



IETALIVE:

Carbon Market Virtual Series

**IETA LEGAL WORKING GROUP
2024 HORIZON SCANNING
THE CARBON MARKETS**

Hosted by

IETA

Horizon Scanning the Carbon Markets

Welcome Remarks



Belinda Ellington
IETA

Horizon Scanning the Carbon Markets

Moderator:



Belinda Ellington

Speakers:



Andrew Hedges
Partner
Baker McKenzie



Ingrid York
Partner
White & Case



Holly Pearen
Lead Counsel
Environmental Defense Fund

An aerial photograph of a dense, lush green forest. A winding river or stream flows through the center of the forest, creating a natural path that curves through the trees. The lighting is soft, highlighting the vibrant green of the foliage.

**Baker
McKenzie.**

Carbon market design issues

Andrew Hedges
Global head of climate change
Andrew.hedges@bakermckenzie.com

Emissions market drivers



- Paris Agreement commitments
- Pressures by other markets – CBAM
- Voluntary commitments



- Domestic compliance markets
- International cooperation under Article 6
- Voluntary markets

Compliance markets versus voluntary markets

Compliance markets:

- emissions capped in form of allowances representing tonnes of CO2 equivalent
- emitting companies required to procure allowances matching emissions
- cap = scarcity = increased market price = incentive to reduce emissions

Voluntary markets

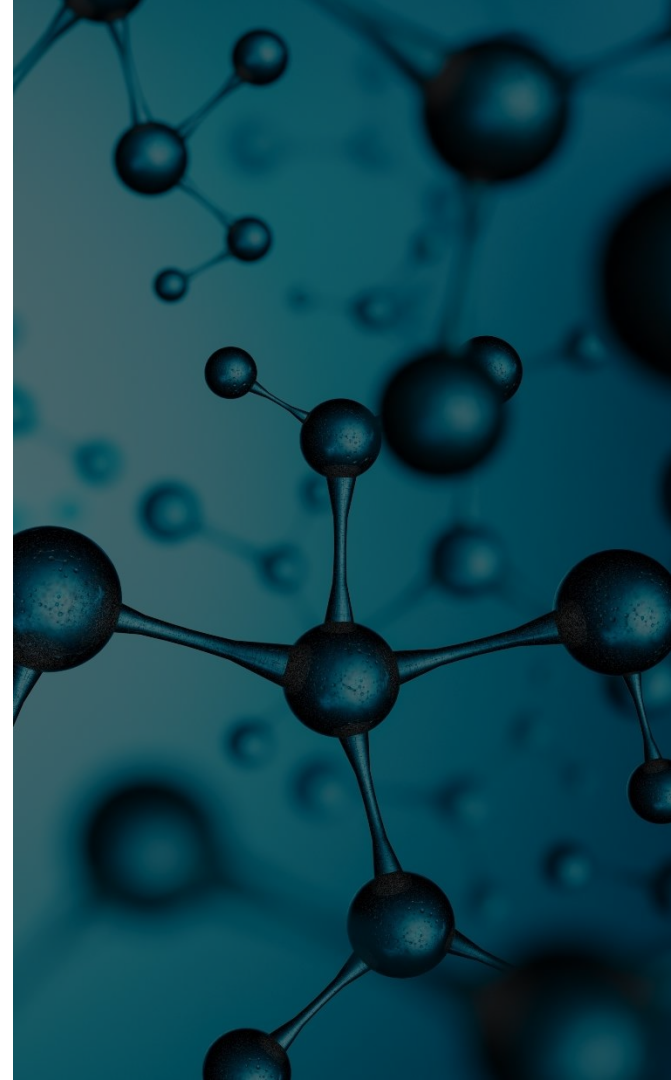
- voluntary commitments to reduce their emissions
- an option to achieve that is to:
 - purchase **carbon credits** that represent reduced emissions; and
 - cancel those to account for the company's emissions
- voluntary market covers the projects that generate such carbon credits

