

INDIGENOUS ENVIRONMENTAL NETWORK



May 07, 2013

INDIGENOUS ENVIRONMENTAL NETWORK COMMENTS TO THE STATE OF CALIFORNIA REDD OFFSETS WORKING GROUP

Re: Recommendations of the REDD Offsets Working Group for Subnational REDD crediting in California's Cap-and-Trade Program

The Indigenous Environmental Network (IEN) was formed in 1990 by community-based Indigenous Peoples to address environmental and economic justice issues (EJ) as they affect Indigenous-Native Peoples. Since that time, IEN's outreach and activities have grown and now include building the capacity of indigenous communities in North America and globally to protect our sacred sites, land, water, air, natural resources, health of both our people and all living things, and to build economically sustainable communities.

In that role IEN addresses the recommendations of the REDD Offsets Working Group (ROW)¹ to the Governments of California, Acre and Chiapas (including the California Air Resources Board, as the responsible State of California authority) in its implementation of AB32, California legislation creating a sub-national Cap and Trade scheme, meant to reduce carbon emissions by certain California industries, allowing them to buy carbon credits to mitigate their legally enforceable emissions limits. IEN addresses the recommendations relevant to the Reduction of Emissions from Deforestation and Degradation of Forests (REDD), and more specifically, the issue of Social, Cultural and Environmental Safeguards.

IEN RECOMMENDATION: That REDD not be a part of California's carbon emissions programs.

1. COMMENT on the viability of the safeguards proposed by ROW

Since 1998, IEN has been following the discourse on climate change within the Conference of Parties (COP) of the Framework Convention on Climate Change (UNFCCC) along with

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1. Draft, California, Acre and Chiapas, Partnering to Reduce Emissions from Tropical Deforestation, *Recommendations to Conserve Tropical Rainforests, Protect Local Communities and Reduce State-Wide Greenhouse Gas Emissions*, REDD Offsets Working Group, 2012.(hereinafter," Recommendations")

IEN was born
of hope, courage
and common
vision.

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Indigenous Peoples and their organizations from all regions of our Mother Earth. Since that time IEN has studied the problems of carbon markets and offsets, particularly for Indigenous Peoples. In 2005 at the 11th session of the COP in Montreal reducing emissions from deforestation in developing countries was introduced. After careful review, in its first statement on REDD, the International Forum of Indigenous Peoples on Climate Change, the indigenous caucus to the UNFCCC, warned that:

“REDD will not benefit Indigenous Peoples, but, in fact, it will result in more violations of Indigenous Peoples’ Rights. It will increase the violation of our Human Rights, our rights to our lands, territories and resources, steal our land, cause forced evictions, prevent access and threaten indigenous agriculture practices, destroy biodiversity and culture diversity and cause social conflicts. Under REDD, States and Carbon Traders will take more control over our forests.”² With one voice, the Indigenous Peoples of the world have worked in the face of hard resistance by many States, including the United States and Canada, to ensure that the human rights of indigenous Peoples, as reflected in the UN Declaration on the Rights of Indigenous Peoples (2007) are respected and observed within solutions to climate change, particularly REDD. Our experience with the issue internationally leads us to the conclusion that safeguards, including those proposed by ROW, based upon the so-called safeguards adopted by the FCCC COP in Cancun³ are not viable.

The ROW Recommendations note that Indigenous Peoples are particularly vulnerable to displacement and other abuses⁴ when they state that,

“California should condition the acceptance of any REDD+ offsets on demonstration by partner jurisdictions that their respective REDD+ programs include strong social and environmental safeguards that meet best-practice global standards. REDD+ programs should establish and implement social and environmental safeguards to ensure that carbon emissions reductions are achieved in a manner that protects and enhances the rights and interests of local, forest-dependent communities (including indigenous peoples), supports rural livelihoods, and does not damage ecological systems.”⁵

The ROW Recommendations specifically note the importance of the right of “free, prior and informed consent” (FPIC) to adequate safeguards.⁶ It cannot be stressed enough that global best practices indicate that this right has to be accompanied by the full and effective participation of Indigenous Peoples in any program or process that will affect them. However, recent history and current practices of governments participating in REDD initiatives do not reflect to any degree the implementation of this most basic requirement.

² International Forum of Indigenous Peoples on Climate Change, UNFCCC, COP13, December 2007, Bali, Indonesia, SBSTA 27, agenda item 5/REDD, International Alliance of Indigenous and Tribal Peoples on the Tropical Forests

<http://www.international-alliance.org/documents/IFIPCC%20Statement%20on%20REDD.doc>

³ See, Decision /16.1, Annex I, Cancun Accord,

⁴ Recommendations, Section 1.2.4,

⁵ Recommendations, p. 7.

⁶ Recommendation 4, p. 51.

