

Carbon projects and programmes

A CHECK-LIST FOR COMMUNITIES

If your community is approached to be part of a project or programme that will be funded by the carbon market, by carbon finance funds, or that will create carbon credits then it is important to try to get as much information as possible before entering into any agreement. This checklist is intended to provide a minimum list of questions that you should get answers to. You should also access the advice of a trusted lawyer before signing anything.

INFORMATION ABOUT THE PROJECT

Basics

- ✓ Where is the project, how big an area does it cover, what are the names and number of affected people(s) or communities?
- ✓ What kind of land rights does your people or community hold over your lands and territories? Are your rights customary and untitled, customary and titled, individual and titled, individual and untitled, communal and titled or communal and untitled, or some other form of right?
- ✓ Are you being proposed as a party to the contract selling the carbon credits? If yes, who is the named seller? If no, what company, agency or other entity is the named seller?
- ✓ What is the length of time that the project covers? What are the different stages of the project and their respective durations?

The financing mechanism

- ✓ Is the project funded through the sale of carbon offset credits or through other funding or a mix of the two?
- ✓ If the project is funded by the sale of carbon offset credits, what kind of information has been provided to you pro-actively, and what information has been requested by the community during project and contract negotiations on:

- » Who is the buyer? Who pays for the carbon rights which the community is considering to sell and at what average price? What are the prices for comparable projects?
- » Possible legal implications of signing a carbon offset contract and on possible impact of such a (long-term) contract on ownership rights over the carbon in the forest, both for present and future generations.
- » Possible implications of both decreasing and increasing carbon prices for the specific project? E.g. will the community benefit if carbon prices go up or do they receive a fixed sum payment irrespective of the price for which offset credits are traded? With regard to falling prices, will payments to the community be linked to the price of carbon on an international carbon market? Are contractual obligations linked to payments agreed on in the carbon contract signed?

WHAT YOU SHOULD KNOW....

...ON THE CLIMATE IMPLICATIONS OF CARBON OFFSETS GENERALLY:

(1) THE BUYER OF THE CARBON CREDIT IS PURCHASING THE RIGHT TO CONTINUE TO RELEASE FOSSIL FUEL EMISSIONS AT HOME BY PAYING THE COMMUNITY TO CHANGE BEHAVIOUR AND THEREBY REDUCE EMISSIONS WHICH THEY ARE RESPONSIBLE FOR;

(2) CARBON OFFSET PROJECTS NEVER REDUCE EMISSIONS AND LEAD AT BEST TO STABILISATION OF EMISSIONS WHILE THE SCIENTIFIC CONSENSUS IS THAT EMISSIONS NEED TO BE REDUCED BY SOME 80-90% OVER THE COMING DECADES AND PEAK AROUND 2015 IF CLIMATE CHAOS IS TO BE AVOIDED;

(3) CARBON OFFSET PROJECTS WILL JUSTIFY CONTINUED AND EXPANDED EXTRACTION OF OIL AND COAL WITH ALL ITS HUMAN RIGHTS, SOCIAL AND ENVIRONMENTAL CONSEQUENCES.

- v If the project is financed through a fund, has information been provided pro-actively or requested by the community during the presentation and negotiation of the project on the objectives of the fund,



where the fund is located, who is providing the funding and whether those providing the funds are getting carbon emission offset rights in return for their contribution.

CONSULTATION AND NEGOTIATION PROCESS

- ✓ Who was the negotiating partner, if one?
- ✓ Who has negotiated for you or is proposed to negotiate for you? Will you negotiate by yourself?
- ✓ Who will be signing the contract on behalf of your people or your community? How has this been decided?
- ✓ Have you had independent legal advice and/or an opportunity to discuss the contract and its implications on rights with a lawyer?
- ✓ Was there a lawyer representing or advising you present during the negotiations?
- ✓ Were the national laws of the country discussed as they may affect the carbon contract?
- ✓ Has the contract been written and presented in the language of your people or the language spoken in the community, or at least a language that community members can understand?
- ✓ Have women been involved in the consultation and decision making?
- ✓ Did the consultation process allow for feedback from community members? Was the consensus of the people of the community obtained in accordance with their custom and tradition? If not, why not?
- ✓ Has the community been given a copy of the contract and other documentation related to the carbon offset project?
- ✓ Assuming there are restrictions on the use of the forest, how have these been negotiated within your community?
- ✓ Do the restrictions affect all members of the community equally? Who is affected most, who the least?
- ✓ Is there a process to address unequal impact?
- ✓ Does the project create any new jobs? If yes, by what process are jobs allocated or provided and what kind of jobs?

