, such as provisions contained in latest CMA decisions; and
- Domestic factors, such as changes in the internal policy environment and new iterations of the South African NDC, which is required to be submitted to the UNFCCC in five-year cycles.

## **12 ANNEXURES**

### **12.1 Sample Letters, Templates and Forms**

*[This is a placeholder in the Framework, as it is not included in the current scope of work under the NDC Partnership]*