**Indigenous Environmental Network**

**Supplemental Input for the 2024 reports of the Special Rapporteur on the right to development, False Solutions and Sustainable Development**

**February 28 2024**

**The Special Rapporteur’s concerns on the right to development affected adversely by the effects of climate change implicitly reflect concern about the solutions offered by States with regard to global warming. We submit this supplemental response to reflect on that concern**

The United Nations Framework Convention on Climate Change (1992) describes the “ultimate objective” of the Convention is*, inter alia*, to stabilize greenhouse gasses in a manner that will “enable economic development in a sustainable manner.” (Article 2). The Convention also establishes the precautionary principle, whereby “the Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects (Article 3.3).

The Kyoto Protocol (CMP) reiterates the pursuit of the objectives of Article 2 of the Convention (preambular paragraph 2). Article 2 of the Protocol requires States to meet its quantified emission limitations and reduction commitments under Article 3, in order to promote sustainable development (Article 2).

The Paris Agreement, in enhancing the objectives of the UNFCCC “aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty…” (Article 2). It requires parties in the implementation of their Nationally Determined Contributions to promote sustainable development and environmental integrity (Article 6.1).

**But the Article 6 offset programs do not directly reduce emissions or fossil fuel use.** They do nothing to reduce emissions nor can they contribute to sustainable development. As they are responsible for human rights violations, they are inherently unsustainable.

Carbon offsets are often exploitive and restrict land sovereignty and rights of Indigenous Peoples as well as land access of Black people and other People of Color and low-income communities. Carbon offsets can include destructive large-scale hydroelectric projects, biomass plants, mine methane capture, fuel switching or efficiency projects, so-called “forest management,” animal agriculture methane digesters and many other methods ad systems to allow business as usual, the continuation of carbon pollution.

In 2007, the United Nations Framework Convention on Climate Change (UNFCCC) and the World Bank rolled out the controversial and colonialist scheme, REDD (Reducing Emissions from Deforestation and forest Degradation). In 2010, REDD was expanded to REDD+, which purported to include forest conservation, “sustainable forest management” and “enhancement of forest carbon stocks.” A typical REDD+ project offers the promise of economic incentives to a community in the global South, often targeting Indigenous communities with intact forests, in exchange for forest management and selling credits to polluters for the carbon supposedly stored in the forests. But putting a price on forests has in fact encouraged further land grabs by carbon traders, large companies and governments.5

In practice, REDD+ projects tend to follow a divide-and-rule strategy. Communities often find themselves subject to new restrictions on their livelihood activities, new accounting burdens, land grabs and criminalization, while the promised money is often not forthcoming and internal community tensions and divisions increase. Very few communities are even informed that the objective of the contract they have signed is to manufacture pollution rights for faraway industries and business sectors, thus negating any efforts toward Free, Prior and Informed Consent.

Another climate change mitigation policy is a carbon tax, or a fee imposed on polluters for emissions they produce. Carbon taxes have not historically deterred industries from polluting, as corporations can easily mitigate the costs by passing on the cost to consumers, cutting workers’ wages, union busting, tax avoidance and lobbying for more subsidies or lawsuit immunity to name a few. Recently, there has been an increased interest in so-called “nested-REDD+” with a carbon tax that allows polluting industries a tax break for investing in REDD+ projects.

Systems such as “carbon fee and dividend” or “cap and invest” are carbon tax schemes that claim to use the funds paid by corporations to provide revenue for climate change mitigation efforts or refund energy consumers. Canada and Switzerland use these schemes. In the U.S., carbon taxes such as these have been pushed on the poor and communities of color with promises of revenue as a way to lobby and gain support for a carbon tax. While enticing, these systems are yet another distraction from moving off fossil fuels because the tax revenue is dependent on continuing pollution and does nothing to stop extraction at source. While Indigenous Peoples struggle against fracking and pipelines and Asian, Black and Latino communities fight against asthma and other health disparities living near petroleum refineries, carbon fee and dividend creates divisions in environmental and climate justice movements because the carbon tax creates a financial dependency mechanism that relies on further pollution with the claim of a payout for certain communities or other projects. The payouts can be in the form of “benefits” that can fund private corporations over communities and ultimately more false solutions.

