

Supervisory Body (SB)  
Article 6.4 Mechanism  
Ms. Kristin Qui, Chair

February 28, 2023

Mr. Piotr Dombrowicki, Vice-chair  
United Nations Framework Convention on Climate Change (UNFCCC) Transmitted  
electronically to [Supervisory-Body@unfccc.int](mailto:Supervisory-Body@unfccc.int)

Dear Ms. Qui and Mr. Dombrowicki,

The Institute for Agriculture and Trade Policy (IATP),<sup>1</sup> a non-governmental organization accredited by the UNFCCC, appreciates the opportunity to submit this short comment prior to the March 7-10 meeting of the SB in Bonn.<sup>2</sup> This letter concerns agenda item 2.2, paragraph 7, the approval of the 2023 work plan, with some reference to agenda item 3, paragraph 10, on “removal activities.”

As the SB is aware, controversies about the environmental integrity of land-based emissions removal projects continue to proliferate in frequency and scale, particularly regarding avoidance credits derived from forest conservation projects.<sup>3</sup>

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<sup>1</sup> To learn more about IATP’s climate change work, including our participation in COP27, please consult <https://www.iatp.org/climate-change>. Our most recent contribution to Article 6.4 related matters is a February 10 letter to the International Organization of Securities Commissions concerning its discussion paper on Voluntary Carbon Markets: <https://www.iatp.org/iatp-comment-iosco-vcvm>

<sup>2</sup> <https://unfccc.int/process-and-meetings/the-paris-agreement/article-6-4-mechanism/calls-for-input/sboo4-annotated-documents>

<sup>3</sup> E.g., The Guardian, *Revealed: more than 90% of rainforest carbon offsets by biggest certifier are worthless, analysis shows* (Jan. 18, 2023), <https://www.theguardian.com/environment/2023/jan/18/revealed-forest-carbon-offsets-biggest-provider-worthless-verra-aoe>; Follow the Money, <https://www.ftm.eu/articles/south-pole-kariba-carbonemission?share=6RVuzdbosPVoPoeNbS%2BHo6j1ACyVhYtk%2F6WUHcx2K3WRT2THqLrTelruqi%2F6FG0%3D>; Investor Group Bans Carbon Removal CO<sub>2</sub> reduction plans (Jan. 31, 2023), <https://www.reuters.com/business/sustainable-business/investor-group-bans-carbon-removal-co2-reduction-plans-2023-01-31/>; Tin Fischer and Hannah Knuth, “Phantom Offsets and Carbon Deceit,” *Zeit Online*, January 19, 2023, [https://www.zeit.de/wirtschaft/2023-01/co2-certificates-fraud-emissions-trading-climate-protection-english?utm\\_referrer=https%3A%2F%2Fwww.google.com%2F](https://www.zeit.de/wirtschaft/2023-01/co2-certificates-fraud-emissions-trading-climate-protection-english?utm_referrer=https%3A%2F%2Fwww.google.com%2F); West, Thales A. P., Jan Börner, Erin O. Sills, and Andreas Kontoleon. 2020. “Overstated Carbon Emissions Reductions from Voluntary REDD+ Projects in the Brazilian Amazon.” *Proceedings of the National Academy of Sciences* 117, no. 39 (September): 24188–194. <https://www.pnas.org/doi/full/10.1073/pnas.2004334117>; Bailis, Rob, Yiting Wang, Rudi Drigo, Adrian Ghilardi, and Omar Masera. 2017. “Getting the Numbers Right: Revisiting Woodfuel Sustainability in the Developing World.” *Environmental Research Letters* 12, no. 11 (October): 115002. <https://doi.org/10.1088/1748-9326/aa83ed>; Cames, M., Harthan, R. O., Füssler, J., Lazarus, M., Lee, C. M., Erickson, P., & Spalding-Fecher, R. (2016). *How additional is the Clean Development Mechanism?* Oeko Institut. [https://ec.europa.eu/clima/system/files/2017-04/clean\\_dev\\_mechanism\\_en.pdf](https://ec.europa.eu/clima/system/files/2017-04/clean_dev_mechanism_en.pdf). “Verra Response to Guardian Article on Carbon Offsets,” <https://verra.org/verra-response-guardian-rainforest-carbon-offsets/>; “Carbon market stakeholders: Open Letter,” Sylvera, January 30, 2023. <https://www.sylvera.com/blog/carbon-markets-stakeholders-open-letter>

