

## **Brokering the Planet: Challenges in negotiating a carbon offsets agreement between California and Acre, Brazil**

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### **1) INTRODUCTION**

In 2006 California passed bill AB32, which mandates that the state return to 1990 GHG levels by the year 2020. Among the techniques for accomplishing this was the establishment of a cap-and-trade market in 2013. California cap-and-trade presents a regressive limit on industrial GHG emissions—with each passing year of the compliance period, businesses are allowed slightly fewer GHG emissions than in the previous year. With increasing stringency, the required emissions reductions will gradually become costlier for those industries subject to compliance. California Air Resources Board (CARB), the principal body responsible for the bill, is deliberating the inclusion of a linked offset market, wherein they partner with international jurisdictions who can provide carbon mitigation credits for purchase by California-based emitters. In this paper, I will refer to this plan as the “AB32 jurisdictional offsets program” as it is called in California. The two international partners are Chiapas, Mexico and Acre, Brazil. My research focuses on the relationship between California and Acre, asking the questions: **What are the key narratives\* underlying and shaping the proposal between Acre and California? What tensions and synergies emerge from these?**

California, Acre, and Chiapas signed a memorandum of understanding in 2010<sup>1</sup> that articulates the non-binding intent of all parties to enter into a future agreement (albeit not one that operates in a binding, treaty-like manner<sup>2</sup>) which would allow California industries (largely utility

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<sup>1</sup> REDD Offsets Working Group, “ROW Final Report: California, Acre and Chiapas. Partnering to Reduce Emissions from Tropical Deforestation.”

<sup>2</sup> Ibid.

(\* Note I refer here to the narratives specifically relevant to the proposed agreement, and not to the ideological underpinnings of REDD+ or carbon markets generally.)

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companies) to purchase carbon credits from Acre and Chiapas in order to meet the state-imposed “cap”. The rationale is that California can provide an additional offset compliance avenue to domestic producers outside of the domestic offsets market, and Acre can supply compliance-grade emissions reductions to an international buyer while using the funds to support a broader set of sustainable development goals and to build a low-carbon high social equity economy. For California, stated benefits include cost containment for the existing cap-and-trade market and the visible demonstration of California’s climate leadership (as the largest state economy in the US and the 8<sup>th</sup> largest economy in the world), as well as ostensible benefits to biodiversity and sustainable livelihoods for forested communities. For Acre, stated benefits include sources of financing for economic development and an executable incentive structure to further its deforestation and reforestation goals.

If realized, the AB32 jurisdictional offsets program would be the first of its kind—that is, an agreement to establish a linked carbon market between two jurisdictions across the global north-south divide (notably without the involvement of their respective national governments.) This year, negotiations and planning have resumed after a 2-year hiatus.

## 2) GLOBAL, BRAZILIAN, ACREAN, & CALIFORNIAN CONTEXTS

Forests are widely recognized as one critically important factor in global climate change. When deforestation or forest degradation occurs, the carbon stored in trees and soil are released into the atmosphere—in fact, deforestation and forest degradation accounts for approximately 12% of total global CO<sub>2</sub> anthropogenic emissions.<sup>3</sup> Conversely, healthy forests are also a powerful mitigating force in combating emissions from other sectors through the carbon sequestration and other ecosystem services that they provide.<sup>4</sup> As carbon sinks, forests not only retain carbon that would otherwise be emitted to the atmosphere, but also provide (known and unknown) ecosystem services such as water filtration, erosion control, etc. REDD+ is one of several iterations of international attempts by the UNFCCC (United Nations Framework Convention on Climate Change) to create a framework that incorporates the important role of forests into climate change mitigation. The **R**educing **E**missions from **D**eforestation and forest **D**egradation mechanism is intended to financially support efforts to reduce deforestation. One question that remains regarding REDD+ is the level at which the mechanism should operate (e.g., nested projects vs. states vs. nations). Some in the federal government insist that “jurisdictional” REDD suffers from the same shortfalls as those in the “project-based approach”, and that therefore the national REDD strategy is the only appropriate course of action. (It is simply the highest existing level of enforceable jurisdiction.)