In an effort to boost the failing carbon markets around 2013, extractive industry and organizations promoting carbon trading began to pursue a rebranding. Around the same time, governments and corporations combined carbon trading, offsets, taxes, REDD+ and other conservation-based trading under the common term carbon pricing, with ambitions to link the various schemes being implemented into a global framework. The 2015 Paris Agreement further solidified this goal by outlining mechanisms for countries to meet emission reduction commitments through linking regional carbon trading systems and other carbon pricing approaches.

**Article 6 of the Paris Agreement is the carbon pricing article of the treaty.** Article 6 includes two main mechanisms to trade pollution. Article 6.2 is called Cooperative Approaches and allows parties to trade directly without using an international mechanism. Article 6.2 could be used in a situation where national or regional instruments such as the European Union Emissions Trading Scheme (ETS) are linked with a comparable system in order to create a cross-border carbon market. National and bilateral carbon credit-based systems operated outside the realm of the UNFCCC could also be used under Article 6.2. For example, climate change mitigation activities can be implemented in one country and the emission reduction can be transferred to another country through carbon accounting in what is termed an Internationally Transferred Mitigation Outcome (ITMO). The ITMO is then counted towards a country’s emissions reduction target Nationally Determined Contribution (NDC).

Historically, the largest global carbon offset mechanism is the Clean Development Mechanism (CDM) set up through the Kyoto Protocol. Article 6.4 is the provision in which the CDM is slated to be converted into the Sustainable Development Mechanism (SDM) in the Paris Agreement. Offsets would again count towards a Party’s NDCs. Questions remain regarding what will happen with existing CDM credits, how the SDM will function and who will be eligible. At the time of writing, it is clear that big business is invited by “offering suitable incentives” to the private sector.

Article 6.8 is based on non-market-based approaches. This section can include dodgy conservation efforts like Payments for Environmental Services (PES) that swap one precious ecosystem for a “conservation” project somewhere else. PES projects often support the expansion of the fossil fuel industries when they are required by the state to implement social or ecological projects through social license to operate (SLO) or by ecological permitting requirements. In these projects an entire region can be destroyed by extractivism in the name of development as long as some project is implemented somewhere else. With the architecture of emissions trading in the Paris Agreement still being negotiated, by the end of 2019 the world saw the voluntary markets supersede the compliance markets for the first time. Big business was rife for claiming carbon neutrality in the booming and unregulated voluntary markets. From the major airlines to Microsoft, TC Energy and Amazon, forest offsets, land-based offsets and all the other iterations of carbon pricing took off into a new frontier.

Today, dubious, misleading terms including net-zero emission targets, carbon neutral, carbon positive, carbon negative, nature-based solutions (NBS) and carbon capture, occupy both policy and corporate-speak alike. Net-zero emissions, while seeming to imply a state of not producing any carbon emissions, simply means that a business, government or other entity can subtract its total existing emissions on a spreadsheet to equal “zero” with a few stokes of a keyboard and some carbon offsets. But the emissions still exist. Dangerously, there has been a recent shift to not only monetize carbon as a new environmental service commodity, but to also place nature on an equal plane with technology. Thus, the new wave of climate geoengineering focuses on “carbon dioxide removal,” encompassing unproven technologies like direct air capture and carbon capture and storage/sequestration (CCS) (see Geoengineering and Carbon Capture).  To achieve net-zero emissions targets, in addition to carbon capture the focus on removing carbon extends to so-called Nature Based Solutions, which has become the new terminology for land sector carbon. New emissions trading mechanisms are emerging that would provide a platform for the commercialization of now traditional forest-based offsets and extend land sector-based carbon offsets into soils, agriculture and factory farm gas.

With the architecture of emissions trading in the Paris Agreement still being negotiated, by the end of 2019 the world saw the voluntary markets supersede the compliance markets for the first time. Big business was rife for claiming carbon neutrality in the booming and unregulated voluntary markets. From the major airlines to Microsoft, TC Energy and Amazon, forest offsets, land-based offsets and all the other iterations of carbon pricing took off into a new frontier.  Today, dubious, misleading terms including net-zero emission targets, carbon neutral, carbon positive, carbon negative, nature-based solutions (NBS) and carbon capture occupy both policy and corporate-speak alike. Net-zero emissions, while seeming to imply a state of not producing any carbon emissions, simply means that a business, government or other entity can subtract its total existing emissions on a spreadsheet to equal “zero” with a few stokes of a keyboard and some carbon offsets. But the emissions still exist.

