CLARA

Climate Land Ambition and Rights Alliance

Release the Hostage! -- and Unleash Powerful Climate Action:

CLARA's submission on "Enabling ambition in Article 6 instruments"

Member organizations of the Climate Land Ambition and Rights Alliance (CLARA) appreciate the opportunity to comment on plans for 'enabling ambition in Article 6 instruments'. CLARA member Rainforest Foundation Norway is submitting these recommendations on behalf of the full CLARA membership.

CLARA calls for a reinvigorated focus on Article 6.8. We appreciate the huge amount of work that has been done by Parties to complete work on Article 6 mechanisms, but we are frustrated by the continued imbalance in negotiating time and attention allotted to non-market mechanisms as opposed to market mechanisms. CLARA members aren't the only ones to notice this: EU and LDC negotiators have commented on Article 6.8 being 'held hostage', while others have noted that Article 6.8 should be the easiest cooperative approach to operationalize. We agree.

Parties have made good-faith submissions with constructive suggestions on enabling ambition, governance, and use of proceeds in Article 6.8,[i] but for the most part these contributions have been sidelined in favor of a negotiating agenda fixed on the creation of carbon markets and ITMOs. This *procedural* imbalance, demonstrating a lack of 'good faith', is unfortunately perpetuated in the proposed agenda for the upcoming SBSTA sessions.[ii]

CLARA members are concerned that Annex I countries are working to limit consideration of 'climate finance' to discussions as framed in Article 6.2 and 6.4 – ignoring the very real set of climate finance possibilities that can operate outside that framework.

In this focus on Article 6.8, CLARA outlines:

a. A legal analysis of Articles 6.8 and 6.9 as the basis for stand-alone mechanisms
b. Reduced transaction and MRV costs; a simpler registration system
c. The incontrovertible fact of greater ambition under Article 6.8
d. Congruence with Sector Guidance at the Green Climate Fund (GCF)
e. Superior performance in relation to ¶15 of 1/CP.25 pertaining to linkages between biodiversity conservation and joint mitigation-adaptation (JMA)

Brief legal analysis Each of the three facets of cooperation proposed for development under Article 6 of the Paris Agreement are separately delineated and have their own distinct elements of implementation. Article 6.4 (a) explicitly notes a mitigation approach, bolstered by requirements in 6.2 for environmental integrity and avoidance of double counting; by contrast, language in Article 6.8 pertains to promoting "mitigation and adaptation" and references poverty alleviation. The most recent decision (9/CMA.2) mandates Parties to continue consideration of these separate mechanisms at its 52th session "with a view to recommending draft decisions for consideration and adoption". 'Decisions' in plural indicates the clear *procedural* possibility to 'decouple' Article 6.8 from the two market components of Article 6.

The case for de-coupling is strengthened by any "good-faith", plain-language interpretation of Article 6. Parties recognized in Article 6.1 that mechanisms of voluntary cooperation would assist Parties to achieve a higher ambition for their climate action. Article 6.8 has unique features to contribute to the continuous improvement cycle expressed through rising ambition, as codified in Nationally Determined Contributions, and supported by new and additional sources of finance.

Parties should be able to make use of the NMA framework as soon as possible. The rapid operationalization of Article 6.8 – by putting into place a work programme under the framework on NMA – could be realized through a separate CMA decision in Glasgow.

Mitigation Performance, **Land Tenure and MRV** The fundamental importance of intact ecosystems and the role of Indigenous Peoples in protecting them is clear in the scientific literature informing both IPCC and IPBES processes.[iii] Intact ecosystems are literally irreplaceable in the time available to avoid the most serious impacts of the climate and biodiversity crises. Academic and practitioner literature further shows how *improved recognition of land tenure* – and women's access to land in particular -- *community governance, and resource rights* are themselves climate solutions, particularly in relation to permanence.[iv] And yet, this lowest-cost 'Missing Pathway', with high mitigation benefits that combines the preservation and restoration of irreplaceable ecosystems with honoring human rights commitments in the Paris Agreement preamble, has received relatively little attention in Article 6 negotiations.[v]

