
January 6th, 2025

Attention: Federica DONATI
Officer-in-charge
Special Procedures Branch
Office of the United Nations High Commissioner for Human Rights (UN OHCHR)
F: +41 22 917 9008
T: +41 22 917 8341
ohchr-registry@un.org

Re: JOINT COMMUNICATION FROM SPECIAL PROCEDURES - REF AL OTH 141/2024

Dear Special Rapporteurs and Members of the Working Group,

I am writing on behalf of the Climate and Land Use Alliance, LLC (“CLUA Secretariat,” “us” or “we”) in response to the Joint Communication from the Special Procedures Branch of the UN OHCHR (ref. AL OTH 141/2024) (the “Joint Communication”). The CLUA Secretariat is a separately formed limited liability company, organized under Delaware law, with its own decision-making processes exercised under a board of managers. The CLUA Secretariat supports the broader donor collaborative of the Climate and Land Use Alliance (“the Alliance”), which is made up of the five member foundations named in the Joint Communication. These member foundations also received Joint Communication from the Special Procedures Branch. As part of the Alliance, the member foundations may each choose to make grants through their foundations aligned with the Climate and Land Use Alliance’s shared strategy. The CLUA Secretariat also engages in regranteeing on behalf of the member foundations and other aligned foundations.

The CLUA Secretariat is the sole organization responsible for the grant to Architecture for REDD+ Transactions (“ART”) referenced in the Joint Communication. The CLUA Secretariat managed this grant to ART through a regranteeing agreement. The CLUA Secretariat grant to ART was not funded by any of the Alliance member foundations. Accordingly, we, the CLUA Secretariat, are responding to the specific questions raised in the Joint Communication on behalf of the CLUA Secretariat, while acknowledging that the Joint Communication was also sent to CLUA’s five member foundations.

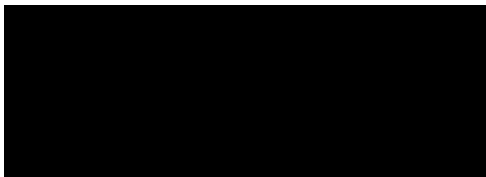
We take very seriously the concerns raised in the Joint Communication. We welcome independent and rigorous investigation into carbon markets and the impacts they have on the

rights of Indigenous Peoples, Afro-descendant Peoples, and local communities (IP, AD & LCs). Strengthening the rights of these communities and their meaningful participation in decision-making processes (including with respect to their right to free, prior, and informed consent) is a central focus of the CLUA Secretariat's grantmaking in support of IP, AD & LCs grappling with carbon market-based finance. We believe self-determination (a right recognized under international law, including in the ILO Indigenous and Tribal Peoples Convention (No. 169), the International Covenant on Civil and Political Rights, the UN Charter, the UN Declaration on the Rights of Indigenous Peoples, and the American Declaration on the Rights of Indigenous Peoples), which includes the right to manage lands, territories, and resources, is fundamental to Indigenous Peoples' and local communities' management of their forests.

We have enclosed the CLUA Secretariat's detailed response to the Joint Communication. Please contact us if we can offer further support to your thorough assessment of the case before you. We would welcome the opportunity to meet with members of the Working Group to provide any additional information that may help your efforts in this inquiry.

We hope that your work positively contributes to advancing human rights in Guyana.

Best wishes,



Lindsey Allen
Executive Director
Climate and Land Use Alliance

Introduction and Summary

The CLUA Secretariat takes very seriously the issues raised in the Joint Communication. Most notably, we seek herein to address the following allegations:

“[T]he issuance of carbon credits in Guyana, validated by Aster Global Environmental Solutions and certified by Architecture for REDD+ Transactions [were] subsequently sold to Hess Corporation, all without the free, prior and informed consent of Indigenous Peoples in Guyana. Architecture for REDD+ Transactions is registered in the United States of America and currently funded via Winrock International by the Government of Norway and the Climate and Land Use Alliance, which is an association of five philanthropies ...¹

...

