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CORTE CONSTITUCIONAL

Dr. Tracey Osborne

I am a professor at the University of California-Merced and the Founding Director of the University of California Center for Climate Justice. My research focuses on the social and political economic dimensions of climate change mitigation in tropical forests, climate finance, global environmental governance and climate equity and justice. My team and I at the UC Center for Climate Justice are developing an innovative certification for high quality, equity-based climate change mitigation activities called the Climate Justice Standard.

Climate Justice

Climate Justice recognizes the disproportionate impacts of climate change on countries of the Global South, and on low-income communities and communities of color around the world. It takes a systems-based approach to tackling climate change – with equity front and center. Indigenous peoples and local communities live in many of the world's most biodiverse and most imperiled ecosystems. When it comes to climate change, they are the least responsible and the most vulnerable. They also are often best positioned to deliver the most effective solutions. The systems causing climate change are the same systems driving economic inequality and social and racial injustice. No climate solution can be durable, deployable, and scalable if it does not address inequality and injustice across scales from the community to tropical forest country governments. Climate Justice lifts the burdens of climate impacts on the people and places least responsible for climate change and ensures they get their fair share of the benefits of climate solutions that historically have flowed mainly to carbon emitters.

The Climate Justice Standard

The Climate Justice (CJ) Standard is a certification developed by University of California Center for Climate Justice that certifies high quality and high integrity projects. Prevailing carbon standards have the potential to provide much needed financial and technical support, but too often they fail to address the main drivers of deforestation and too many of the benefits of forest carbon projects are diverted to third party intermediaries instead of the people managing carbon on the ground.

The main issue is that carbon market prices are too low to meet the opportunity costs of the commodity drivers of deforestation in the form of oil exploitation, mining, large scale timber, beef and agricultural production. Alternatively, the projects certified by the CJ Standard attract carbon prices significantly higher than the low prices found on existing carbon markets. The CJ Standard will bring into balance the ability of climate change mitigation projects to attract investment for the

direct support of Indigenous peoples and local communities and fairly compensate tropical forest country governments. For any climate mitigation project to qualify under the CJ Standard, it will need to meet a rigorous set of requirements that support socially equitable and ecologically regenerative systems and guard against the unsustainable exploitation of natural resources.

The CJ Standard Inspired by Indigenous Peoples and the Ecuadorian Constitution

The UC Center for Climate Justice will be developing the CJ Standard based on research of existing payments for ecosystem service programs, carbon markets, and our collaboration with the Sarayaku People of the Ecuadorian Amazon. The project serving as a model for the CJ Standard is *Kawsay Ñampi*, meaning Way of Life in the Kichwa language. Developed by the People of Sarayaku in the Ecuadorian Amazon, *Kawsay Ñampi* involves the formulation and implementation of two key plans: (a) a territorial protection, sustainable forest use, and conservation plan that seeks to prevent extractive activities in their territory, and (b) a Life Plan that ensures a harmonious life for the Sarayaku people and their environment.

The CJ Standard aligns with the Ecuadorian's Constitution with regards to the commitment to the Rights of Nature, Sumak Kawsay or Buen Vivir and support of Indigenous rights. It is also very much inspired by the Yasuni ITT proposal, with an aim to compensate the Ecuadorian Government for lost revenue from extractive forms of development. In this way, it is supportive of the Ecuadorian Government's commitment to an ecological transition.

The CJ Standard agrees with Article 74 of the Ecuadorian Constitution as it currently stands particularly the reference to environmental services that cannot be appropriated. We applaud Article 74 for protecting Ecuador from predatory market-based carbon projects like the ones criticized by local and Indigenous communities all over the world. Article 74 now gives Ecuador the opportunity to develop an innovative program for climate change mitigation in tropical forests that can serve as an alternative to REDD+, the UN initiative for Reducing Emissions from Deforestation and Forest Degradation, and a model for the world. Given that at the CJ Standard we would like to find investors to support climate change mitigation projects in Ecuador, we hope to work with the Ministry of Environment, Water and Ecological Transition to legally develop projects in ways that align with climate justice for the benefit of local communities, Indigenous Peoples, the citizens of Ecuador and the Ecuadorian Government.

Concerns Regarding Question 8

Based on conversations with the Ministry of Environment, Water and Ecological Transition and legal advisors, I have learned about Question 8 as it relates to Article 74 of the Ecuadorian Constitution. This Question raises some concern for projects like *Kawsay Ñampi* and projects that might be certified by the CJ Standard due to a level of uncertainty. As I understand it, Question 8 would make the State both the regulator and the administrator of environmental services. Given the commitments under the Paris Agreement and importance of meeting the country's NDCs, it makes sense for the Ecuadorian State to serve as the regulator of environmental services and in this case carbon. However, for the State to serve as an administrator, where all funds would flow to and be managed by the State would be a challenge to the CJ Standard operating in Ecuador. The CJ Standard can command much larger flows of funding because the projects are high quality and integrity, and directly benefits local and Indigenous peoples while also supporting tropical country governments. These projects attract carbon prices 5 to 10 times higher than those found on the carbon market. In addition there is increased discussion in the international climate community

about climate funds going directly to local communities and Indigenous peoples. According to our legal advisors, one interpretation is that Question 8 could prevent the direct transfer of payments to local and Indigenous peoples and potentially limit overall funds to Ecuador. This level of uncertainty may put the project that we are developing in Ecuador in danger, because the universities interested in investing in the project want to see direct benefit to local communities and Indigenous peoples. There is concern that these buyers will be less likely to invest in projects in Ecuador if there is uncertainty about the rules governing administration of environmental services.

The CJ Standard is a certifier of primum carbon and has been identified as a standard of interest to many carbon developers and buyers. Our recommendation with regards to Question 8 is that the State regulate environmental services but that the administration of those services remains with local communities, Indigenous peoples, and land owners. This would allow the CJ Standard to continue to operate in Ecuador and generate significant funds for the country, while mitigating climate change in an effective and equitable way.

I am available if you have any further questions.

Sincerely,



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