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## GUIDELINES

# Avoiding Double Claiming

## SUMMARY

This document outlines the ERS requirements for avoiding double-claiming for international mitigation purposes other than NDCs and the procedure to remedy situations when a double-claiming event occurs.



# Table of *Contents*

<b>Table of Contents</b>	<b>1</b>
<b>Avoiding Double-Claiming</b>	<b>2</b>
CONCEPTS	2
1. Contribution and Offsetting claims	2
2. Paris Agreement and Related Claims	2
3. Authorised Uses	3
4. Corresponding Adjustments	3
AUTHORISED USES ELIGIBILITY	4
1. General Principles	4
2. Host Country Authorisation	4
3. Arbitration Mechanism	5
4. Insurance	7
REPORTING	7
REMEDY FOR DOUBLE CLAIMS	8



# Avoiding *Double-Claiming*

## CONCEPTS

### 1. Contribution and Offsetting Claims

- 1.1. Contribution claims refer to the retirement of VRUs by an individual or an organisation demonstrating their commitment to contribution to climate change mitigation, in addition to positive impacts on Ecological Recovery and Livelihoods.
- 1.2. Offsetting claims refer to the retirement of VRUs by an individual or an organisation to compensate for the emissions due to their activities.
- 1.3. Both contribution and offsetting claims represent action taken without any government mandate and/or compliance. These instances of retirement of VRUs and claims do not represent double counting with Host Country NDC, i.e. double claiming. Achieved net removals due to the Project may therefore be counted towards progress of the Host Country towards its NDC target.
- 1.4. Retirement of VRUs for contribution and offsetting claims do not require Host Country approval and/or corresponding adjustment.

### 2. Paris Agreement and Related Claims

- 2.1. VRUs used in the context of the Paris Agreement Article 6 mechanism or other mitigation purposes such as CORSIA must demonstrate compliance to requirements and procedures under these mechanisms and/or programs.
- 2.2. When used as Internationally Transferred Mitigation Outcomes (ITMOs), VRUs must be correspondingly adjusted by the Host Country.

### 3. Authorised Uses

The authorised uses under the ERS Programme are the following:

- 3.1. Use of ITMOs towards the NDC target of the buying country.



- 3.2. International mitigation purposes other than NDCs. This refers to uses outlined in international mechanisms treaties other than the Paris Agreement, such as the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) operated by the International Civil Aviation Organization (ICAO).
- 3.3. Other purposes. This refers to all potential other purposes, including use towards voluntary emissions pledges in the context of the voluntary carbon market.

## 4. Corresponding Adjustments

- 4.1. Where a net GHG removal is achieved within the Host Country's national boundaries and is transferred to another party (e.g., country or airlines for use under CORSIA) for claim towards its own target (NDC or otherwise), a Corresponding Adjustment is required at the Host Country level to ensure the mitigation outcomes are only counted towards one inventory or target of one party, i.e., the mitigation outcome is no longer counted in the national GHG inventory and NDC target.
- 4.2. Corresponding adjustments are required when the authorised use has been granted and “first transfer” conditions are met. The Host Country may choose one of the following first transfer conditions:
  - 4.2.1. Authorisation of the VRU;
  - 4.2.2. Issuance of the VRU;
  - 4.2.3. Retirement of the VRU.

## AUTHORISED USES ELIGIBILITY

### 1. General Principles

- 1.1. To qualify for the authorised uses and obtain the corresponding eligibility on the Registry, Projects must:



- 1.1.1. Obtain a Letter of Authorisation from the Host Country;
- 1.1.2. Establish an arbitration mechanism with the Host Country for dispute resolution;
- 1.1.3. Contract a pre-approved insurance mechanism to cover the risks of double claiming.