In May 2024, ART [Architecture for REDD+ Transactions] received approval from the Integrity Council for the Voluntary Carbon Market as "Core Carbon Principles Eligible." At the same time, Aster Global visited Guyana to conduct verification exercises for the 2022 credits. In meetings, members from Indigenous communities informed Aster Global that the Village Sustainability Plans (VSP) process was not transparent. While these Indigenous communities, who find themselves in vulnerable economic situations, have welcomed receiving the financial benefits from the carbon credits, they were not appropriately consulted and did not participate in the design of the benefit-sharing plan. They were therefore unable to tell the Government what they consider appropriate compensation for having Indigenous forests included in the national carbon scheme. Indigenous villages were required to develop and submit VSPs to the Government for approval in order to receive funds from the carbon credit sale to Hess Corporation.”²

We do not concede that all of the facts as presented in the Joint Communication are accurate and reserve our right to augment or amend the findings we made in a due diligence we conducted on our grantee partners’ operations in late 2022 when concerns related to the issuance of carbon credits in Guyana came to our attention. CLUA Secretariat Program Officers engaged with stakeholders on these issues in support of broader efforts to achieve consensus and to ensure that any future credits would be issued with the full participation, consent, and input of all stakeholders, as provided in further detail below.

Applicable Legal Frameworks

The Joint Communication refers to multiple regulations, international conventions, and human rights guidelines as a proposed framework to govern the CLUA Secretariat’s operations and grantmaking activities. The CLUA Secretariat takes compliance with all applicable laws and human rights standards very seriously. The Annex to the Joint Communication includes a range of international human rights law sources revolving around the business and human rights obligations established by the United Nations Guiding Principles on Business and Human Rights (UNGPs). The sources cited in the communication refer to the obligations of “businesses”

¹ Joint Communication, pp. 1-2.

² *Id.*, p. 5.

and “business enterprises.” We wish to point out that the CLUA Secretariat is not a business or business enterprise.

While we do not believe that the UNGPs apply to our operations, we welcome the spirit and intent of the UNGPs and the business and human rights field at large. The principles espoused in business and human rights find a similar expression in the United Nations Environmental Program’s (“UNEP”) Core Human Rights Principles for Private Conservation Organizations and Funders (“UNEP Principles”), reproduced in Schedule 1 herein. The UNEP Principles establish the framework applicable to charitable foundations such as the CLUA Secretariat and align with our policies, principles and aspirations. The objectives of the UNEP Principles also align with our mission and values.

While foundations and charitable organizations are not the intended objects of business and human rights law, we do recognize that the operations of foundations and NGOs may have an impact on human rights. We believe that foundations and charitable organizations should, in their operations, take these impacts into account and implement safeguards to mitigate adverse effects on human rights as a best practice, regardless of whether any particular law mandates human rights due diligence or similar measures. The CLUA Secretariat undertakes these measures in our operations, including in instances where adverse impacts to vulnerable communities arising from the operations of our grantee partners have come to our attention. As a charitable organization, we do so not out of a sense of legal obligation, but due to a commitment to human rights that forms a part of our values and a core belief that our operations and those of our grantee partners should have a positive impact on the communities in which we operate.

Our Commitment to Environmental Stewardship and the Rights of Indigenous Communities

In response to the Joint Communication, we wish to first emphasize that the CLUA Secretariat supports efforts to ensure tropical forest systems are sustainably conserved and restored, rights are secured and exercised, and equity, well-being, and climate-resilience are advanced. We believe in, and are committed to, upholding universal human rights for all people. The CLUA Secretariat focuses specifically on supporting Indigenous Peoples’, Afro-descendant Peoples’, and local communities’ efforts to secure and exercise their land rights and tenure, manage their forests, and support their livelihoods. Our commitment to human rights is fundamental to who we are, what we value, and our dedication to the communities that we support.

In line with the United Nations Framework Convention on Climate Change (“UNFCCC”) processes and the Climate and Land Use Alliance’s strategy, we support the calls for additional climate finance to conserve and restore forests in ways that benefit communities. This climate finance can be secured through a range of approaches, including policies and programs that generate large-scale public and private finance. Among the potential existing forest and climate finance opportunities is carbon market-based finance, including programs for reducing emissions from deforestation and forest degradation (REDD+) that channel both public and

private resources to compensate governments and rights-holders for land-based emissions reductions and carbon removals.

A broad base of evidence has demonstrated that Indigenous Peoples and local communities and community land tenure play critical roles in the long-term stewardship of forests and ecological resources. Indigenous and local communities are grappling with the risks and opportunities carbon markets present for communities seeking finance to secure their land rights and territorial management. Forest carbon finance arrangements can create scenarios to increase support and funding for territorial recognition and long term community-led management. It is crucial that IP, AD & LCs have the adequate information as well as technical and legal support needed to determine whether and how to engage with carbon market schemes so they benefit and avoid any harm as projects and programs are developed, whether or not they choose to participate.