Dangerously, there has been a recent shift to not only monetize carbon as a new environmental service commodity, but to also place nature on an equal plane with technology. Thus, the new wave of climate geoengineering focuses on “carbon dioxide removal,” encompassing unproven technologies like direct air capture and carbon capture and storage/sequestration (CCS) (see Geoengineering and Carbon Capture).  To achieve net-zero emissions targets, in addition to carbon capture the focus on removing carbon extends to so-called NBS, which has become the new terminology for land sector carbon. New emissions trading mechanisms are emerging that would provide a platform for the commercialization of now traditional forest-based offsets and extend land sector-based carbon offsets into soils, agriculture and factory farm gas (see Nature-based Solutions).

While the accumulating emissions and ecosystem impacts remain unaddressed by proponents of carbon pricing, the new focus on carbon dioxide removal and NBS is paired with the continuation of traditional yet still very popular forest-based offsets. In that sense, the more things change the more they stay the same, exposing how carbon dioxide removal, “natural climate solutions,” net-zero emissions and NBS are based on the same underlying distraction from extraction. With governments, corporations and NGOs seeking to develop a global carbon market through the linking of national and subnational markets in Article 6, carbon pricing schemes must be recognized for what they are: unjust and colonial extensions of an oppressive, racist, patriarchal capitalist system meant to uphold the status quo and justify land theft to keep fossil fuels coming out of the ground and timber coming out of the forests for the purpose of lining the pockets of the global elite.

**The transition to a “green economy”** produces massive human rights abuses. The UN led REDD+ program for example, is considered by Indigenous Peoples as a land grab. The “+” stands for “non-forest dependent development,” and States are free to introduce their vision of development including cattle ranching, soya plantations, fish farms and other activity that not only displaces Indigenous Peoples but our relatives, those that fly, the four-legged and those that crawl or swim, the fauna and wildlife. It depletes the soil and water and denies Indigenous Peoples their traditional means of subsistence.

To be sure, the fossil fuel industry is and has been busy inside and outside the UNFCCC in greenwashing itself, primarily through hyping the need for fossil fuels in today’s primarily neo-liberal, predatory capitalist northern industrial economies, to appeal to the public through the media, positing propositions primarily based on carbon credits and offsets. “Give us money and we’ll plant a tree to cover your carbon footprint.”

But Indigenous Peoples have been historically, for hundreds of years, in resistance to the unwanted development of the fossil fuel industry, from exploration to extraction, to pipelines to use. It has been a constant and persistent resistance to neo-liberal colonialist expansion, the notion of development that natural “resources,” are to be used and consumed until they are all gone. And they will be if current trends of exploitation continue.

**The protection of environmental defenders:** According to Front Line Defenders,[[1]](#footnote-1) more than 300 human rights leaders were killed last year in 31 countries, and nearly half of those killed were targeted specifically because of their environmental activism. The Philippines, Honduras, Mexico, and Brazil all ranked among the deadliest of countries after Colombia, where the slayings of 106 human rights activists were documented in 2019. Climate activism often takes the form of advocating for indigenous people and their lands.

My own organization, Indigenous Environmental Network (IEN), was formed by grassroots Indigenous Peoples and individuals to address environmental and economic justice issues (EJ). IEN’s activities include building the capacity of Indigenous communities and tribal governments to develop mechanisms 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.

IEN accomplishes this by organizing campaigns, direct actions and public awareness, building the capacity of community and tribes to address EJ issues, development of initiatives to impact policy, and building alliances among Indigenous communities, tribes, inter-tribal and Indigenous organizations, people-of-color/ethnic organizations, faith-based and women groups, youth, labor, environmental organizations and others. IEN convenes local, regional, and national meetings on environmental and economic justice issues, and provides support, resources and referral to Indigenous communities and youth throughout primarily North America – and in recent years – globally.