## 2. Host Country Authorisation

- 2.1. A Letter of Authorisation must be obtained from the country's UNFCCC National Focal Point for a Project to qualify under the authorised uses. A Project may use the template of the Host Country where available to obtain LoA. Where the Host Country does not have a template, the Project may use one of the following provided by ERS:
  - 2.1.1. [Letter of Authorisation for CORSIA](#)
  - 2.1.2. [Letter of Authorisation for Other Purposes](#)
- 2.2. For the Letter of Authorisation for a Project certified under the ERS Standard, the UNFCCC National Focal Point must explicitly:
  - 2.2.1. Identify the Project and its activities, and acknowledge that the Project enhances removals in the country;
  - 2.2.2. Acknowledge that ERS has issued, or intends to issue, Restoration Units for a stated volume in net GHG removals within the country;
  - 2.2.3. Authorise and report the use of the Project's net GHG removals, issued as Restoration Units, by aeroplane operators and/or by voluntary market buyers towards climate targets;
  - 2.2.4. Declare that the country will not use the Project's associated net GHG removals to track progress towards, or to demonstrate achievement of its NDCs. The UNFCCC National Focal Point will account for their use by aeroplane operators and/or by voluntary market Buyers towards climate targets by applying relevant



Corresponding Adjustments in the country's biennial transparency reports;

- 2.2.5. Define "first transfer" in terms of when a Corresponding Adjustment will be applied for other international mitigation purposes (authorisation, issuance, or the retirement or cancellation of the Restoration Units);
  - 2.2.6. Include a request to ERS to provide information to the UNFCCC National Focal Point on the use of the Restoration Units.
- 2.3. ERS publicly discloses all Letters of Authorisation that have been approved on the [ERS Registry](#).

### 3. Arbitration Mechanism

Projects must establish an Arbitration Mechanism in cases of disputes between the Developer and the Host Country regarding the revocation of a Corresponding Adjustment. The Arbitration Mechanism must be attached to the Letter of Authorisation and include the following components:

- 3.1. **Scope and Applicability:** the entities and issues governed by arbitration, typically involving the Developer and the Host Country in relation to executing the Letter of Agreement (LoA). The matters subject to arbitration may include:
  - 3.1.1. Conflicts arising from failure to adhere to the requirements for Corresponding Adjustments.
  - 3.1.2. Conflicts concerning the application of the compensation mechanism to prevent double claims.
  - 3.1.3. Any other disputes about the terms outlined in the LoA.
- 3.2. **Triggering Conditions for Arbitration:** the procedure for either party to initiate arbitration. This might include a written notice specifying the nature of the dispute and the desired outcome.



- 3.3. **Selection of an Arbitration Panel:** the process for selecting arbitrators. This could involve each party selecting one arbitrator, with those arbitrators selecting a third, or using a pre-agreed independent body to appoint arbitrators. This panel should include experts in international environmental law, carbon credit mechanisms, and relevant technical fields.
- 3.4. **Arbitration Rules:** specifications of which arbitration rules will govern the proceedings.
  - 3.4.1. **Jurisdiction or Applicable Law:** The arbitration must operate under international law, the law of the Host Country, or a neutral jurisdiction agreed upon by both parties.
  - 3.4.2. **Arbitration framework:** The process must follow internationally recognised arbitration rules (e.g., [UNCITRAL Arbitration Rules](#) or [International Chamber of Commerce](#)).
  - 3.4.3. **Location:** arbitration must occur at a neutral location agreed upon by both parties.
  - 3.4.4. **Language:** arbitration must be conducted in a language agreed upon by both parties.
  - 3.4.5. **Confidentiality:** proceedings should be confidential except as necessary to enforce the outcome or as required by law.
  - 3.4.6. **Timeline and Deadlines:** establish a clear timeline for the arbitration process, including deadlines for submitting evidence, holding hearings, and issuing a decision.
- 3.5. **Resolution and Enforcement:** both parties must agree to abide by the final decision. The panel's decision should provide clear directives for resolving the dispute. Both parties must agree to take necessary actions to implement the decision promptly.
- 3.6. **Costs of Arbitration:** definition of how the costs of arbitration, including arbitrators' fees, will be borne.



- 3.7. **Enforcement and Appeals:** provisions for enforcing the arbitration award. Consider including a limited appeals process for challenging the arbitration panel's decision, potentially under specific circumstances like procedural irregularities or new evidence.

## 4. Insurance

- 4.1. All Projects applying to obtain Article 6 or CORSIA eligibility on the [ERS Registry](#) must contract a pre-approved insurance for double claims of net GHG removals between claiming parties and Host Countries. Pre-approved insurances include the [Multilateral Investment Guarantee Agency](#) (MIGA) or [Kita](#).
- 4.2. The insurance must:
- 4.2.1. Replace the equal volume of double counted Article 6 or Authorised used Restoration Units that are either Restoration Units or other CORSIA or Article 6 eligible units; OR
  - 4.2.2. Financially compensate for procurement of an equal volume of Restoration Units or comparable CORSIA or Article 6 eligible units.