If IP, AD & LCs do decide to engage with carbon market opportunities, support should be available to ensure those transactions are equitable, responsible, effective, and beneficial for both their communities and the environment. The Alliance and the CLUA Secretariat have thus supported Indigenous organizations and civil society organizations to advocate within multilateral spaces and institutions, including the UN, the Green Climate Fund, and the World Bank, for rights-based approaches to Jurisdictional REDD+ results-based finance, dating back to the inception of the Climate and Land Use Alliance at the early stages of REDD+ and forest finance discussions.

In addition, the Alliance and the CLUA Secretariat have provided funding support more broadly toward bringing human rights, especially the rights of marginalized communities, more squarely into the forests and climate agenda. This includes building and communicating the evidence that secure community land and resource rights is both a justice and climate imperative; ensuring grassroots land and environment defenders are protected from violence, crimes, and criminalization; supporting efforts by IP, AD & LCs to assert and defend their land and resource rights, including the right to free, prior, and informed consent (FPIC); ensuring safeguards for Indigenous and community rights within corporate zero-deforestation commitments; and addressing the social, environmental, and economic costs of land conflict.

Carbon Market Concerns and Grantmaking Related to Jurisdictional Programs

The CLUA Secretariat unequivocally supports the rights of IP, AD & LCs to self-determination, to full participation as rights-holders, to having their decisions to engage or opt out of carbon initiatives respected, and to seeking proper redress where rights have not been upheld.

Over the past several years, while jurisdictional REDD+ efforts have moved forward haltingly, a new generation of market actors have rapidly developed private carbon projects, in many cases without the appropriate interest or expertise to support the self-determination and territorial integrity of IP, AD & LCs. Negative outcomes of such projects must be taken seriously – yet such outcomes are by no means inevitable. Given the growing levels of deforestation and

violence against forest communities and their territories, due consideration must be given to any mechanism with the potential to mitigate these trends.

In this context, the Climate and Land Use Alliance's strategy to support territorial agendas converges with the potential of jurisdictional REDD+ programs and the need for carbon markets to center social and environmental integrity. While most public discourse focuses on monetary payments as the defining feature of carbon projects and programs, governance changes can also be associated with such initiatives. Jurisdictional programs in particular, by virtue of involving the full powers of the state in coordinated activities to reduce emissions from forest loss, offer an opportunity to go beyond mere payments, and address deeper challenges of political economy facing tropical forests and the people who steward them. Where IP, AD & LCs demand and are afforded the opportunity to engage effectively in such programs, experience suggests that meaningful gains can be made not only in legal rights to territory, but also in regulations to enhance community livelihoods, strengthen social organization, and halt invasion pressures.

This sort of engagement requires enabling conditions. The CLUA Secretariat therefore supports the efforts of IP, AD & LCs to determine whether and how they will engage with carbon markets, including the right to opt out. This includes supporting capacity building, access to quality information and appropriate carbon expertise, resources for staffing, collective positions, legal and technical analysis, as well as the creation of an independent fund dedicated to social integrity in jurisdictional REDD+ programs.

Achieving meaningful social and environmental outcomes through carbon markets requires cultivating an ecosystem of organizations that can marshal and deploy knowledge on carbon programs, safeguards, rights, and other technical and legal expertise.

The CLUA Secretariat's grant to Architecture for REDD+ Transactions ("ART"), which assesses carbon credits against a standard called the REDD+ Environmental Excellence Standard ("TREES"), was part of this broader ecosystem approach. The CLUA Secretariat has made grants following a logic of ratcheting up quality in carbon markets both in the high level rule systems for safeguards, benefit sharing, and protocols, as well as ensuring those rule systems are appropriately funded and implemented to enable truly shared agendas between communities and jurisdictional authorities. To this end, the CLUA Secretariat's grants have sought to support not only ART TREES to develop a trusted process and international incentive structure for high integrity REDD+ credits, but also a number of organizations centrally involved in efforts to independently track, critique, and hold these processes to account on their social and environmental safeguards and standards for protecting human rights.

The CLUA Secretariat is deeply engaged and committed to these issues in our role as a funder of civil society organizations facing this context. The CLUA Secretariat believes this broad funding support is necessary in a complex ecosystem of opportunities and risks, that is also rife with misunderstanding and misinformation. Rather than excluding carbon markets from

grantmaking, the CLUA Secretariat has chosen to engage in providing support to those grappling with the tremendous complexity and number of carbon market actors and initiatives that have emerged in their territories.