Compliance market design

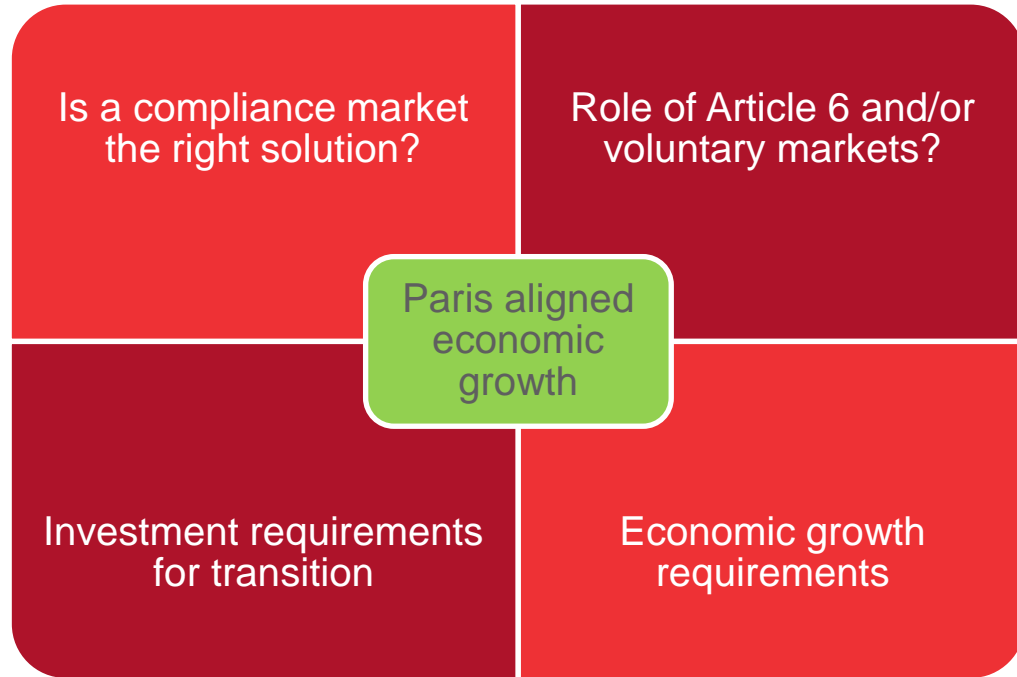
- Sensible phasing: sector or allocation
- Robust enforcement
- Capable of market price generation through trading, exchanges, financial intermediaries etc
- Commitment to increasing cost of emissions with means to do so

PLUS

- Early engagement with emission reduction crediting within market – technology or nature
- Other tools to support investment by sectors



Developing country context



State of play

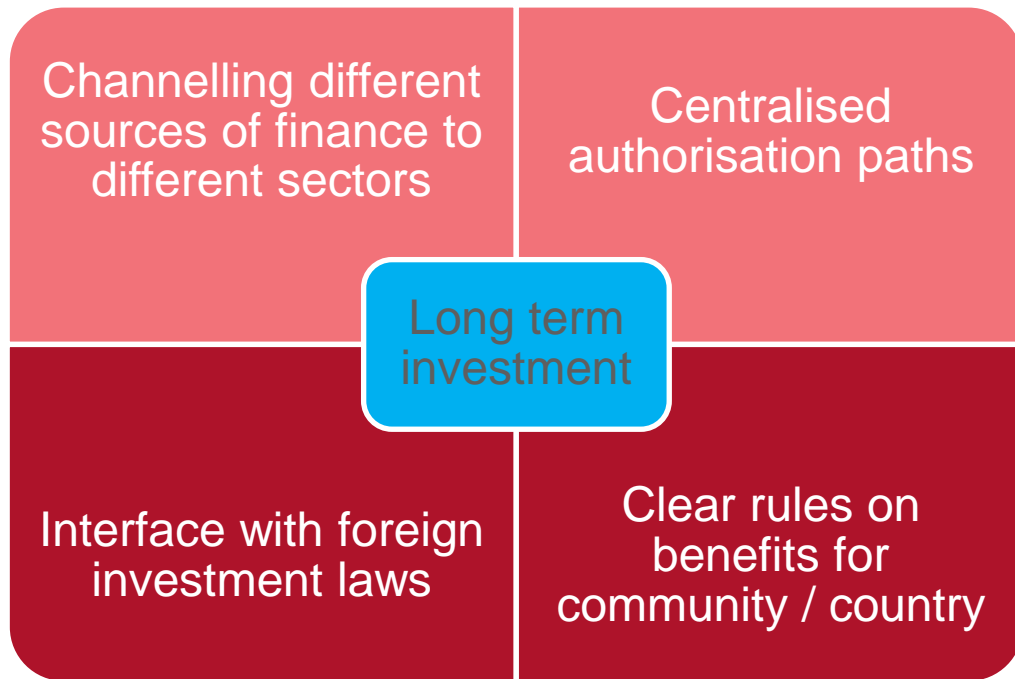


- Many host countries at very early stages
- Examples of poorly thought though regulatory models
- Developed country demand largely absent