Research by CLARA member Rainforest Foundation Norway (RFN) reveals that support for tenure security and forest management by Indigenous Peoples and Local Communities (IPLCs) in tropical countries has received only a small share of international donor funding over the last ten years — just $270 million per year on average — and that less than 20% of that funding actually reached IP organizations and local communities themselves.[vi] This research showing the severity of underinvestment in tenure solutions, combined with research from CLARA's 'Missing Pathways' report showing the size of the non-market opportunity associated with protecting primary ecosystems and improving tenure security for IPLCs and women, together indicate the opportunity for a major scale-up of cost-effective climate action through Article 6.8. The creation of a mechanism under Article 6.8 to scale up these non-market *and* cost-effective approaches to joint mitigation and adaption need not await the outcome of other Article 6 discussions. As a reminder, 1.5 billion local and indigenous people have secured rights over forest resources through community-based tenure.[vii]

Equally important, the *failure* to consider resource tenure will likely mean reduced mitigation performance, reduced social acceptance of climate-mitigation and adaptation strategies, and *much* higher MRV costs for any activities associated with Articles 6.2 and 6.4. We look forward to discussing also how the Local Communities and Indigenous Peoples Platform can play an important role in building support for LCIP-centered mitigation and adaptation strategies, and the Platform's relevance to Article 6.8 outcomes.

Greater Ambition, Real Zero CLARA appreciates the intense focus on 'environmental integrity' in mechanisms proposed under Article 6.2 and 6.4. In this setting, "integrity" is viewed through the lens of verifiability, and the lack of double-counting.

These are fine goals, but in CLARA's view, they are too narrow and don't address the underlying biophysical problem associated with offsets – even when such offsets are 'high integrity' and subject to

corresponding adjustments. The level of necessary ambition precludes reliance on the use of offsets. One problem is the lack of atmospheric space available for offsetting in climate-mitigation-relevant timeframes. Another is the additional pressure on land and land prices that offset markets create.

CLARA rejects the attempt to normalize the use of offsets through reference to 'Nature-based Solutions'. This term is not defined within the UNFCCC. We point instead to the typology used by the GCF in its recent draft 'Forests and Land Use' sectoral guidance as an appropriate framework for non-market activities. In discussing "Investment Criteria for Impactful Forest and Land Use Proposals," GCF sector guidance notes that:

> The greatest mitigation potential in the land sector lies in protection, followed by restoration of degraded forests and deforested areas, and many core barriers to paradigm shift in forest protection and restoration are best addressed via grant financing. REDD-plus RBPs can also stimulate improvements in forest governance as well as provide incentives to achieve non-carbon benefits. Priority approaches are also all those that reduce land use change toward models of sustainably managed land use.[viii]

This strong justification for non-market approaches – based on the priorities of Protection, Restoration, and Sustainable Forest Management centered on community forest governance – can anchor an Article 6.8 mechanism, distinct from the less well defined 'Nature-based Solutions' approach now being pursued under Articles 6.2 and 6.4.

New Resources to support Article 6.8 Over the past decade, the most ambitious partnerships for land-sector climate action have been through the use of non-market mechanisms. At the same time, two new types of proposals have been made to mobilize global 'public goods' for purposes like COVID-19 recovery and to address the threats associated with climate change.

The first of these proposals complements the 'common but differentiated responsibilities' (CBDR) lens that operates formally within the UNFCCC at the Party level by implicitly pricing emissions associated with luxury consumption – but here, impacting choices made by the individual. The mechanisms include levies on international air travel and fossil fuel extraction; financial transaction taxes; and the use of bunker fuels associated with international shipping of goods.

The second type of proposal relates much more to incentivizing Parties in relation to monetary policy and macroeconomic stability. Examples of the latter include the purchase of debts at discount rates that are then waived in exchange for new debt issued in local currency, which is earmarked for ecosystem financing – 'climate-debt swaps'.

The most comprehensive macroeconomic proposal pertains to the use of new Special Drawing Rights (SDRs), with an improved balance of SDRs held by developed and developing countries respectively. SDR issuance could contribute *this year* to more comprehensive debt relief and recovery financing, aligned with new / updated nationally determined contributions (NDCs). SDR issuance has also been mentioned as a source of funding for Loss & Damage.