Addressing Concerns Raised with Respect to Carbon Credit Issuances in Guyana

As part of our focus on carbon market integrity and social and environmental safeguards, and as it became clear that Guyana was working towards a certification with TREES, the CLUA Secretariat began monitoring the situation there closely in 2022. The CLUA Secretariat engaged with donors able and interested in investing in representative Indigenous organizations in the country. The Climate and Land Use Alliance and the CLUA Secretariat also provided funding to NGO allies working with Indigenous partners on both carbon markets and other priorities (the CLUA Secretariat and Alliance member foundations fund a broad portfolio of support to NGOs and IP, AD & LC organizations across Latin America). This funding was aimed at supporting the ability of these grassroots organizations and their representative alliances to navigate the negotiations around jurisdictional programs in the wake of the launch of the LEAF Coalition (Lowering Emissions by Accelerating Forest Finance), a public-private commitment of USD 1.5 billion to purchase credits certified by TREES, generating significant new demand.

The CLUA Secretariat was disappointed to learn that the jurisdictional program in Guyana had not achieved consensus with the country's largest civil society grouping of Amerindian communities by the time of the first issuance in December 2022. In late 2022, CLUA Secretariat Program Officers began a dedicated due diligence. In the subsequent weeks and months, in addition to thoroughly reading the Low Carbon Development Strategy (LCDS) 2030 strategy and related stakeholder engagement and safeguard reports, as well as the Concept Notes, Monitoring and Verification and Validation Reports, CLUA Secretariat Program Officers met with Indigenous representatives, and engaged regularly with ART and with the NGOs working around this situation, including those critical of the issuance, some of whom we also fund and engaged with as part of the diligence process.

These discussions included recommendations for ART's safeguard application system, as well as its grievance mechanism. The CLUA Secretariat also encouraged and supported broad participation in ART's periodic review of the Standard that is currently underway, and which has organized workshops with Indigenous and community organizations in South America, Africa, and Asia to gather input for the review. This process has also been supported by the Indigenous Peoples and Local Communities Advisory Group for the Review of ART's Standard, established in June 2024, made up of representatives from Latin America and Central Africa.

The CLUA Secretariat has actively pursued opportunities for a resolution of this situation in our role as a funder, and will continue to do so. The CLUA Secretariat grant to ART concludes in December 2025 with no planned renewal of funding.

The CLUA Secretariat has relied upon and would draw your attention to a number of resources available to you for additional information relevant to your inquiry. These include the full

documentation associated with the complaint and review process, as well as the Concept Notes, Monitoring Reports, and Verification and Validation Reports, all of which are available on ART's website³. If not already reviewed as part of your process, we would also recommend you review materials available at the Guyana Forestry Commission's website⁴, including their Summary of Information reports. The CLUA Secretariat is available as needed to support your process with contacts, inputs, or other materials that may be relevant for the inquiry.

CLUA Secretariat Human Rights Due Diligence Policies and Processes

The CLUA Secretariat maintains its own grantmaking policies and procedures for grants issued by the Secretariat. In grantmaking, the CLUA Secretariat adopts risk management approaches to identify and mitigate both external risks and the risks of unintended consequences from our funding. A key risk mitigation approach that the CLUA Secretariat employs is the direct engagement of CLUA Secretariat Program Officers with grantee organizations to monitor risks closely and engage intensively to prevent negative outcomes. The CLUA Secretariat's grant to ART followed our due diligence policies and procedures, aligned with the U.S. Internal Revenue Service ("IRS") regulations governing the requirements for U.S. 501(c)(3) charitable giving.

If, during the term of a grant, an issue regarding human rights violations becomes known to the CLUA Secretariat, we respond as we did in this instance, offering our full support to a thorough investigation of the allegations and our cooperation in appropriate and effective remedies identified through legitimate processes. As mentioned above, when the allegations related to this case were first raised, the CLUA Secretariat Program Officers held numerous meetings with organizations engaged in the Guyana issuance, including NGOs and the ART TREES team, in addition to conducting a detailed review of related documentation. It is our standard practice to remain closely engaged with grantees throughout the entire grant lifecycle.