WHAT YOU SHOULD KNOW...

...ON A PROPER CONSULTATION PROCESS.

THE INTER-AMERICAN COURT OF HUMAN RIGHTS GAVE A RULING AFTER DEALING WITH THE CASE OF THE SARAMAKA PEOPLE VS SURINAME GOVERNMENT WHICH OUTLINES SOME KEY ASPECTS OF THE DUTY TO CONSULT. THE SAME SHOULD ALSO APPLY TO NEGOTIATION OF FOREST CARBON PROJECTS:

- ◇ THE STATE AND THOSE AUTHORISED BY IT HAVE THE DUTY TO BOTH ACCEPT AND DISSEMINATE INFORMATION, AND ENSURE CONSTANT COMMUNICATION BETWEEN THE PARTIES;
- ◇ CONSULTATIONS MUST BE UNDERTAKEN IN GOOD FAITH, THROUGH CULTURALLY APPROPRIATE PROCEDURES AND WITH THE OBJECTIVE OF REACHING AN AGREEMENT;
- ◇ INDIGENOUS AND TRIBAL PEOPLES MUST BE CONSULTED, "IN ACCORDANCE WITH THEIR OWN TRADITIONS, AT THE EARLY STAGES OF A DEVELOPMENT OR INVESTMENT PLAN, NOT ONLY WHEN THE NEED ARISES TO OBTAIN APPROVAL FROM THE COMMUNITY, IF SUCH IS THE CASE. EARLY NOTICE PROVIDES TIME FOR INTERNAL DISCUSSION WITHIN COMMUNITIES AND FOR PROPER FEEDBACK TO THE STATE;"
- ◇ THE STATE MUST ENSURE THAT THE INDIGENOUS AND TRIBAL PEOPLES ARE AWARE OF POSSIBLE RISKS, INCLUDING ENVIRONMENTAL AND HEALTH RISKS, SO THAT THE PROPOSED PROJECT IS ACCEPTED KNOWINGLY AND VOLUNTARILY; AND,
- ◇ FINALLY, CONSULTATION SHOULD TAKE ACCOUNT OF INDIGENOUS AND TRIBAL PEOPLES' TRADITIONAL METHODS OF DECISION-MAKING.

DO YOU THINK THAT THE CONSULTATION AND NEGOTIATION PROCESS RELATED TO THE PROPOSED PROJECT MEETS ALL OF THESE REQUIREMENTS?



THE CONTENT OF THE CONTRACT

- ✓ What is the time period of the contract? Is it the same as the length of the project?
- ✓ Does the contract limit or restrict your right of access and use or the right of use for other neighbouring communities? If yes, have these limitations been fairly negotiated and has fair compensation been provided under the contract?
- ✓ How are the payments being determined?
- ✓ If the selling of credits is part of the contract, how many credits are these?
- ✓ Is the payment received linked to the price of the carbon?
- ✓ Did you have your own financial analysis to assist in arriving at the agreed price? Is the payment made as one-off fixed sum or a continuous payment for as long as the contract lasts?
- ✓ What rules or regulations have been put in place to make sure the carbon remains in the forest during the contract period? Who has put these rules and regulations in place?
- ✓ Who carries the risk if something happens to the forest/trees? What happens if the carbon is lost through accidental events like a wildfire? Would you have to pay money back to the contract partner?
- ✓ Has sufficient information been provided/sought for you to understand both the responsibilities and benefits as agreed upon in the contract?

IMPLEMENTATION AND MONITORING

- ✓ Who is responsible for the implementation of the rules and regulations agreed on in the contract? Who is monitoring the implementation?
- ✓ What enforcement mechanism is in place to ensure that the contractual obligations are met?

This check-list is based on a community check-list developed by FERN and the Forest Peoples Programme





WHERE CAN I GET MORE INFORMATION ABOUT ALL THESE THINGS?

Climate Change

Anchorage Declaration, Indigenous Peoples' Global Summit on Climate Change: <http://www.forestpeoples.org/documents/forest_issues/anchorage_declaration_apr09_eng.pdf>

Intergovernmental Panel on Climate Change (IPCC) 2007. Fourth Assessment Report Climate Change 2007: Synthesis Report, Summary for Policymakers <<http://www.ipcc.ch/pdf/assessmentreport/ar4/syr/ar4-syr-spm.pdf>>

International Work Group for Indigenous Affairs (IWGIA) 2008. Indigenous Affairs 1-2/08, special issue on Climate Change and Indigenous Peoples <<http://www.iwgia.org/sw29009.asp>>