Carbon Direct's "Assessing the State of the Voluntary Carbon in 2022" concludes that "The Voluntary Carbon Market has a quality problem with the continued proliferation of risky project types."<sup>4</sup> The proposals of the Integrity Council for Voluntary Carbon Markets (ICVCM) to enhance removal project environmental integrity by harmonizing certification protocols that issue Verified Carbon Units (VCUs) derived from these projects face many obstacles. Among them is the refusal by Verra, which issues about 75% of all VCUs, to cooperate with the ICVCM project.<sup>5</sup>

However, even if the ICVCM succeeds in improving project and VCU environmental integrity,<sup>6</sup> it will not have resolved the concern of prospective VCU buyers that the projects and VCUs lack "social integrity"<sup>7</sup> to ensure Parties and non-Parties' protection of human and land rights in removal projects. The COP27 CMA requires the SB to propose measures that would improve the social and environmental integrity of removals before they are converted to and issued as tradeable VCUs: "Activity participants shall minimize and, where possible, avoid, negative environmental and social impacts of an activity involving removals including impacts on biodiversity, land and soils, ecosystem health, human health, food security, local livelihoods, and the rights of the indigenous peoples, by following requirements to be developed by the Supervisory Body while acknowledging that the enforcement of environmental and social protection laws is a national prerogative of the host Party."<sup>8</sup> The requirements to minimize and avoid these negative impacts are an integral part of this CMA recommendation, not to be postponed while the SB deliberates the definition of "removals" and which removal techniques are proven to be efficacious towards meeting the 1.5°C Paris Agreement objective.

Although the Parties hosting removal projects reserve the right to enforce or not enforce environmental and social protection laws, prudent buyers of Internationally Transferred Mitigation Outcomes (ITMOs), certified by Parties for sale to non-Parties, retain the right to perform due diligence investigations about the environmental and social integrity of the VCUs subsequently offered for sale. IATP urges the SB to revise its work program to recommend to Parties measures to provide documentation of compliance with social integrity requirements in ITMOs, which will affect how the private sector attempts to improve the integrity of VCUs. The SB should pair any recommendation for a COP28 Decision on removals with a COP28 recommendation for a Decision on methodologies to ensure the protection of human and land rights in the jurisdictions of removal projects.

The SB draft 2023 work plan currently prioritizes work towards making recommendations for Decisions on methodologies, including on "standardized baselines" and "removal activities," to the CMA at COP28. (p. 6) IATP understands that these Decisions would be contributions towards enhancing the environmental integrity of ITMOs. The work plan provides only for the

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<sup>4</sup> <https://www.carbon-direct.com/insights/assessing-the-state-of-the-voluntary-carbon-market-in-2022>

<sup>5</sup> Danny Cullenward et al, "Verra's broadside against the Integrity Council props up the status quo," CarbonPlan, September 29, 2022. <https://carbonplan.org/research/verra-integrity-council/>; "Course Correction Needed: ICVCM's Draft Core Carbon Principles and Assessment Framework on Wrong Track." Verra, 26 Sept. 2022, <https://verra.org/icvcm-course-correction-needed/>

<sup>6</sup> Integrity Council announces timetable to introduce high-integrity label to voluntary carbon markets in Q3," January 19, 2023. <https://icvcm.org/integrity-council-unveils-timetable-to-introduce-high-integrity-label-to-voluntary-carbon-market-in-q3/>

<sup>7</sup> "Public Consultation Report," Task Force on Scaling Voluntary Carbon Markets, May 20, 2021, (Slide 50). [https://www.iif.com/Portals/1/Files/TSVCM\\_Public\\_Consultation.pdf](https://www.iif.com/Portals/1/Files/TSVCM_Public_Consultation.pdf)

<sup>8</sup> "Recommendation: Activities involving removals under the Article 6.4 mechanism," United Nations Framework Convention on Climate Change, A6.4-SBo03-A03, November 6, 2022, p. 4, section 3.7, paragraph 27. <https://unfccc.int/sites/default/files/resource/a64-sbo03-a03.pdf>

development of a Concept Note to provide guidance concerning Party and non-Party “Engagement with Local Communities and Indigenous Peoples Platform”<sup>9</sup> (p. 4) It is in such engagement that social integrity of ITMOs and VCUs may be monitored, verified and reported by ensuring that land rights and human rights are not violated or infringed during the development and operation of removal activities, whether they be nature-based or engineering-based. Our recommended Decision on methodologies to ensure social and environmental protection would surely include Engagement with Local Communities and Indigenous Peoples Platform but would be separate from and additional to the Engagement work program item.