The Climate and Land Use Alliance strategies seek to support civil society efforts to strengthen human rights with a focus on IP, AD & LCs and to ensure their meaningful participation in decision making processes, and to prevent violations and adverse impacts on human rights broadly. Alignment with this overall strategic approach, which is publicly available on our website, is a fundamental criterion when selecting the organizations receiving funding aligned with this strategy. The clear expectation to use funding aligned with the Climate and Land Use Alliance strategies is actively communicated to entities receiving funding from the CLUA Secretariat and specifically stated in the grant purpose in the grant materials provided. As a funder, the CLUA Secretariat supports the independence and integrity of our grantees.

The CLUA Secretariat takes seriously our responsibility to ensure the protection of human rights and freedoms, and to conduct human rights due diligence related to our grantmaking. We share your concerns about the need to ensure carbon markets have comprehensive human rights safeguards, and that IP, AD, and LCs rights are upheld given risks of being disproportionately

³ Home," ART Architecture for REDD+ Transactions, available at <<https://www.artredd.org>>.

⁴ "Guyana Forestry Commission, available at <<https://forestry.gov.gy/>>.

affected by carbon market schemes due to land rights violations, a lack of consultation and consent, and the potential for displacement. We remain committed to ensuring that both the CLUA Secretariat and our grantee partners weigh these risks in our operations and take measures to mitigate or eliminate risks.

CLUA Secretariat Next Steps

We welcome opportunities to strengthen our internal policies and commitments. Given the CLUA Secretariat's role as a grantmaker and our inherent rights-based focus, we are eager to engage with the recently launched Core Human Rights Principles for Private Conservation Organizations and Funders. The CLUA Secretariat is seeking to specifically implement the Core Human Rights Principles as part of our efforts to strengthen a rights-based approach in our funding.

We eagerly await the Working Group's report on this inquiry, as well as the responses to the Working Group's Joint Communication from other recipients, if available, including any responses issued by the government of Guyana, the government of the United States of America, the government of Norway, ART, Hess Corporation, Winrock International and/or Aster Global Environmental Solutions Inc. We look forward to reviewing the additional information released by the Working Group and other recipients of the Joint Communication. Once this additional information becomes available to us, our understanding of the situation may evolve and the CLUA Secretariat reserves the right to amend or correct any information we provided in this response as a result.

The CLUA Secretariat will continue to seek out information on the situation and engage with relevant stakeholders as part of our due diligence on the Guyana issuance.

Schedule 1. Core Human Rights Principles for Private Conservation Organizations and Funders⁵

United Nations Environmental Program Core Human Rights Principles for Private Conservation Organizations and Funders

The international community is facing a global loss of biological diversity on a scale unprecedented in human history. The biodiversity crisis is also a crisis of human rights. The loss of biodiversity undermines the ability of everyone, everywhere, to enjoy their human rights, but it is especially disastrous for the Indigenous Peoples and others who depend most directly on natural ecosystems for their material, cultural, and spiritual well-being. To be successful, efforts to conserve nature must recognize the rights and contributions of those whose ways of life contribute to its protection. In particular, the rights and methods of managing and conserving nature of Indigenous Peoples, Afro-descendant and other tribal communities, and peasants should be prioritized.

From 2022 to 2024, the United Nations Environment Programme oversaw a multistakeholder process to clarify how existing human rights norms and standards apply to private conservation organizations and funders. The process resulted in the Core Human Rights Principles for Private Conservation Organizations and Funders. The principles were the subject of extensive consultations with rightsholders, including Indigenous Peoples, rights-based organizations, experts, private conservation organizations, and funders. Rather than creating new rights or duties, or superseding existing norms and standards, the principles reflect and clarify the existing human rights norms and standards applicable to conservation. Overall, adherence to these principles fosters a more responsible, rights-based and gender-inclusive approach to conservation, which ultimately benefits all of us who share this beautiful planet.

The 10 Core Human Rights Principles for Private Conservation Organizations and Funders

- Principle One: Respect Human Rights
- Principle Two: Respect the Rights of Indigenous Peoples
- Principle Three: Respect the Rights of All Communities, Groups, and Individuals
- Principle Four: Undertake Human Rights Due Diligence
- Principle Five: Engage in Good Faith Consultation
- Principle Six: Prevent Human Rights Abuses
- Principle Seven: Provide for Effective Remedies
- Principle Eight: Protect Against Human Rights Violations and Abuses in Relationships
- Principle Nine: Protect Against Human Rights Violations in Law Enforcement
- Principle Ten: Report Regularly on Human Rights

⁵ UNEP Publication, "Core Human Rights Principles for Private Conservation Organizations and Funders", available at <<https://www.unep.org/resources/publication/core-human-rights-principles-private-conservation-organizations-and-funders>>.