CLARA here briefly outlines a funding base specific to Article 6.8, with both unique elements and macroeconomic approaches that intersect with other green recovery efforts. We do so conscious of the needs for broader economic recovery financing, and the unique burdens that the pandemic has placed on public budgets. However, we also note that the contemplated use of instruments such as SDR issuance or re-allocation is at a vastly larger scale than what CLARA outlines with respect to the creation

and funding of Article 6.8 mechanisms. The unique elements pertain to incremental levies on high-carbon modes of luxury consumption that should be phased down:

- **International Air Travel.** An escalating fee on international airline tickets of greater than 700 miles, as well as levies on private and chartered jet use. The LDC Group has raised this idea in the context of adaptation financing by proposing a flat fee of just USD 5-10 on international airline tickets.[ix] A USD 10 levy enacted globally would raise USD **10 billion a year.**
- **Financial Transaction Tax** is a very small tax on trade of stocks, derivatives, currency, and other financial instruments. The taxes have a dual purpose: to raise revenue while damping speculative activity. A variety of estimates have been used, going back to the UN Secretary-General's High-Level Advisory Group on Climate Change Financing in 2010. Worldwide implementation of an infinitesimal tax on financial instruments would in our estimation raise USD **30 billion a year**.
- **Levy on oil, coal, and gas extraction.** The civil society Climate Damages Tax coalition estimated that just a USD $5 levy of each ton of embedded carbon (CO_2e) now being extracted globally by the fossil fuel industry would generate almost $300 billion a year[x] – recognizing that this amount would decline with reduced fossil fuel use unless the levy were gradually escalated. We propose the use of 20% of the 2020 amount to support non-market mechanisms under Article 6.8 (approximately USD **60 Billion a year**).

In Figure 1, CLARA has illustrated the composition of a $100 billion per year set of funding streams, of new and additional finance, to support *transformative* non-market actions in the land sector. The GCF has the mandate to pursue transformative solutions, and we find in its draft sector guidance on land use and forestry a strong basis for action under Article 6.8, using the prioritization approach based on criteria to be finalized this year. Figure 2 shows the order-of-magnitude greater opportunity that new and additional finance could create – greater in one year than the *cumulative* value of all voluntary market transactions to date.[xi]

The possible application of Special Drawing Rights is not considered in more detail here, noting that any SDR revenues would likely be used for pandemic response in most countries. However, SDR reallocation can easily be envisioned as a form of non-market finance under Article 6.8, whereby SDRs would contribute to comprehensive debt relief, recovery financing, and the fulfillment of NDC objectives. See Figure 3.

Biodiversity CLARA reads the "opportunities for coordination across instruments and relevant institutional arrangements" referred to in the Paris Agreement under Article 6.8(c) in combination with Paragraph 15 of the Chile Madrid Time for Action document (1/CP.25), which "[u]nderlines the essential contribution of nature to addressing climate change and its impacts and the need to address biodiversity loss and climate change in an integrated manner."

CLARA joins other organizations and networks calling for the urgent development of an integrated work program on climate change and biodiversity – coordinating across instruments within the Convention on Biological Diversity and the Convention to Combat Desertification – focused also on learning from indigenous governance and management experiences. CLARA appreciates Bolivia's proposal on Joint Mitigation and Adaptation for Sustainable Management of Forests (JMA),[xii] its emphasis on the multiple benefits provided by functioning ecosystems, and its refusal to reduce questions of ecosystem integrity

to that of merely trading units of carbon. An Article 6.8 mechanism could even serve the dual purpose of implementing commitments toward low-carbon development and helping to achieve the 2030 Global Biodiversity Framework targets. These targets are inextricably linked to JMA efforts.

In conclusion:

- CLARA urges renewed focus on Article 6.8 as it can enable ambition in a way that builds resilience, harnessing the mitigation potential of land and ecosystems, while ensuring respect for the rights of Indigenous Peoples and Local Communities.
- We urge the immediate development of this stand-alone non-market approach mechanism, because of its intrinsic merit, but also due to our concern that the conclusion of weak market mechanisms elsewhere in Article 6 will entrench offset approaches that are harmful to a rapid and transformative global mitigation effort. Article 6.8 must provide an appropriate counter-weight, more focused on climate resilience, biodiversity conservation, and the gender-responsive rights of local communities and indigenous peoples.
- CLARA urges the development of mechanisms under Article 6.8 to scale up the true 'paradigmatic change' in land use as called for in the GCF's overall mandate and currently embodied in its land-use sector guidance.
- CLARA notes the congruence between the original 'Joint Mitigation and Adaptation' submission made by Bolivia in December 2014, and the more recent recognition of the functional role of ecosystems in climate mitigation and resilience. We also note the importance of Ecosystem-based Adaptation (EbA) as precedent in the Convention on Biological Diversity.
- We expand on the concept of 'CBDR' in the Convention, reaffirmed in the Paris Agreement, to indicate that those with greater capacities (including individuals) should do more, and sooner. We apply this logic to funding for a non-market mechanism, based on the mobilization of global public goods, financed by those with the greatest ability to pay. Their greater capacity implies an outsized responsibility to contribute.