Tauli-Corpuz, Victoria and P. Tamang 2007. Oil Palm and Other Commercial Tree Plantations, Monocropping: Impacts on Indigenous Peoples' Land Tenure and Resource Management Systems and Livelihoods. Report prepared for the Sixth Session of the UNPFII. UN Document E/C.19/2007/CRP.6. <http://www.un.org/esa/socdev/unpfii/documents/6session_crp6.doc>

Tebtebba 2009. Guide on Climate Change and Indigenous Peoples - 2nd Edition. Baguio, Philippines. <http://www.tebtebba.org/index.php?option=com_docman&task=doc_download&gid=468&Itemid=27>

United Nations Economic and Social Council (UN ECOSOC) 2008. Impact of Climate Change Mitigation Measures on Indigenous Peoples and on their Territories and Lands. <http://www.un.org/esa/socdev/unpfii/documents/E_C19_2008_10.pdf>

United Nations Permanent Forum on Indigenous Issues (UNPFII) 2007. Climate Change: An Overview, Paper prepared by the Secretariat of the United Nations Permanent Forum on Indigenous Issues. <http://www.un.org/esa/socdev/unpfii/documents/Climate_change_overview.doc>



REDD

Bond, Ivan, Maryanne Grieg-Gran, Sheila Wertz-Kanounnikoff, Peter Hazlewood, Sven Wunder, Arild Angelsen 2009.. Incentives to sustain forest ecosystem services: A review and lessons for REDD, IIED. ISBN: 9781843697428. <<http://www.iied.org/pubs/pdfs/13555IIED.pdf>>

Greenpeace 2009. Carbon Scam: Noel Kempff Climate Action Project and the Push for Sub-national Forest Offsets. http://www.greenpeace.org/international/campaigns/climate-change/forests_for_climate/noel-kempff

Griffiths, Tom with Francesco Martone 2009. Seeing 'REDD'? : Forests, climate change mitigation and the rights of indigenous peoples and local communities. Forest Peoples Programme. <http://www.forestpeoples.org/documents/ifi_igo/seeing_redd_update_may09_eng.pdf>

International Work Group for Indigenous Affairs (IWGIA) 2009. Indigenous Affairs 1-2/09, special issue on REDD and Indigenous Peoples. <<http://www.iwgia.org/sw29928.asp>>

Rights and Resources 2008a, Seeing People through the Trees: Scaling Up Efforts to Advance Right and Address Poverty, Conflict and Climate Change. <<http://www.rightsandresources.org/documents/index.php?pubID=737>>

Lee, Erica and Sango Mahanty 2009. Payments for Environmental Services and Poverty Reduction. Risks and Opportunities. RECOFTC, Bangkok. <http://www.recoftc.org/site/fileadmin/docs/publications/The_Grey_Zone/2009/Issue_PaperISBN.pdf>

UN-REDD

UN REDD web-site: www.unredd.net

FAO, UNDP, UNEP 2008. UN Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD). Framework Document, 20 June 2008. <<http://www.undp.org/mdtf/un-redd/docs/Annex-A-Framework-Document.pdf>>





World Bank

Forest Peoples Programme 2007. Indigenous Peoples & World Bank Projects: A Community Guide to the World Bank's Indigenous Peoples Policy (OP/BP 4.10), , May 2007. <http://www.forestpeoples.org/documents/ifi_igo/wb_4_10_guide_may07_eng.pdf>

____ 2009. The World Bank's Forest Investment Programme (FIP): core elements and critical issues. Rights, forests and climate briefing series – October 2009. http://www.forestpeoples.org/documents/forest_issues/fip_briefing_oct09_eng.pdf

____ 2009. Moving the goal posts? Accountability failures of the World Bank's Forest Carbon Partnership Facility (FCPF). Rights, forests and climate briefing series – October 2009. http://www.forestpeoples.org/documents/forest_issues/fcpf_briefing_oct09_eng.pdf

Forest Carbon Partnership Facility: <<http://www.forestcarbonpartnership.org/fcp/>>

Forest Carbon Partnership Facility Participant Committee

The current funded position for an indigenous peoples' observer in the FCPF Participant Committee is filled by Estebancio Castro, who will remain in the position until May 2010 when the UN Permanent Forum on Indigenous Issues will facilitate a new selection process for a second term. Until May 2010, you can contact Estebancio at the details below:

Estebancio Castro Diaz
Executive Secretary/Secretario Ejecutivo
International Alliance of Indigenous and Tribal Peoples of Tropical Forests/Alianza Internacional de los Pueblos Indígenas y Tribales de Bosques Tropicales
Email: estebancio@international-alliance.org
Phone: (507) 345 0216
Fax: (507) 345 0217
Cell: (507) 66816132

Forest Carbon Partnership Facility Charter: <http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/FCPF_Charter_06-13-08.pdf>

Forest Carbon Partnership Facility Participant Committee Observers: <<http://www.forestcarbonpartnership.org/fcp/node/22>>

World Bank 2009. Revised Draft Design Document for the Forest Investment Program. April 2009. <<http://siteresources.worldbank.org/INTCC/Resources/3rdDesignMeetingRevisedDraftDesignDocument.pdf>>







GLOSSARY

Adaptation: Any activity or change that is intended to address the effects that climate change is already having, for instance on land, ecosystems and livelihoods.

