

APPEAL

Amerindian Peoples Association

(the “Appellant”)

- and -

Architecture For REDD+ Transactions

(the “Respondent”)

(Re Complaint by Amerindian Peoples Association regarding the 2016-2020 Validation and Verification of the Government of Guyana’s REDD+ Program)

DECISION AND ORDER

On June 16, 2023, the Appellant delivered its intention to appeal the Memorandum of Review’s conclusions (the “**Appellant’s Submissions**”). On July 16, 2023, the Respondent indicated that it would form the Appeals Committee to assist the ART Secretariat in determining the threshold eligibility of the Appeal rather than have the ART Secretariat do so unilaterally as outlined in the Complaints and Appeals Guidance document. The ART Secretariat requested that APA nominate its representative to serve as an independent and impartial Member of the Appeals Committee.

On July 17, 2023, Roselyn Fosuah Adjei was nominated by ART and confirmed by the ART Secretariat as an independent and impartial Member of the Appeals Committee from the ART Board in accordance with Article 16.2 of the REDD+ Environmental Excellence Standard (“**TREES**”) and Article 4.3 of the Guidance on ART’s Complaints and Appeals Process (“**Guidance**”).

On July 19, 2023, Thomas Green was nominated by ART and confirmed by the ART Secretariat as an independent and impartial Member of the Appeals Committee from the Winrock Board in accordance with Article 16.2 of TREES and Article 4.3 of the Guidance.

On July 20, 2023, the Appellant requested clarification on the nominee selection criteria and process. On July 24, 2023, the ART Secretariat provided the requested information.

On August 30, 2023, Rosa Celorio was nominated by APA and confirmed by the ART Secretariat as an independent and impartial Member of the Appeals Committee of the APA’s choice in accordance with Article 16.2 of TREES and Article 4.3 of the Guidance.

On September 18, 2023, the Appeals Secretariat sent its Appeal Terms of Reference (**TOR**) via email and DocuSign to the Parties to the Appeal, the Appeals Committee members, and the Appeal Secretariat for signature. The TOR was signed by all relevant entities other than the APA and its nominated, independent and impartial Appeal Committee Member (the **APA’s Impartial AC Member**) .

On October 3, 2023, the Appeals Secretariat contacted the Appellant and APA's Impartial AC Member to request timely execution and return of the TOR. On October 4, 2023, the Appellant submitted revision requests for the TOR. On October 6, 2023 the APA's Impartial AC Member submitted an email to the Appeal Secretariat including submissions that appeared to be advocating on the APA's behalf (the **Advocacy Submissions**).

On October 10, 2023, the Appeals Secretariat responded to the APA requests with reasons and provided a modified the TOR (the **Modified TOR**) to provide additional time for the Appellant to submit an Addendum to their Complaint to strictly address the threshold eligibility criteria, set out in TREES, the Guidance and the TOR, should it wish to do so. The Appellant and APA's Impartial AC Member were provided until October 13, 2023 to execute the TOR in order to ensure the timely efficient conduct of the Appeal process, after which the Appeal Secretariat would proceed on the basis that the Appellant no longer wished to pursue the appeal and would dismiss the Appeal (the **Dismissal Notice**).

On October 12, 2023, the Appellant submitted an email requesting additional time to review the Modified TOR. On October 13, 2023, the Appeal Secretariat responded via letter providing an extension for execution of the Modified TOR by the APA and the APA's Impartial AC Member on or before October 18, 2023 and updated the Modified TOR to reflect the October 18, 2023 date and potential for the APA to submit the Addendum to the Appeal in accordance with the Appeal Secretariat's October 10, 2023 letter and the Dismissal Notice.

On October 18, 2023, the Appellant substantively and unilaterally amended the Modified TOR without authority, in contravention of the Appeal Committee's decision and in disregard of the procedural fairness afforded to **both** Parties to the Appeal (the **APA Unilateral TOR**). The APA also submitted a lengthy Addendum to their Appeal, and materials received after the stipulated deadline.

On October 25, 2023, the Appeals Committee rejected the APA Unilateral TOR and provided the APA with the full and final Terms of Reference (the **Final TOR**) with final notice that if the Secretariat did not received the executed Final TOR from the APA and APA's Impartial AC Member before 6:00 pm Eastern Standard Time on Friday, October 27, 2023, it would dismiss the Appeal.

The Appeal Secretariat did not receive the executed Final TOR from the APA and APA's Impartial AC Member before 6:00 pm Eastern Standard Time on Friday, October 27, 2023.

The Appeal is hereby dismissed in its entirety for the following reasons.

The APA, despite considerable opportunity and accommodation by the Secretariat:

- (i) refuses to proceed by the process and the procedures for the Appeal stipulated by the Secretariat in a manner to facilitate procedural fairness to all Parties to the Appeal;
- (ii) has attempted to dictate that the Parties to the Appeal be bound by APA Unilateral TOR, in clear contravention of procedural fairness, and will not proceed in compliance with the processes and procedures set in the Modified TOR set by the Appeal Secretariat, in a manner that is procedurally fair to **both** Parties to the Appeal;
- (iii) demanded processes, procedures, and consideration of matters beyond the mandate, rules, and requirements of ART TREES, the Guidance, and the record in this matter; and

- (iv) selected an Appeal Committee member that has not executed the Modified TOR and related confidentiality requirements and appears to have made Advocacy Submissions for the Appellant.

This Order of Dismissal is made on and is effective at and after 6:01 pm Eastern Standard Time on Friday, October 27, 2023.