Brazil is currently using the REDD+ framework in its national strategy, and has already established a National Commission for REDD+. Those in the federal government who oppose jurisdictional offsets at the state-level assert that monitoring, reporting, and verification (MRV) infrastructure should not be duplicated and that REDD+ strategy must by necessity be operated at the federal level in order to avoid double-counting in the international arena, as the federal government is accountable to the UNFCCC in reporting emissions based on their INDC (Intended Nationally Determined Contribution). Meanwhile, some state governments in the Amazon region have created institutional frameworks to trade avoided deforestation in voluntary markets.

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<sup>3</sup> van der Werf et al., “CO<sub>2</sub> Emissions from Forest Loss.”

<sup>4</sup> Stern, “Stern Review: The Economics of Climate Change.”

Acre is a small and remote state, nearly 9 hours' flight from Manaus, the epicenter of Amazon tourism in Brazil. The state's latex (*Hevea brasiliensis*) was highly coveted in the 1800's. By the 1880's, at the onset of the first rubber boom, Acre had become a very commercially valuable territory. Prior to 1899, Acre was a Bolivian territory. For a short period of time at the end of the 19<sup>th</sup> century, Acre was an American colony under the Aramayo charter. This was an agreement exacted by a New York-based syndicate together with the Bolivian government, which gave the syndicate (consisting of rubber barons in NY and Washington strategists) complete fiscal control over the state (e.g., for the collection of tariffs, land rents, for the use of force, for mineral rights). In 1899 Acre declared independence, but then ceded itself to Brazil in 1903 with the Treaty of Petropolis.<sup>56</sup> Today, the state has the greatest number of different indigenous identities, and boasts 16 different indigenous languages currently in use.<sup>7</sup>

Acre was not the focus of national attention during the period when the federal government was heavily investing in Amazon "development" (1970's and 1980's), as the state did not boast minerals or water resources suitable for hydroelectric dams<sup>8</sup>. However, it was at this time that land conflicts between forest-dwelling people (rubber tappers with Chico Mendes at the helm and indigenous people) and colonizers seeking to establish cattle ranches sparked a social movement, attracting international attention when the environmental movement began to decry Amazon deforestation.<sup>9</sup>

The state is widely recognized as one of the most successful in curbing deforestation. Acre operates many initiatives that qualify or have already qualified for funding under the guidelines of REDD+. (I refer here to Amazon Fund financing which Acre has received, as well as donations from overseas governments, which Acre negotiated and received directly.) The state has developed a comprehensive mix of approaches to reduce deforestation, ranging from zoning and titling to taxation and credits. They instituted a payment-for-ecosystem-services mechanism, for which they secured independent funding from the German Development Bank, and they have also placed their historical emissions credits on the Sao Paulo stock exchange. This was the world's first jurisdictional REDD+ program, called the System of Incentives for Environmental Services (SISA) State Law 2.308, passed in October 2010.<sup>10</sup> SISA supports and regulates activities that foster environmental services, including: carbon sequestration, biodiversity, soils conservation, traditional forest knowledge.<sup>11</sup> Payment mechanisms and conditionality criteria are defined on a project-specific basis.<sup>12</sup> Acre is quite proud of this and their history of sustainable forest-based development policies in the state over the past two decades, notably the Ecological–Economic Zoning (ZEE)<sup>13</sup> and the Valuation of Forest and Environmental Assets Policy.

CA, meanwhile, has passed AB32 to try to reduce its contribution to global climate change, to reduce the impact that global warming has/will have on important state industries (e.g.,

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<sup>5</sup> Hecht and Cockburn, *The Fate of the Forest*.

<sup>6</sup> Tambs, "Rubber, Rebels, and Rio Branco."

<sup>7</sup> Docent, Informal Interview with Docent of Biblioteca da Floresta.

<sup>8</sup> Schmink et al., *Forest Citizenship in Acre, Brazil*.