Afforestation: Developing a forest on land that has not been forested in recent times (compared with reforestation, or the replacement of a forest recently lost or logged, see below).

Annex I parties: Industrialised countries listed in Annex I to the UN Convention on Climate Change. Nearly all of these countries are the countries that have binding emissions reduction targets under the Kyoto Protocol.

Anthropogenic: Something which is caused by human action. The term is used to distinguish naturally occurring greenhouse gas emission reductions from ones that result from human activity.

Bali Action Plan: One part of the Bali Roadmap, the Bali Action Plan (or BAP) is the name given to a decision taken by the Conference of the Parties to the UNFCCC that outlines the contents of a future legally binding agreement under the Convention. The decision establishes an 'Ad Hoc Working Group on Long-term Cooperative Action' ('AWG-LCA') to consider a specified set of issues also set out in the decision, aiming to reach agreement at the UN Climate Change Conference to be held in Copenhagen in December 2009 (UN Doc FCCC/CP/2007/L.7/Rev.1).

Bali Roadmap: The collection of decisions and conclusions adopted by the parties to the UNFCCC and to the Kyoto Protocol at the 13th Conference of the Parties to the UNFCCC held in Bali, Indonesia, which provide a process for agreeing to

future revisions and additions to the UNFCCC and new commitments under the Kyoto Protocol. The roadmap sets the aim of finalising all post-2012 discussions in all fora by the 15th Conference of the Parties to the UNFCCC to be held in Copenhagen in December 2009.

Baseline: When we seek to measure whether something has increased or decreased, we need to measure it relative to a level that it has had at some point. We often chose a level during a particular year or date to serve as this 'starting point' for our measurements. This starting point is called the baseline.

Carbon bio-sequestration: The storage of carbon by plants, trees and other flora, which absorb carbon dioxide from the atmosphere as they grow, releasing the oxygen, and storing the carbon both in themselves and in the soil.

Carbon market: Transactions for the sale of emissions permits, credits, reductions or offsets together comprise the 'carbon market'. In fact, carbon can be traded as carbon or as carbon dioxide, and other greenhouse gases (or emissions) can also be traded in some of the 'emission markets'. It is important to remember that at the moment there is not one carbon market, there are a number of emission trading markets of different types – some are geographical (the European market), some a purely voluntary and they all have different rules and regulations governing them.

Clean Development Mechanism (CDM): A facility created under the Kyoto Protocol, which allows Annex I countries to finance emissions reducing





projects in developing countries that are party to the Kyoto Protocol then to use the resulting 'certified emissions reductions' ('CERs') to offset their own emissions (to count towards their own targets for emission reduction).

Conference of the Parties (COP): The term used to describe the regular meeting of state parties to a UN Convention, such as the UN Framework Convention on Climate Change or the Convention on Biological Diversity. This is the body with authority to take decisions under the Convention and to amend the Convention.

Conference of the Parties acting as the Meeting of the Parties (COP/MOP): This is the meeting of state parties under a Protocol to a Convention (such as the Kyoto Protocol) and the body with authority to take decisions under the Protocol.

Climate change: This term refers to all the impacts on the earth's natural climate system that are resulting from human-caused global warming (see below). This includes rainfall patterns and ocean levels, the direction and speed of wind and ocean currents, seasonal cycles, and the likelihood and intensity of climatic disasters such as droughts, storms and floods (IPCC, 2007).

Deforestation: The conversion of forested land to non-forested land.

Emissions trading (or 'carbon trading'): The sale or purchase of: 'permits' or 'allowances' to emit greenhouse gases; or 'certificates' or 'credits' that prove a certain reduction in emissions from a particular activity beyond what would otherwise have been the case (i.e. 'business as usual' emissions); or certificates that indicate a certain amount of actual emissions have been 'offset' somewhere else, through for example, carbon sequestration.

Forest degradation: Occurs when the structure or function of a forest is negatively affected, reducing the ability of the forest to provide services or products (FAO, 2004).