## REPORTING

### 1. Host Countries Reporting.

- 1.1. As stated in the Letter of Authorisation, Host Countries must submit biennial reports to UNFCCC on the authorisation of Restoration Units and their Corresponding Adjustment.

### 2. ERS Reporting. ERS Certification Agents must:

- 2.1. Proactively collect evidence to verify the correct implementation of Corresponding Adjustments by a Host Country. This evidence is obtained from the Host Country's reports submitted to the UNFCCC. If no Corresponding Adjustments have been made or justified, ERS requires the activation of the compensation plan from the Developer. This mechanism is described in the [Remedy for Double Claims](#) section.





- 2.2. Publish reports detailing:
  - 2.2.1. The quantity of Article 6 or CORSIA-eligible Restoration Units issued per country in the calendar year and their use.
    - For CORSIA specifically, the quantity of CORSIA-eligible Restoration Units retired by aeroplane operator for each CORSIA compliance period;
  - 2.2.2. The quantity of Article 6 or CORSIA-eligible Restoration Units for which countries have applied a Corresponding Adjustment in the calendar year;
  - 2.2.3. The quantity of Article 6 or CORSIA-eligible Restoration Units subject to double-claiming in the calendar year.
- 2.3. The reports must clearly reference the Restoration Units using serial numbers or a specific reference to the Letter of Authorisation.
- 2.4. The reports must be publicly shared on the [ERS Registry](#) and submitted to UNFCCC Focal Points linked with the authorisation of Restoration Units and relevant organisations (e.g. ICAO) within six (6) months following the close of the calendar year.

## REMEDY FOR DOUBLE CLAIMS

1. **Application.** Any double-claimed units that have not received a Corresponding Adjustment must be compensated with a volume of eligible units equal to the number of units double-claimed by the Host Country. This occurs in cases of:
  - 1.1. **Revocation of a Corresponding Adjustment:** a Corresponding Adjustment is not applied as previously agreed with the Developer or if reliable evidence is not procured within a year of when the adjustment was expected to be reported to the UNFCCC by the Host Country.



1.2. **Non-use for the authorisation:** the Host Country cannot apply Corresponding Adjustments to the same calendar year in which the net GHG removal occurred.

2. **Remedy procedure.** In the event of double-claiming, the following procedure must be applied:

2.1. **Notification.** The ERS Certification team must notify Developers within forty-eight (48) hours of confirming a double-claiming event.

2.2. **Remedy.** Upon receiving the notification, Developers must:

2.2.1. Sign a new Letter of Authorisation with the Host Country, ensuring that subsequent units issued must not be double claimed.

2.2.2. Formulate and execute a compensation plan that includes the following:

- The specific units identified for compensating the Host Country's double claim of net GHG removals. These units must be CORSIA or Article 6 eligible ERS units or comparable eligible units approved by ERS. These units must not have been sold or committed to another purpose.
- A timeframe for the retirement of these units following the double-claiming event. Such timeframe must not exceed the grace period of three (3) years.

2.3. **Eligibility.**

2.3.1. The Project's eligibility for Article 6 or CORSIA must be revoked until the double-claimed event is investigated and resolved.

2.3.2. The Project should re-obtain its eligibility to Article 6 or CORSIA and issue units with the corresponding tag under two conditions:



- The Developer and the Host Country signed a new Letter of Authorisation, ensuring that subsequent units issued must not be double counted.
- The double-counted units have been compensated, i.e. comparable units have been retired in an equivalent volume.

#### 2.4. **Shortages and gaps in units.**

- 2.4.1. If the Developer has signed a new Letter of Authorisation but cannot supply the required units due to a shortage of eligible units, ERS can grant a three-year grace period to replace the double-claimed units. During this period, the Project must regain its eligibility for Article 6 or CORSIA and can issue units with the corresponding tag.
- 2.4.2. If, after three (3) years, the Project does not supply the required units, the Project's eligibility for Article 6 or CORSIA must be permanently removed.



**Ecosystem Restoration Standard**

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