As the SB knows already, human and land rights violations, and unfair sharing of VCU proceeds with LCIPP groups are characteristic of many land-based removal projects, many of which are certified as tradeable VCUs.<sup>10</sup> According to a summary of a recent study of 31 countries by carbon market proponents, “Most of the tropical forested countries looking to benefit from carbon markets have not yet defined communities’ rights over the carbon held in their customary lands and territories. This situation threatens both the well-being of communities who face increased threats of land grabs, criminalization, conflict and other human rights violations, and the viability of carbon markets themselves.”<sup>11</sup> The absence of community rights over long occupied land without formal land ownership titles may be exploited by removal project developers. The threats to the viability of carbon markets as a predictable and adequate form of climate finance, resulting from the violation of community rights and customary land rights, are much less understood.

We would argue that these threats extend to engineered removal technologies, some of which, such as Carbon Capture and Storage<sup>12</sup> and Bioenergy Carbon Capture and Storage (BECCS) require large tracts of land or the acquisition of easements for hundreds of kilometers of CO<sub>2</sub> pipeline to sites of purportedly permanent sequestration. Human rights impact analyses for BECCS are still an

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<sup>9</sup> <https://lcipp.unfccc.int/homepage>

<sup>10</sup> E.g., Forest Peoples Programme (FPP). (2021, July 1). *Press release: Indigenous Kichwa community take Peruvian State and National Park to Court*. Forest Peoples Programme (FPP). Retrieved July 12, 2022, from <https://www.forestpeoples.org/en/press-release/kichwa-take-Peru-state-PNAZ-court>; Amazon Watch, “The Amazon Rainforest-sized Loophole in Net Zero: How Net Zero Pledges Can Lead to False Solutions for Amazon Rainforest and Climate Protection,” 2021. <https://amazonwatch.org/assets/files/2021-the-amazon-rainforest-sized-loophole-in-net-zero.pdf>; *Evicted for carbon credits: Norway, Sweden, and Finland displace Ugandan farmers for Carbon Trading*. oaklandinstitute.org. (2020, October 14). Retrieved July 12, 2022, from <https://www.oaklandinstitute.org/evicted-carbon-credits-green-resources>; De Haldevang, M. (2022, June 27). *BP Paid Rural Mexicans a “Pittance” for Wall Street’s Favorite Climate Solution*. Bloomberg. Retrieved July 12, 2022, from <https://www.bloomberg.com/features/2022-carbon-offset-credits-mexico-forest-bp/>; Lang, C. (2022, April 2). *Indigenous Kichwa community takes the Peruvian State and Cordillera Azul National Park to court*. REDD-Monitor. Retrieved July 25, 2022, from <https://redd-monitor.org/2021/07/02/indigenous-kichwa-community-takes-the-peruvian-state-and-cordillera-azul-national-park-to-court/>; Dufresne, Gilles. “Two Shades of Green: How Hot Air “Forest Credits Are Being Used to Avoid Carbon Taxes in Colombia.” Carbon Market Watch, 30 June 2021, <https://carbonmarketwatch.org/publications/two-shades-of-green-how-hot-air-forest-credits-are-being-used-to-avoid-carbon-taxes-in-colombia/>

<sup>11</sup> Sebastian Jodoin and Katherine Lofts, “Carbon markets could protect nature and the planet, but only if the rights of those who live there are recognized too,” *The Conversation*, March 9, 2002. <https://theconversation.com/carbon-markets-could-protect-nature-and-the-planet-but-only-if-the-rights-of-those-who-live-there-are-recognized-too-176638>

<sup>12</sup> Jennifer Bjorhuis, “Carbon Express’ runs into skepticism in Minnesota,” *Star Tribune*, January 19, 2023.

academic concept, not required by law or regulatory practice.<sup>13</sup> This month's meeting of the Human Rights Council to consider "the impact of **new technologies for climate protection** on the enjoyment of human rights (HRC resolution **48/14**)"<sup>14</sup> (bold in the original) would positively validate engineering-based removals, but without evaluating the likelihood of risks of specific removal technologies to human and land rights.

Many carbon market participants will evaluate the risks of social integrity failure among engineering-based removal projects, if those projects violate human and land rights during and after the issuance of ITMOs or VCUs derived from engineering-based removal projects. There are reputational and legal risks for investors in VCUs with low or no social integrity. There is a growing scale of "climate washing" litigation originated by investors in VCUs who discover their emissions avoided, reduced or removed claims to be misrepresented or even fraudulent.<sup>15</sup> It would not be farfetched to imagine that "climate washing litigation" could also originate from investors who thought that the VCUs they bought were not only of high environmental integrity, but also high social integrity, only to find out the VCUs were derived from project developers who frequently violated land and human rights in the design and maintenance of their offset projects.