Monica Julissa from the ACRE Climate Change Institute, the entity administering the California-Acre offset initiative, recently attended the 2nd ROW Issues Workshop at UC Davis⁷. In this and other safeguard discussions, the Report lauds the State of Acre, “as one of the most advanced REDD+ programs in the world.”⁸ Ms. Julissa spoke only about 1 consultation, of about 170 persons, including non-governmental organizations, producers, farmers, and indigenous peoples, among others, that led to the drafting of standards for California REDD+. Although standards developed at this consultation include land tenure (apparently not necessarily indigenous) as well as respect for the traditional knowledge and rights of indigenous peoples, she was unable to cite, upon a question from the audience, any specific consultation with any indigenous peoples, tribe or community, or any ongoing capacity building in order to prepare indigenous peoples to participate in REDD+. Indeed, she stated that it was “impossible” to consult with all concerned.

Indigenous Peoples from Mexico were also in attendance at the Davis workshop from Chiapas, but not involved as yet with Chiapas’ REDD+. Essentially, they spoke on the contradictory demands of Mexican Federal agencies (Resources v. Environment) and their ability to accomplish their own aims in the confusion. There were no representatives in attendance from the indigenous communities in Chiapas slated for California REDD+, the displaced Tzeltal and Ch’ol families and communities, or from other indigenous communities suffering from well documented governmental reprisal for not agreeing to REDD+, such as the Lacondon community of Amador Hernandez.

The difficulties communicated at the 2nd Workshop only reflect the realities of Indigenous Peoples from all parts of the world when it comes to REDD and REDD+. States, both National and Federal have no political will to respect and protect the rights of Indigenous Peoples within their own borders, whether national or sub-national. Even the best case, the State of Acre, has not consulted with affected Indigenous Peoples in any meaningful way prior to enacting regulations that will affect directly their rights to their lands, territories or resources, their major means of subsistence and way of life. They have not sought through meaningful consultation, their consent to REDD+ on their territories nor the time, place or manner of the imposition of REDD+.

While these comments were being drafted, the San Francisco Chronicle printed an Associated Press story of the government of Brazil’s ignoring for over a year a federal Brazilian judge’s urgent order to evict illegal loggers and settlers from the lands of the Awa Peoples, an un-contacted Peoples facing extinction, whose territory and forests are being cut out from under them.⁹ Survival International was quoted as saying that, “more than 30% of Awa territory has been deforested and that loggers are ‘rapidly closing in on their communities and have already been marking trees for deforestation.’”

The problem of leakage so well explained in the Friends of the Earth comments on the ROW Recommendations equally apply to human rights and Indigenous Peoples. Both Brazil and Mexico are well documented and persistent violators of the rights of Indigenous Peoples. Even if Acre or Chiapas were willing to respect and protect the rights of Indigenous Peoples within a

⁷ University of California, Davis, held on March 26, 2012. Ms. Julissa spoke on the morning panel, entitled, “Presentation of ROW Safeguards recommendations.

⁸ Recommendations, p. 18.

⁹ Associated Press, Outsiders endanger tribe, say activists, San Francisco Chronicle, Friday, April 19, 2013, p. A4.

REDD+ forest area, the human rights and fundamental freedoms of Indigenous Peoples in other parts of the region or country cannot be assured. In fact REDD+ only places an added emphasis and attention to an already coveted wealth of a forest, attracting loggers (legal and illegal), carbon cowboys, settlers, and industrial farmers.

“Additionality” should also be a condition for respect and observance of human rights. And there is no real indication that Mexico or Brazil, or for that matter Chiapas or Acre are willing to “jurisdictionally” recognize and protect the rights of Indigenous Peoples, or adopt real and enforceable safeguards as commercial conditions of any future MOU or local regulation.

The question of pre-emption, of human rights being a National, Federal responsibility is also raised. We do understand that as proposed by ROW, Chiapas or Acre would only have to certify that they recognize the rights of Indigenous Peoples, including the right to lands and territories and to free, prior and informed consent, as well as full and effective participation in the local REDD+ process. But it should be noted that recognition and demarcation of Indigenous lands and territories are a federal responsibility both in Acre and Brazil as well as other Countries contemplated for the California REDD+ program. Local jurisdictions such as states of the union or provinces have no role in the recognition of Indigenous lands or indeed, indigenous Peoples.

Viet Nam, for example, under a REDD pilot project, has agreed to recognize the right of Free, Prior and Informed Consent, but has not agreed to recognize Indigenous Peoples or their rights to land. They are implementing a REDD pilot project under the aegis of UN REDD, without adequate or meaningful consultation with concerned “ethnic minorities” avoiding many of the requirements of the UN Declaration and the rights recognized therein. And the sponsoring organization, UN REDD, has not adopted any binding complaints procedure whereby the Indigenous Peoples of Viet Nam can raise the issue of their forests and livelihoods.