<sup>9</sup> Hecht and Cockburn, *The Fate of the Forest*; P. et al., *Environmental Governance and the Emergence of Forest-Based Social Movements*; Allegretti, "A Construcao Social de Politicas Publicas. Chico Mendes E O Movimento Dos Seringueiros."

<sup>10</sup> Duchelle et al., "Acre's State System of Incentives for Environmental Services (SISA), Brazil."

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Acre, "Portal Biblioteca Da Floresta - Zoneamento Ecológico Econômico - ZEE."

recreational sports, wine, agriculture, etc.), and to demonstrate its economic and environmental leadership. California's approach to the jurisdictional offsets carbon market agreement is guided by a mythology that marries three powerful and historical narratives:

- A strong tradition of conservationism (e.g., the lasting legacies of lionized conservationists—e.g., John Muir) that considers nature an object of human stewardship and protection, to be preserved untouched and hence conserved.
- Orthodox environmental liberalism—as in, a belief in the power of economic growth to induce green transformations and thus mainstreams environmental goals into policy-making.<sup>14</sup>
- The notion of norm entrepreneurship, bolstered by the state's culture of innovation. On the one hand the state espouses the deep-seated beliefs of environmental liberalism above, while on the other hand it departs from this central paradigm of economic growth by focusing on the power of the individual social entrepreneur. This counterpart focuses on the development of a society and economy based on social cooperation and solidarity-based economies (e.g. cooperatives).<sup>15</sup>

The partnership between Acre and CA is highly compatible—at least, on the surface. Cap-and-trade regulation creates a forced demand of carbon offsets credits as the regulations incrementally and progressively tighten. At the same time, Acre offers supply that will be cheap and plentiful relative to the offsets supply within CA itself. But the debate rages in both CA and Brazil. I borrow from Lueders, et al.<sup>16</sup> below to describe California's REDD+ offset experience and the various supportive and oppositional facets of the debate. In sum, the arguments are thus:

## **PRO**

- 1) GHG emissions from international forests are a critical piece of any attempt to mitigate climate change. Sectors related to land use are widely recognized as both major contributors or counteracting forces against climate change. Some believe that the jurisdictional offsets in CA's cap-and-trade regulation creates opportunities to create positive changes in forest land use.
- 2) Cost containment—The cost to emitting industries in CA will become higher over time, as the proverbial low hanging fruit of emissions reductions will be achieved earlier, and as companies are required to curb emissions even further in the future compliance periods. For CA emitters, it is cheaper to buy a ton of carbon offset credit from Acre than it is to reduce their own emissions by that same ton of carbon, or even to purchase a ton from their own in-state offset market (from fellow producers who produce less than the cap, or from other offset credit suppliers).
- 3) Jurisdictional offsets may provide extra-contractual benefits for international jurisdictions--such as support of indigenous cultures, ecological benefits such as maintenance of hydrological cycles, etc.

## **CON**

In addition to the laundry list of legal and theoretical problems with REDD+ generally, the arguments against the inclusion of jurisdictional offsets in CA's cap-and-trade regulation include:

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<sup>14</sup> Lederer, Bauer, and Wallbott, "Low Carbon Transitions in the Global South: How State-Driven Bottom-up Initiatives Might Evolve into a New Form of Governing the Global."

<sup>15</sup> Paech, "Die Legende Vom Nachhaltigen Wachstum"; Leggewie and Welzer, "Another 'Great Transformation'?"

<sup>16</sup> Lueders et al., "The California REDD+ Experience."

- 1) Co-benefits from AB32 should be enjoyed by California residents. Inclusion of international jurisdictional offsets allows emitters to “get away with” continuing to emit in California, to the detriment and risk of CA communities.
- 2) The proposed agreement introduces great risk of social exclusion of marginalized groups, and could exacerbate land disputes, and even could introduce evictions and disruptions to traditional ways of living.