How can land and human rights violations distant from the sites of the certification protocol and the major financial exchanges where VCUs are packaged for trade in cash and futures contracts affect the viability of carbon markets? Litigation risk likely will dampen investor enthusiasm for VCMs for all but the investors with the greatest risk tolerance. VCUs with low environmental integrity are likely to have originated with removal project developers who viewed compliance with human and land rights as an unnecessary cost that reduces their project's profit margin.

Like the soil carbon certification protocols that do no soil testing, because of its expense,<sup>16</sup> but rely on computer modeling of soil carbon sequestration, cost-cutting can influence the social integrity of removal projects. In sum, the Article 6.4 mechanism and VCMs operating under its aegis will not contribute significantly to Overall Global Mitigation of Emissions if the human and land rights of those living in the removal project jurisdictions are ignored, violated or not enforced by the competent authorities.

Integrating human rights into UNFCCC work has been a slow process, often limited to preambular

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<sup>13</sup> William C.G. Burns, "Human Rights Dimensions of Bioenergy with Carbon Capture and Storage: A Framework for Climate Justice with Climate Geoengineering," pp. 149-170 in *Climate Justice: Case Studies in Global and Regional Governance Challenges* (Randall Abate, ed. 2016, Environmental Law Institute); Rebecca Thielman, "Landowners near carbon capture pilot fear bill would take away property rights, Indiana Public Radio, February 15, 2023. <https://indianapublicradio.org/news/2023/02/landowners-near-carbon-capture-pilot-program-fear-bill-would-take-away-property-rights/>

<sup>14</sup> "Twenty-ninth session of the Human Rights Advisory Committee to take place February 20-24," UN Office of the High Commissioner, press release, February 16, 2023. <https://www.ohchr.org/en/press-releases/2023/02/twenty-ninth-session-human-rights-council-advisory-committee-take-place-20>

<sup>15</sup> "Briefing: Legal risks of carbon offsets," Client Earth, September 2022.

<https://www.clientearth.org/media/nq4jnyww/ce-offsets-legal-briefing.pdf>; "Carbon Offsets: A Coming Wave of Litigation?" Quinn Emanuel Trail Lawyers, September 7, 2022. <https://www.quinnemanuel.com/the-firm/publications/client-alert-carbon-offsets-a-coming-wave-of-litigation/>

<sup>16</sup> J. Zelikova et al, "A buyer's guide to soil carbon offsets," CarbonPlan, July 15, 2021. <https://carbonplan.org/research/soil-protocols-explainer>

language and statements of principle.<sup>17</sup> However, the implementation of human rights in the Paris Agreement has been made more granular with the publication of a toolkit developed by the Office of the High Commissioner for Human Rights (OHCHR) and the Center for International Environmental Law (CIEL) to integrate human rights into the monitoring, verification and reporting for the Nationally Determined Contributions to mitigation.<sup>18</sup>

IATP urges the SB to vote to change its work program to produce a Decision on Engagement with Local Communities and the Indigenous Peoples Platform (LCIPP) that would outline future work for protecting and advancing human rights, land rights, and a fair share of proceeds from offset project development and maintenance within the Article 6.4 mechanism. SB members have taken an oath to implement the Article 6.4 mechanism to the best of their ability and without conflict of interest or appearance of conflict of interest. Therefore, IATP is obliged to advise the SB that the Article 6.4 mechanism will not be successfully implemented if the SB prioritizes work to recommend a Decision on removals but does not modify its 2023 work plan to develop a recommendation for a Decision on Engagement with Local Communities and the Indigenous Peoples Platform to integrate human and land rights and a fair share of proceeds from removal activities.

IATP thanks the SB for its consideration of our views and looks forward to assisting the UNFCCC's work to finance urgently needed mitigation and adaptation activities, particularly in the most climate vulnerable Parties.

Respectfully submitted,  
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<sup>17</sup> "Climate change: tackling the greatest human rights challenge of our time," Center for International Environmental Law and CARE international, February 2015. [https://www.ciel.org/wp-content/uploads/2015/06/CCandHR\\_Feb2015.pdf](https://www.ciel.org/wp-content/uploads/2015/06/CCandHR_Feb2015.pdf)

<sup>18</sup> "Integrating Human Rights In Nationally Determined Contributions: A Toolkit for Practitioners," November 2022. [https://www.ciel.org/wp-content/uploads/2023/01/Integrating-Human-Rights-in-Nationally-Determined-Contributions\\_Toolkit-for-Practitioners\\_Nov-2022.pdf](https://www.ciel.org/wp-content/uploads/2023/01/Integrating-Human-Rights-in-Nationally-Determined-Contributions_Toolkit-for-Practitioners_Nov-2022.pdf)