Fossil fuels: Gas, coal, oil and oil-derived products such as diesel. Fossil fuels are combusted to create electricity, to provide heating, to power all forms of transportation and to power industrial processes, like mining and manufacturing activities. They are formed by dead organic matter being pressed over millions of years, hence the term 'fossil'.

Global warming: An observed or expected rise in the earth's average temperature due to having more greenhouse gases in the atmosphere leading to more of the sun's warmth being trapped close to the earth.

Greenhouse gases (GHGs): A group of gases in the atmosphere that absorb infrared radiation. They appear in greatest proportions in the earth's lower atmosphere. These gases include water vapour, ozone, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride.

Joint Implementation: A facility created under the Kyoto Protocol, which allows an Annex I party to fund and/or run a project to reduce emissions in another Annex I party. The funding country can then apply the emissions reductions generated to help it to meet its own emissions target under the Kyoto Protocol.

Kyoto Protocol to the UN Framework Convention on Climate Change: a subsidiary agreement to the UN Framework Convention on Climate Change, this agreement was concluded in December 1997 but did not 'enter into force' (become legally binding on its parties) until February 2002.





This Protocol is binding under international law on those countries that are a 'party' to it (which means those countries that have ratified it, or agreed to be bound by it).

Land use, land-use change and forestry (LULUCF):

This is an identified category of activities that can contribute to both greenhouse gas emissions and emissions removals. The other main categories are energy-related emissions (both production and consumption), agriculture and waste-related activities.

Mitigation: Any action taken with the intention of avoiding further climate change by lowering the total level of greenhouse gases released through human activity. Such actions might include reducing our use of fossil fuels and changing the way we use land – such as by reducing our rate of land clearing and deforestation, and increasing our rate of reforestation.

Non-Annex I parties: Developing countries not listed in Annex I to the UN Framework Convention on Climate Change. These countries do not have binding emissions targets under the Kyoto Protocol.

Parties: The individual members of an agreement, such as the member states to an international law agreement.

Reforestation: The reestablishment or regeneration of a forest.

Renewable energy: This form of energy can be used to provide electricity, heating or fuel for transportation similar to the way we use fossil fuels for these purposes. Unlike oil, gas and coal, renewable energy sources are not finite. Key sources include wood, waste decomposition, geothermal activity, wind and solar energy. The use of renewable sources for generating energy usually

involves lower emissions of greenhouse gases than the use of fossil fuels does.

Sequestration: This is the opposite of emitting greenhouse gas and occurs when greenhouse gases are removed from the atmosphere, for example, by trees during the process of photosynthesis.

Sinks: Reservoirs or locations that sequester or store a greater amount of carbon dioxide than they release. Major carbon sinks include forests and oceans.

United Nations Framework Convention on Climate Change (UNFCCC): An international agreement, which was reached in 1992 and entered into force in 1993, the UNFCCC provides a framework for international cooperation on climate change.

This glossary is partly based on the glossary provided in Barsley, Ingrid 2008. Pocket Guide. Reducing Emissions from Deforestation and Forest Degradation in Developing Countries: A Guide for Indigenous Peoples. United Nations Institute of Advanced Studies, Yokohama, Japan





ACRONYMS

CDM	Clean Development Mechanism
CEDAW	The UN Committee on the Elimination of All Forms of Discrimination against Women which oversees the Convention on the Elimination of All Forms of Discrimination Against Women
CERD	The UN Committee on the Elimination of Racial Discrimination which oversees the Convention on the Elimination of Racial Discrimination (ICERD)
CIFs	Climate Investment Funds, a bundle of different funds under the trusteeship of the World Bank
CO2	Carbon Dioxide, the most common gas form of carbon
COP	Conference of the Parties.
CRC	Convention on the Rights of the Child
CTF	Clean Technology Fund, one of the CIFs (see above)
ET	Emissions Trading
FAO	Food and Agriculture Organisation
FCPF	Forest Carbon Partnership Facility
FIP	Forest Investment Programme
FPIC	free, prior and informed consent
GHG	Greenhouse gases
ICEDAW	International Convention on the

	Elimination of All Forms of Discrimination Against Women
ICERD	International Convention on the Elimination of Racial Discrimination
ILO	International Labour Organization
JI	Joint Implementation
NGO	Non-governmental organisations
REDD	Reduced Emissions from Deforestation and Forest Degradations in developing countries
REDD+	REDD as defined above, plus additional activities might get funding also, including possibly “sustainable forest management” (including some logging), plantations and re-planting of forests (or afforestation).
SFC	Strategic Climate Fund
UN	United Nations
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UN-REDD	The UN Collaborative Programme on REDD