### 3) SOME KEY DETAILS OF THE PROPOSAL

Many of the preliminary technical details of the proposal can be found in the REDD Offsets Working Group report<sup>17</sup> of 2012, which provides recommendations for the functioning of the agreement, once (and if) implemented. Here I will briefly discuss a few key details, some of which are missing from the public debates in California regarding this issue:

- The progressive cap applies first to utilities (electric power and industrial plants that emit 25,000 metric tons or more CO<sub>2</sub>e annually), then the second compliance period will apply to fuel distributors including distributors of heating and transportation fuels. By the end of the third period, AB32 will affect a total of around 360 businesses in the state.<sup>18</sup>
- CA’s cap-and-trade program is *already* linked, with that of the Quebec Ministry of Sustainable Development, Environment, Wildlife, and Parks. The official linkage was established in October 2013, and implemented on January 1, 2014.<sup>19</sup> Entities regulated in Quebec’s cap-and-trade market can purchase offset credits from California, and vice versa.
- Auctions of emissions allowances in CA are held on a quarterly basis, with restrictions on the number of allowances an entity can purchase and a price floor of \$10/ton.<sup>20</sup>
- States themselves do not transact money. The money exchanged never enters the hands of the California state government, and it also does not directly enter into Acre’s public coffers nor does it enter in the hands of forest conservationists or other individuals. Buyers (e.g., CA utility companies) purchase offsets from CDSA (Companhia de Desenvolvimento de Servicos Ambientais). CDSA is a business in public-private partnership with the government of Acre. CDSA sells credits (not just to hypothetical California entities, but also to anyone anywhere who wants to purchase offsets—for voluntary offsetting, or as a form of investment if they wish to purchase other financial products such as carbon offset bonds or derivatives. Individual landowners, indigenous groups, and others would not receive payments (this is one key distinction of the jurisdictional approach compared to the project-level approach in REDD+). The Acre state government would administer funds received by CDSA in implementing the sustainable forest development programs and any other initiatives that support the objective of Amazon conservation.
- Total projected California demand for carbon offsets is estimated at around 203 million metric tons from 2013-2020 based on the regulation allowed entities to satisfy up to 8% of their total compliance obligation with offsets.<sup>21</sup> The remainder must be met through direct operational emissions reductions. Entities are only allowed to meet 2% (before 2015) to 4% (after 2015) of their compliance through international offsets.

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<sup>17</sup> REDD Offsets Working Group, “ROW Final Report: California, Acre and Chiapas. Partnering to Reduce Emissions from Tropical Deforestation.”

<sup>18</sup> “California Cap and Trade | Center for Climate and Energy Solutions.”

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> REDD Offsets Working Group, “ROW Final Report: California, Acre and Chiapas. Partnering to Reduce Emissions from Tropical Deforestation.”

- The REDD Offsets Working Group provided detailed technical recommendations to create protections against leakage, to ensure additionality, and to establish agreed-upon reference levels for maximum environmental integrity.<sup>22</sup>

#### 4) RESEARCH AND METHODOLOGY

My research attempts to understand the details of the proposed AB32 jurisdictional offsets agreement between the states of California and Acre from a political and narrational perspective. I do this by conducting interviews with diplomats, directors of forestry programs and ministries, other public servants working in the environmental sector, academics, district attorneys, and representatives of major international NGO's working in Amazon conservation. Between June 1<sup>st</sup> and August 15<sup>th</sup> of 2016, I conducted 20 semi-structured interviews in Brasilia (the national capitol), Rio Branco (the state capitol of Acre), and virtually in Sao Paulo, Manaus, and the US. Most interviews were recorded with permission and transcribed.

Number of Interviews	Definition of involvement
4	Leaders of international environmental NGO's (e.g., World Wildlife Fund, Environmental Defense Fund).
2	Lawyers responsible for conducting legal analysis and creating the legal framework for AB32 jurisdictional offsets in Acre
5	Directors from various federal Ministries (including Environment, External Affairs, Agriculture, and Finance), including the recently appointed Vice-Chair of the IPCC
3	Independent consultants working directly with Acre
5	Public servants of Acre in the state environmental ministry, including the director of the Institute for Climate Change, which would be the primary agency responsible for implementation of AB32 jurisdictional offsets in Acre
2	Academics and stakeholders from civil society

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<sup>22</sup> Ibid.