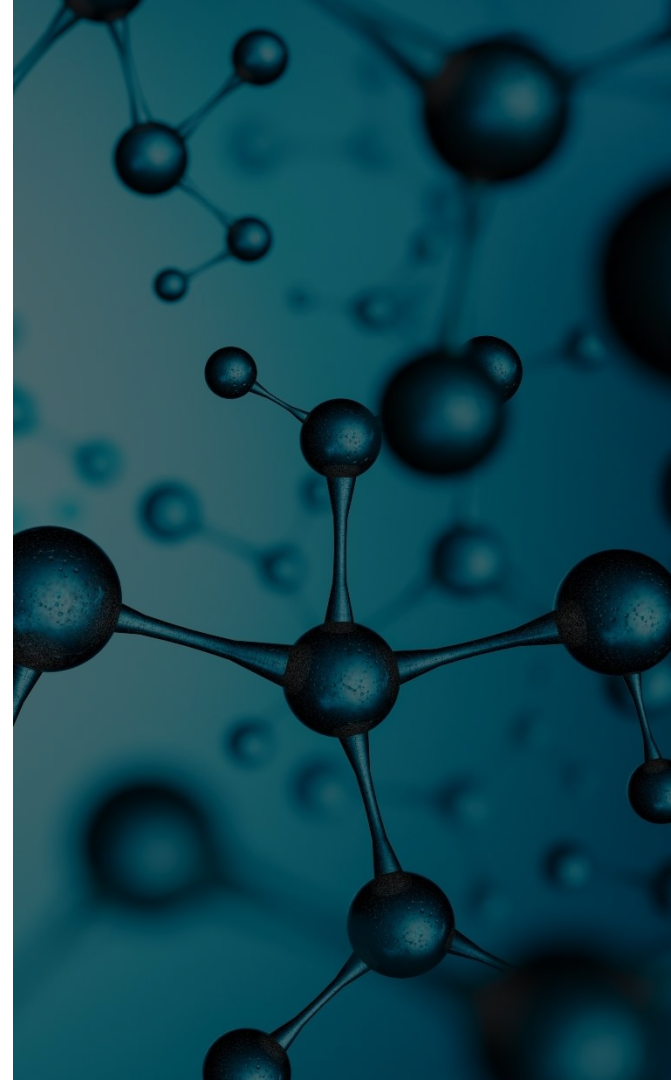
- Increased risk profile to investments
- Higher financing costs
- Slower deal flow

What does good look like?



Developing solutions

- Identify leading regulatory models
- Drawing out legal design elements that drive investment
- Identify potential investment flows
- Engage with supporting DFIs and partner governments



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IETA Legal Working Group 2024 – Horizon Scanning the Carbon Markets

Ingrid York, Partner, White & Case LLP

13 March 2024

Legal Nature of VCCs

- UNIDROIT Working Group on the Legal Nature of VCCs
- UNCITRAL Working Group Mapping Exercise
- Private law v public law
- Legal treatment v regulatory treatment
- VCCs as the object of proprietary rights

Legal Nature of VCCs

- What is the “thing”?
- Why is the legal treatment relevant?
 - Ownership
 - Transfer
 - Security
 - Insolvency & netting
 - Tax & accounting

Legal Nature of VCCs

- What laws are relevant?
 - Governing law(s) of contractual arrangement(s)
 - Location(s) of parties
 - Location(s) of standard setter & registry
 - Location of project(s)
 - Laws applicable to VCCs
- Why is the harmonisation of treatment important?



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IETA LIVE Carbon Markets

US Federal and Subnational Issues Affecting Carbon Markets in 2024

Holly Pearen
Lead Counsel, GCC
Environmental Defense Fund



US Federal Regulatory Oversight

- SEC
 - Implementation of Final Enhanced and Standardized Climate Related Disclosures for Investors Rule
- CFTC
 - Whistleblower Alert and Enforcement Office activity
 - Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts
- FTC
 - Green Guides



Subnational carbon market program design

- New York
 - Embarking on formal cap & invest rulemaking
- Washington
 - Ballot measure and agency ambition
- California
 - Alignment with new Climate Scoping Plan
- Colorado
 - Potential clean up on 2023 ineffective program
- RGGI
 - 3rd Program Design Review, major states in play



IRA & BIL Implementation

- Implementation
- Tax credits

- See, Tracker for information on specific industry, Departmental deadlines for funding and policy design

Thank you!



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