The basic question, that of dispute resolution and an independent process fair to Indigenous Peoples is also not accurately addressed by the ROW Recommendations. Underlying the entire agreement is the fact that each state has the sovereign right to adopt and use its own court system and laws. Although an independent grievance procedure might be operative under the conditions of accreditation of REDD carbon credits, ultimately Brazilian and Mexican courts would have the final word, as pursuant to the ROW Recommendations, local law would be relied upon to enforce the MOU. And notwithstanding the Brazilian judgment cited above, local courts normally have not been kind or fair to Indigenous Peoples.

There is also a growing consensus that so-called benefit sharing in the form of cash or money will be inadequate to compensate Indigenous Peoples. The millions (if not later billions) generated by carbon trading will never reach the forest dwellers. This benefit will only be shared with the financial houses of Wall Street and speculators.

Much discussion is now being generated around “non-carbon” benefits for Indigenous Peoples, (presumably “non-carbon” meaning no money) from the carbon market regime and an unreliable hope of funding from public voluntary sources. Some “non-carbon” proposals in South America are proposing financial benefits from non-carbon market sources and titling and demarcating lands and territories. Perhaps such benefits and titling and demarcating lands and territories

would be sufficient in some cases and the recognition of the rights of self-determination and autonomy as found in international obligations prove to be adequate in the informed judgment of affected indigenous peoples. But as in Brazil, the government's behavior in such constitutionally required recognition and titling of lands and territories has been slow and ineffectual. Indeed, Brazil's behavior and negotiating position internationally on REDD and REDD+ is more in keeping with a national policy of development of Indigenous lands and forests with industrialized agriculture and logging, periodically trading off REDD+ type schemes with soya and palm oil plantations. Recognition of title and self-determination of indigenous peoples would render practically impossible this patently verifiable policy and vision of Brazilian national development. Mexico has no better record of lack of recognition and government driven development of Indigenous lands.

2. Comment: REDD type projects are detrimental to the rights and interests of Indigenous Peoples

It must be kept in mind that California REDD+, like all other REDD+ programs, is a carbon offsets program intended to benefit large industrial greenhouse gas emitters, and their ability to delay if not avoid legally enforceable restrictions on their carbon emissions. It is not intended to benefit human rights or Indigenous Peoples. Market based solutions rarely if ever do. Ultimately it will be the market, the sustainability of carbon markets and use by polluters that determine the "success" or failure of California REDD+, not the safeguarding of indigenous peoples rights. Given that under AB32 GHG polluters can cover 100% of their emissions reductions, REDD projects such as this have nothing to do with reductions of emissions and really only attempt to guarantee the carbon market for its own sake.

There are no greater hopes than those of Indigenous Peoples all over the world, including the Indigenous Environmental Network, for the preservation and enhancement of the world's forests. Our major vision is that of a sustainable natural world, and a balance between the needs of humans and the needs of nature. Our Indigenous Peoples have maintained the sustainability of forests and other ecosystems for the millennia and are prepared to continue to the end that humanity survives climate change.

But REDDs only provide perverse incentives to the exploitation of some forest while sacrificing other forests (and Indigenous Peoples) to unsustainable development. Even now the shell game of declaring some forest for REDD while clearing others for logging and industrialized agriculture, most notably in Brazil, goes on, mindless of the Indigenous Peoples and their rights in their path.

There is an attitude on the part of some proponents of REDD projects, both local and national, that those Indigenous Peoples who reject REDDs simply do not understand, and only that more and better communication is needed to convince them of REDD's desirability. This attitude reflects an inability to accept Indigenous Peoples' informed judgment that they do not want their ways of life and identities disrupted or destroyed any longer. It is the same paternalism that accompanies colonialism.

Worse, this attitude reflects the same cultural chauvinism and the attitude that Indigenous Peoples' cultures and lifeways are inferior to the West's, and that REDDs is the only way forward for Indigenous Peoples. But the way forward for Indigenous Peoples is not to displace them and force their assimilation in fetid urban ghettos of unemployed. Neither is it to pay them for alternative livelihoods and "forest services" or "payments for environmental services" that come between Indigenous Peoples and their spiritual and material relationship to their lands and natural resources. This is what REDD does. The inability of REDD proponents to understand reflects the profound lack of understanding of Indigenous land based cultures and spiritual ways of life.

If the State of California is truly interested in preserving the world's rainforests it should examine its investments in market activity that is truly detrimental, such as soya and palm oil expansion, production and distribution, and the manufacture of bio-fuels that use forest biomass. Activity such as this can do more to save the rainforest than an ill conceived market mechanism that would sell the trees in the forest to the highest bidder.

Conclusion

For the above stated reasons, the Indigenous Environmental Network recommends that the Reduction in Emission from Deforestation and forest Degradation not be implemented by the state of Californian under AB32. The abuses of Indigenous Peoples and other forest dwelling peoples and violations of their rights could not be controlled. In any event, regardless of safeguards, REDD+ would severely and detrimentally affect the collective identity, cultures and ways of life of forest dwelling Indigenous Peoples.

Respectfully submitted,

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