CLARA members deeply appreciate the opportunity provided by the SBSTA and the Secretariat to forward this Proposal. The unique features of Article 6.8 – the focus on poverty alleviation, JMA, and capacity building – can provide vital support to developing countries, particularly those constrained in the use of proposed market mechanisms. Broadly, CLARA urges Parties to unleash powerful climate action through the broader mobilization of public resources to address this critical moment of inter-locking global crises of climate, health, and biodiversity. **Specifically, we urge a separate decision on NMAs at the third session of the Conference of Parties serving as the meeting of the Parties to the Paris Agreement (CMA) in Glasgow.**

FIGURE 1 CLARA's model to mobilize $100 billion annually for non-market approaches

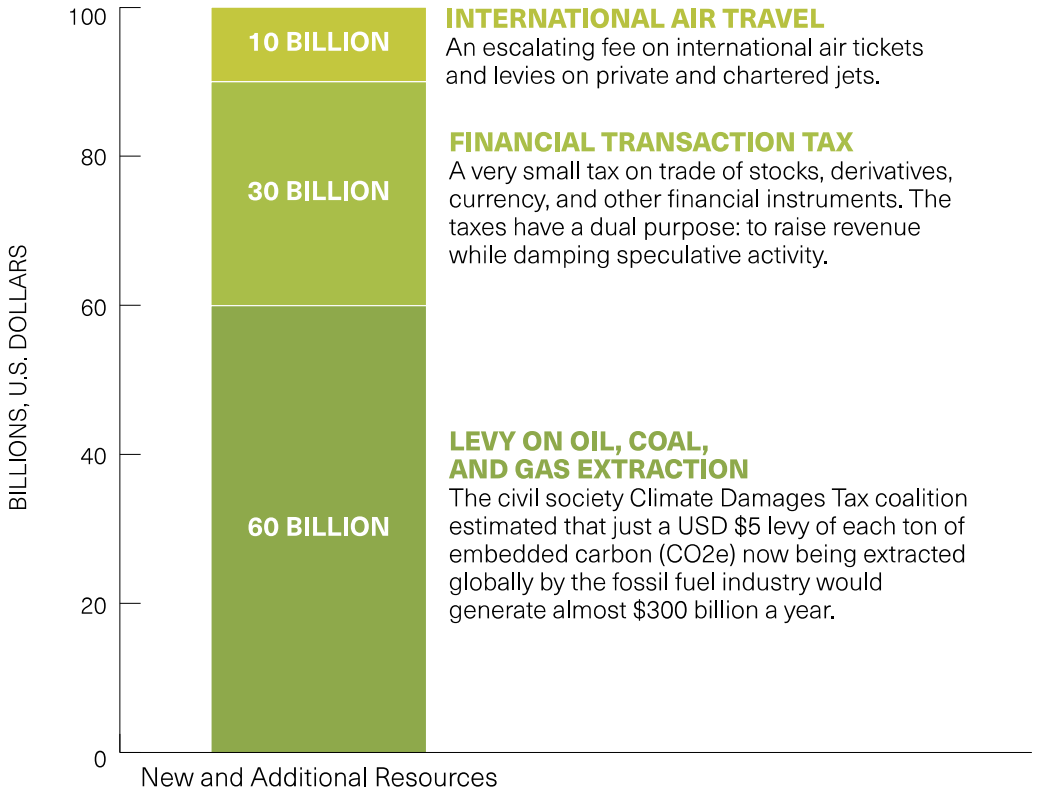


FIGURE 2 New and Additional Public Finance, proposed volumes, compared to VCMs

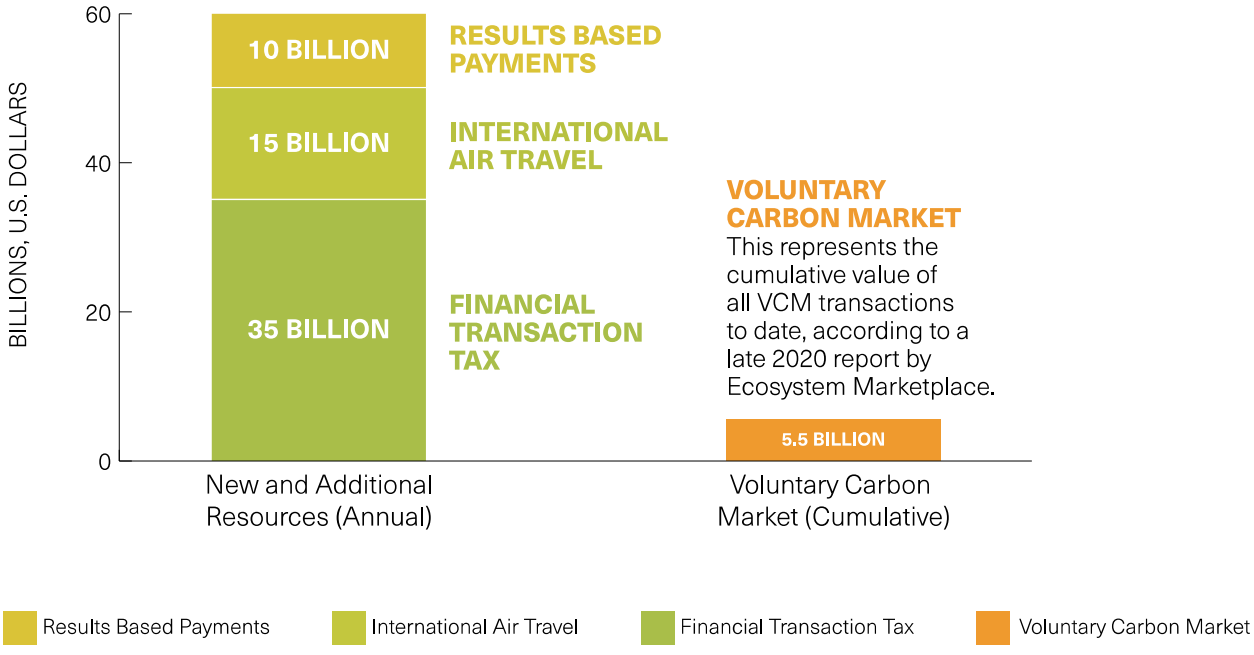
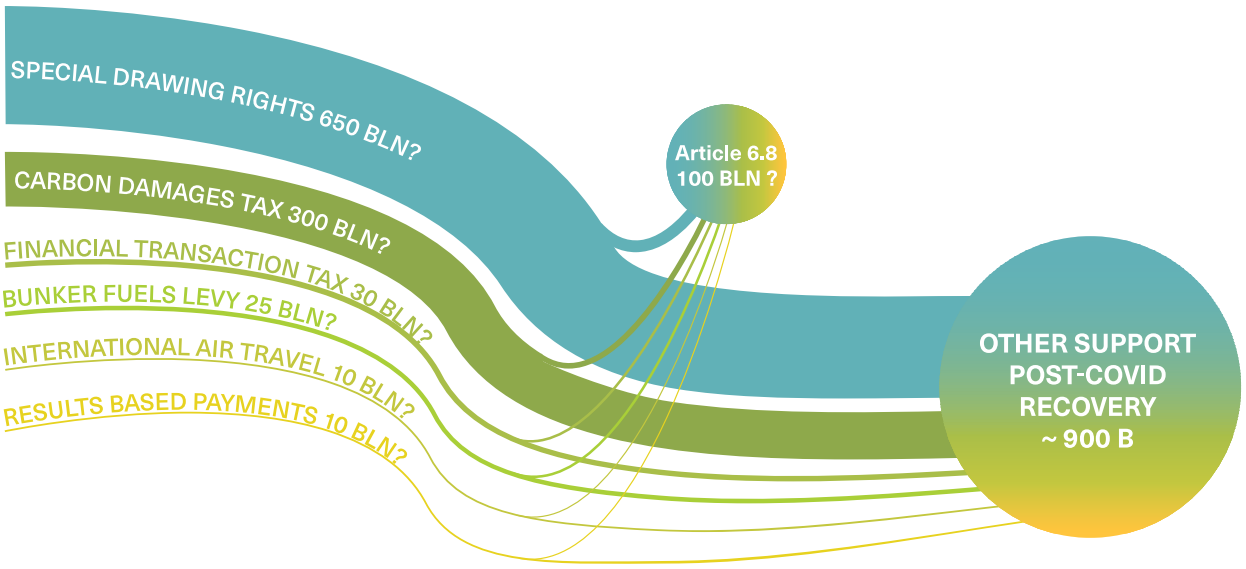


FIGURE 3 Various public sources support post-Covid recovery – and Article 6.8 mechanisms



ENDNOTES

[i] See www.unfccc.int/topics/markets--non-market-mechanisms/resources/views-on-non-market-based-mechanisms.