These interviews were supplemented by analysis of existing documents on the AB32 jurisdictional offsets program (of which there are few). My research is also built on and informed by theories and observations by others studying the science-policy-implementation interface who have examined conservation discourses, REDD+ in the Brazilian Amazon, land use and political economy in Brazil, California environmental regulation, and carbon offset markets.

## 5) RESULTS

### *Contradictory ideas about REDD+*

Among the proponents of AB32 jurisdictional offsets in Acre, it was clear that REDD+ was conceived in two different ways: as both compensation for foregone income (*ex ante*) and as a payment for performance (the results-based framework, *ex post*). Offset payments provide critical compensation for the opportunity cost of *not* pursuing conventional development. However, offset funds are also payments for forest conservation performance, which should be rewarded (as emphasized by interview participants). The 'results-based framework' is now more widely accepted than the concept of avoided deforestation, as it implies goals established, accomplished, and compensated rather than implying a 'forest held hostage' mentality, in which it is implied that states will deforest *unless* they receive funds not to—a kind of "carbon bomb". Interviewees appeared to fluidly employ both concepts of REDD+ jurisdictional offsets.

### *Legal challenges*

Of the many apparent legal challenges, the most salient in the minds of interviewees was the issue of ownership of the emissions reduction. Who has the legal right to claim responsibility for a specific emissions reduction (in the form of reduced deforestation rate)? Participants from the federal ministries predictably saw federal policies as key determinants of local success in curbing deforestation. Federal policies regarding land tenure, federal investment in data collection and management technologies, federal negotiation of aid funding for environmental conservation—these efforts and many others on the part of the federal government warrant at least some benefit-sharing, in addition to the view that the Amazon territory in Acre does not belong to Acre, but rather "belongs" to all of Brazil. Some participants even suggested that the federal government should be entitled to *most* of the payments received from offsets sales in Acre. Participants representing interests in Acre predictably saw the state policies or local communities' actions as the key determinants of success. A few participants representing either national and state interests suggested that perhaps a 50-50 benefits-sharing is warranted.

Furthermore, there is also the question of whether California (and by extension the US) "owns" the emissions reductions after purchasing them from Acre. A frequently introduced topic of discussion in interviews was the decree issued by the Brazilian federal government in November 2015, which states that Brazil will not recognize purchases of offset credits sold by domestic jurisdictions (Brazil will continue to claim the emissions reductions in their UNFCCC reporting, regardless of whether the US reports domestic emissions reductions purchased through offset trading programs.) Attorneys working with Acre are strategizing ways to legally challenge the constitutional validity of this decree.

### *Valuation of environmental goods*

The two central ideas expressed by supporters of AB32 jurisdictional offsets in Acre are a)the importance of "making the forests worth more standing than cut" and b)the necessity of financing to support sustainable development--otherwise the state will face greater temptation to develop forests conventionally and destructively.

What exactly *is* that worth? What price would make forest conservation attractive in the midst of an economy that makes forest destruction quite lucrative? The majority of interviewees believe that Brazil owns *billions* of tons of emissions reductions—some even stated aversion to offset sales on the premise that Brazil would flood the market with supply and the price would plummet (despite the fact that at least in California, the price is regulated such that it cannot fall below \$10/ton). In any case, the price per ton would reflect supply and demand, and not the calculated value of environmental services secured by the reduction of deforestation.