We partner with the Rainforest Action Network in peaceful, non-violent actions at fossil fuel industries headquarters and shareholders’ meetings, as well as publicize the involvement of banks that finance their carbon producing activity. The four worst financers of fossil fuels development since the Paris Agreement, are JP Morgan Chase ($332 billion), CITI Bank ($285 Billion), Wells Fargo ($272 Billion), and Bank of America ($232 Billion).[[2]](#footnote-2) The 12 highest paid oil industry CEOs are white and male.[[3]](#footnote-3) The US House of Representatives recently found that the boards of banks are mostly occupied by whites and males.[[4]](#footnote-4) The results of their research in their report, Banking on Climate Chaos,[[5]](#footnote-5) draws major press attention. Coupled with our divestment campaigns from these banks by retirement funds, mutual funds, and individuals, we are having some success in banks withdrawing their investments in polluting industries. French cooperatively owned bank [Crédit Mutuel](https://www.creditmutuel.fr/home/index.html) had the largest drop in fossil fuel financing, with a 100% decline from $19 million in 2016 to zero in 2020 using data from the [Banking on Climate Chaos 2021](https://urldefense.com/v3/__http:/www.bankingonclimatechaos.org__;!!PIZeeW5wscynRQ!5gLKl6h0Q9DrXlkpeXp_a101vqelmNRsPgjb-7kKNv_u16STq3U8SZxCvxrZYTPpKZ4$) report.[[6]](#footnote-6)

Along with partners, primarily the Center for International Law, we also file complaints to UN human rights mechanism. This encourages and supports Indigenous Peoples and tribes, letting them know that they are not alone in their struggles and that the international community supports their just demands. At times these conflicts are reported by the conventional press embarrassing corporations and governments, who cease their activity in order to preserve their image.

**CONCLUSION:** Beyond any doubt, the Paris Agreement does nothing to reduce emissions nor does it contribute to sustainable development. Indeed, the Framework Convention, the Kyoto Protocol and the Paris Agreement are inimical with their very purposes.

We would urge the Special Rapporteur on the right to development, along with all other United Nations mechanisms, including the Human Rights Council to take a firm stand against these false solutions to global warming lest they be perceived as irrelevant to the real existential threat to all life on earth as we know it.

Contact: Alberto Saldamando

Counsel, Indigenous Environmental Network

Cell: +1 (415) 656-9198

Email: Alberto@ienearth.org

1. Teresa Tomassoni, “Colombia was the Deadliest Place on Earth for Environmental Activists. It's Gotten Worse.” *NBC NEWS* (23 February, 2020), <https://www.nbcnews.com/science/environment/colombia-was-deadliest-place-earth-environmental-activists-it-s-gotten-n1139861>. [↑](#footnote-ref-1)
2. Network, Rainforest Action, Indigenous Environmental Network, Reclaim Finance, and Sierra Club, "Banking on Climate Chaos 2023," (2023), <https://www.bankingonclimatechaos.org/>. [↑](#footnote-ref-2)
3. Thomas Miller, “The 12 Highest Paid Oil & Gas CEOs,” *OilPrice* (16 March, 2015), <https://oilprice.com/Energy/Energy-General/The-12-Highest-Paid-Oil-Gas-CEOs.html>. [↑](#footnote-ref-3)
4. U.S. House Committee on Financial Services: Democrats, Diversity And Inclusion: Holding America’s Large Banks Accountable (last accessed 2 November, 2023), <https://democrats-financialservices.house.gov/issues/diversity-and-inclusion-holding-america-s-large-banks-accountable.htm#:~:text=%E2%80%9CA%20review%20of%20bank%20responses,intentional%20diversity%20and%20inclusion%20outcomes.%E2%80%9D>. [↑](#footnote-ref-4)
5. Network, Rainforest Action, Indigenous Environmental Network, Reclaim Finance, and Sierra Club, "Banking on Climate Chaos 2023," (2023), <https://www.bankingonclimatechaos.org/>. [↑](#footnote-ref-5)
6. Catherine Clifford, “These are the World’s Largest Banks that are Increasing and Decreasing Their Fossil Fuel Financing,” *CNBC* (22 April, 2021), <https://www.cnbc.com/2021/04/22/which-banks-are-increasing-decreasing-fossil-fuel-financing-.html>. [↑](#footnote-ref-6)