[ii] "Note by the Chairs of the subsidiary bodies on the modalities for session organization in the first sessional period ((31 May–17 June 2021)": "We will take up at least the topics that were already communicated to Parties as the dialogues under this series, namely: enabling ambition in Article 6 instruments, clean development mechanism activity transition to the Article 6.4 mechanism; implementing overall mitigation in global emissions in the Article 6.4 mechanism; use of Kyoto Protocol units towards NDCs and reporting and accounting for GHGs and non-GHGs under Article 6.2. *If time allows, we will also cover aspects of implementing the Article 6.8 framework and other topics identified by Parties as necessary…*" (italics added)

[iii] The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) noted that land degradation has been less severe or avoided in areas held or managed by Indigenous Peoples and Local Communities. See also "A Global Baseline for Carbon Storage in Collective Lands – Indigenous and Local Community contributions to Climate Change Mitigation", Rights and Resources (2018); https://rightsandresources.org/wp-content/uploads/2018/09/A-Global-Baseline_RRI_Sept-2018.pdf.

[iv] See CLARA's 2018 report 'Missing Pathways to 1.5°C: The Role of the Land Sector in Ambitious Climate Action", 1.5°C Report — CLARA (climatelandambitionrightsalliance.org).

[v] See *inter alia* "Scaling-Up the Recognition of Indigenous and Community Land Rights: Opportunities, Costs and Climate Implications", Rights and Resources Initiative and The Tenure Facility, 2021;

https://rightsandresources.org/wp-content/uploads/2021/03/Scaling-Up-the-Recognition-of-IP-and-Community-Land-Rights-Opportunities-Costs-and-Climate-Implications-Final.pdf; "Evidence linking community-level tenure and forest condition: An annotated bibliography", Frances Seymour, Tony La Vina, and Kristen Hite; published by the Climate and Land Use Alliance, 2014; www.climateandlandusealliance.org/wp-content/uploads/2015/08/Community_level_tenure_and_forest_condition_bibliography.pdf. For an approach relevant to the development of appropriate non-market mechanisms, see "Community Conservation Resilience Initiative -- Methodology", Global Forest Coalition (2014): https://globalforestcoalition.org/wp-content/uploads/2014/06/New-Last-CCR-Initiative-methodology_May-2014.pdf.

[vi] "Falling Short: Donor funding for Indigenous Peoples and local communities to secure tenure rights and manage forests in tropical countries (2011–2020)", Rainforest Foundation Norway, 2021; https://d5i6is0eze552.cloudfront.net/documents/Publikasjoner/Andre-rapporter/RFN_Falling_short_2021.pdf?mtime=20210412123104

[vii] "State of the World's Forests", FAO 2018 (www.fao/org/3/i9535en/i9535.pdf; at page xiv.

[viii] "Forest and Land Use – Draft Sectoral Guide consultation," Green Climate Fund, version of 29 March 2021; at page 41.

[ix] See https://www.theguardian.com/business/2013/jan/22/eu-approves-financial-transaction-tax-eurozone; and https://www.bloomberg.com/opinion/articles/2020-07-27/the-eu-s-financial-transaction-tax-is-resurrected

[x] https://www.stampoutpoverty.org/live2019/wp-content/uploads/2019/06/CDT_guide_web23.pdf. A fuller breakdown can be found at https://www.stampoutpoverty.org/cdt-data-tables/

[xi] "Voluntary Carbon and the Post-Pandemic Recovery. State of Voluntary Carbon Markets Report, Special Climate Week NYC 2020 Installment" Washington DC: Forest Trends Association, 21 September 2020 – the report cites the figure of $5.5 Billion as the cumulative value of VCM transactions.

[xii] unfccc.int/files/cooperation_and_support/financial_mechanism/standing_committee/application/pdf/annex_1._the_joint_mitigation.pdf