#### *Narrational affinity with Acre*

Selective aspects of the REDD+ discourse in Acre are well-suited to the above narratives in California, fostering a programmatic and political convergence in the form of the AB32 jurisdictional offsets program, despite tensions in other discursive aspects. This is clearly informed by the history of autonomous social movements in Acre, which was a frequent point raised by interviewees. Autonomy and “freedom” in the market sense are important aspects of AB32 jurisdictional offsets—as proponents continually point out, title to forests never passes through the hands of any external entity. AB32 jurisdictional offsets also is seen as harnessing the power that local knowledge and power in decision-making can have. For Acre, this kind of agreement allows greater autonomy than other donor countries’ interventionist approaches or even from socially exclusionary tactics that the Brazilian government itself has taken (e.g., Ex-president Sarney’s *Nossa Natureza* plan in the late 1980’s decreed the establishment of a park on the border of Peru which would require the eviction of 12,000 rubber tappers and their families.<sup>23</sup>) Acrean social movements reached the global stage in the late 1970’s, when Chico Mendes and others fought the forces of land speculation and social exclusion of rubber tappers by national powers, ranchers, and economic forces. Acre and California share some characteristic affinities as well, as both are seen as independent, renegade, and innovative.

#### *Market Mechanisms as Redistribution*

Federal actors (regardless of their position for or against) sometimes saw AB32 jurisdictional offsets as a possible form of redistribution—as a way for the developed world to take responsibility and pay for their climate-destructive behavior. This is a key point that the Brazilian national government has pressed in past climate change negotiations: developed countries should be held responsible for current and past emissions, and developing countries should not be restricted in their economic development endeavors, even if they add to the global carbon stock by doing so. Despite this theoretical agreement, however, federal public servants who oppose AB32 jurisdictional offsets believe the program to be too fraught with both technical and socio-political problems.

#### *Unclear definition and distribution of benefits/costs*

California companies subject to cap-and-trade benefit from the availability of an offset available for purchase. By purchasing offsets, they are able to continue to operate in the state and avoid more expensive reductions if they were to cut back on production. They pay for this benefit, and Acre receives funding—at whatever market-determined (with some restrictions) price. Presumably, if Acre were to develop their forest resources in conventional ways, the immediate benefits of developing these forest resources would accrue to Acre. Efforts to conserve forest resources or to use them in ways that are less destructive than conventional models of development then come at an opportunity cost for the state. If Acre undertakes these efforts for the benefit of all global posterity, then, should their efforts not be reciprocated by some beneficiar(y/ies)? Currently, there are no procedural stipulations for fair reciprocity in these

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<sup>23</sup> Hecht and Cockburn, *The Fate of the Forest*.



exchanges on an international scale.<sup>24</sup> AB32 perhaps is an attempt to create a kind of reciprocity in the absence of global procedure. Indeed, almost every interviewee expressed excitement at the fact that CA and Acre were actually enacting necessary changes, while the international community merely bickered and debated and debated again about what form this global procedure should take (international negotiations on incorporating forests into climate change mitigation have dragged for more than a decade, evidenced by the evolutions of the Clean Development Mechanism, REDD, etc). Needless to say, AB32 is far from a complete reciprocity, as there are other benefits, and other beneficiaries, who are not party to the agreement. The entire world benefits from Acre's sustainable forest management practices, as a treasured biome is preserved, the integrity of global ecological systems such as air and water flows is enhanced, and the slow march toward planetary doom is stalled if only marginally. But these beneficiaries do not directly pay—a kind of *benefit leakage*.

More than just an issue of international procedural law, it is also one of ethics. International environmental NGO's and civil society groups decry the destruction of forests, but these well-intentioned cries can sting of hypocrisy when they come from developed countries whose forests were effectively decimated and replaced with urban, peri-urban, suburban, and rural agricultural developments. In her article on the "internationalization" of the Amazon, McCleary says: "If Brazil has to deforest Amazonia to meet the basic needs of its people and develop economically, then the international community is obliged to aid Brazilians with their development. If the international community wants to preserve the rainforest for the well-being of its people, then it is obliged to assist Brazil not only in financing development but in creating alternate developments strategies that are compatible with environmental preservation. Brazil, for its part, has a general duty to aid humanity but not at the expense of making its people worse off."<sup>25</sup> However, the "opportunity cost for the state" mentioned above is not only an opportunity cost for Acre but for all people of Brazil if we consider this from the framework of the modern nation-state model. Thus the "cost" borne by Acre (by engaging sustainable forest development instead of conventional forest extraction) is a cost that is also borne by the entire country. This, together with the murkiness of the territorial aspects described under *Legal Challenges* make the cost/benefit flow all the less clear.

#### *Where to offset?*

For some interviewees, the question of where to offset was more important than the question of whether to offset. Opponents in the federal government asked why Brazil should sell credits to California, instead of offsetting its own industrial emissions in Sao Paulo, for example. Opponents in California also ask why California businesses should purchase offsets in Acre rather than directing that funding to support community development in California—especially for those CA communities directly harmed by industrial emissions.

#### *Unlikely synergies in opposition*

Actors in the federal government who opposed AB32 jurisdictional offsets also expressed deep suspicion of independent consultants employed to design the carbon markets. They portrayed environmental consultants as nothing more than unscrupulous swindlers looking for a quick buck from the sale of carbon credits, a modern-day equivalent of the proverbial emperor's invisible clothes. This is one of several points of synergy with grassroots environmental groups who oppose REDD+ generally on the basis of an anti-market or anti-capitalist critique. Whereas these same groups might be traditionally loath to align with the federal government, here we encounter some unlikely friendships.

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<sup>24</sup> McCleary, "The International Community's Claim to Rights in Brazilian Amazonia."

<sup>25</sup> Ibid.

## 6) CONCLUSION & RECOMMENDATION

No interviewee nor current paper on the subject has been able to completely or adequately explain how a CA-linked REDD+ carbon market in the form of the AB32 jurisdictional offsets program is the best way to invest in forests or to mitigate climate change compared to other methods which are being currently practiced in Acre or in the multitudes of other forest protection programs in the Brazilian Amazon as a whole. They have also failed to explain why California industries should not purchase offsets in California in the form of sustainable development programs or compensation to communities directly subjected to emissions pollution.

**However, AB32 jurisdictional offsets presents an opportunity to fund sustainable development in a way unlike any other. This is an important initiative not only for the sake of inter-jurisdictional cooperation, but also because social and environmental causes cannot continue to rely on philanthropic or ODA (overseas development assistance) financing.**

For some time, developed states have been demanding that financial mechanisms should be performance-based, thus closer to a trade exchange rather than aid flows.<sup>26</sup> This is true of national governments and multi-lateral aid institutions. Penca<sup>27</sup> argues that the very idea of market mechanisms for conservation demonstrates that the new regulatory tools merely speak the right language—that of the market—rather than actually presenting new facts.<sup>28</sup> These regulatory tools (such as AB32 jurisdictional offsets) try to present ‘carrot’ solutions that encourage certain actions rather than coercively obligating them. They also tap into new sources of funding and provide a more significant role for the private sector<sup>29</sup> in endeavors which until recently have been considered the domain of the state—that is, providing a public good in the form of forest conservation. So while the logic of commodification only makes sense within the absurd constructions of late capitalism,<sup>30,31</sup> there may be real tangible benefits for marginalized groups. In the midst of articulating a Marxist critique of carbon commodification (and forming the basis of social movements on this critique), we cannot lose sight of the possible gains for actors whose historical exclusion and climate vulnerability renders their survival more important than ever before. Skepticism of carbon trading and traders is legitimate, and the market must be highly regulated to prevent abuses that divert gains away from true beneficiaries and toward the pockets of mere speculators. But if we agree that corporations emitting GHG’s must pay, then why should they not pay to support programs directly rather than indirectly through state taxes or penalties? Perhaps for the Amazon, for the continued survival of the people whose lives are intimately dependent on it, we should not let the commodification critique prevent altogether programs like AB32 jurisdictional offsets, but instead use it to design the necessary safeguards, protections, and regulations to create an agreement that guarantees benefits go where they are truly intended.

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<sup>26</sup> Kaul, Grunberg, and Stern, *Global Public Goods: International Cooperation in the 21st Century*.

<sup>27</sup> Penca, “Marketing the Market: The Ideology of Market Mechanisms for Biodiversity Conservation.”

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Robertson, “Measurement and Alienation.”

<sup>31</sup> Castree, “Neoliberalism and the Biophysical Environment 3.”

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