
Environmental regulation in the Green Economy: Changed to facilitate destruction

In 2011, the State of Biodiversity Markets report, published by the pro-markets group Forest Trends, identified 45 biodiversity compensation programmes, laws or regulations in operation worldwide, with the majority of initiatives in the USA and Australia. (1) The report also notes that as many as 27 additional initiatives were underway and that more countries were in the process of changing environmental laws and regulation, such as environmental impact assessment regulation, to enable the use of compensation measures, and [biodiversity offsets](#) in particular. While the numbers may aim at giving the impression of more enthusiasm for the concept of biodiversity offsets than there exists in reality, it is likely to be the case that most of these 27 initiatives reported as “under development” in the 2011 State of the Biodiversity Market report were being developed for countries in the global South. A more recent academic paper states that 17 countries worldwide already have national policies requiring biodiversity offsets, and that more than 29 countries have national policies that suggest or enable the use of biodiversity offsets. (2) Furthermore, biodiversity offsetting is enjoying increasing popularity among the corporate sector. The Biodiversity Consultancy, a consulting firm based in the UK, reported that in 2012, 38 companies had what they call “no net loss-type commitments”, which basically refers to the use of offsets for “compensating” “loss” of biodiversity. 15 of these corporations were from the mining and related industries, including Rio Tinto and Holcim, among others.

Four things stand out when looking for information on these biodiversity offset initiatives. First, the existing regulatory framework – environmental impact assessments, licensing laws, environmental legislation, financing regulations of development banks, etc. – needs to be changed so that it allows destruction of biodiversity in places that were off-limits to corporate expansion before the introduction of biodiversity offsetting. Second, very little information is available about the actual status of the large majority of biodiversity offset projects already said to be implemented by companies as part of their “biodiversity conservation plans”. Third, the **World Bank** and international conservation groups such as **The Nature Conservancy**, **Conservation International**, **Wildlife Conservation Society** or **IUCN** are key actors in the preparation of the regulatory framework as well as the actual implementation of biodiversity offset initiatives. (3) And fourth, the majority of initiatives and regulatory changes make specific reference to extractive industries or large-scale infrastructure projects – activities that have become increasingly controversial, and always involve destruction on a large scale.

International Finance Corporation as trendsetter for offsetting initiatives in the global South

In 2012, the International Finance Corporation (IFC), the part of the World Bank that provides funding to the private sector, introduced biodiversity offsetting in one of its key regulatory instruments, the Performance Standards. Since 2012, any company applying for financing from the IFC has to present

a "Biodiversity Action Plan" that often will include biodiversity offsetting if the project will destroy what the IFC calls "critical habitat". (4) But in many countries in the global South environmental regulations of the country where the project will take place do not require such offsetting. To change this, the World Bank has been pushing for changes to environmental laws and regulations in countries, particularly in the global South.

In **Mongolia**, the Anglo-Australian mining giant **Rio Tinto** controls 66 per cent of the Oyu Tolgoi mining project, the largest mining investment ever licensed in Mongolia. The open pit and underground copper and gold mine received IFC funding and is expected to account for about 30 per cent of Mongolia's GDP. The ministry of environment approved the Environmental Impact Assessment for the mine in 2013, following modification of environmental regulation. One crucial aspect of the modification, advised by the World Bank, was the introduction of biodiversity offsetting, and the Environmental Impact Assessment and related biodiversity management plan for the mining site refer to biodiversity offsets. (5) An international civil society field investigation in April 2015 found that while mining has already started, the actual offset project mentioned in the impact assessment, and presumably a condition for its approval, is still under preparation.

In **Liberia**, the New Liberty Gold Project, located in northwest Liberia, some 20 kilometers from the Sierra Leone border, involves the construction of an open pit gold mine. The mine is being developed by **Aureus Mining Inc.**, a Canadian mining company active in Liberia and Cameroon. IFC is considering investing up to GBP 6.6 million pounds (around USD 8.3 million dollars), which means the project will require a biodiversity offset plan, since mining will destroy "critical habitat". The IFC website states that "Aureus will develop and implement, in partnership with a recognized biodiversity institution, a Biodiversity Offset Strategy, aligned with the requirements of PS 6 [Performance Standard 6] and integrate it with country-level aggregate offsets scheme in Liberia, if feasible". (6) And the World Bank is working to make such aggregate offset schemes feasible in Liberia: In March 2015, the World Bank presented "A National Biodiversity Offset Scheme: A Road Map for Liberia's Mining Sector". The report "explores the feasibility of implementing a national biodiversity offset scheme in Liberia to help minimize adverse impacts on biodiversity and ecosystem services resulting from mining." (see [WRM Bulletin 213, May 2015](#)). In the report, the World Bank explains that it sees potential not only for the mining industry but also oil palm and forestry corporations profiting from such a national biodiversity offset scheme in Liberia.

In the **Republic of Guinea**, two large mining projects are receiving IFC financing even though they will destroy "critical chimpanzee habitat". The projects will also destroy the livelihood of many communities living in the area, but biodiversity offsetting always ignores these inseparable connections between biodiversity and livelihoods – or blames local use of an area as the cause of deforestation so restricting such use can be turned into a biodiversity offset for large-scale destruction. Biodiversity offsetting helped pave the way for the Simandou and Guinea Alumina Corporation mining projects. (7) The Simandou project became the largest combined iron-ore and infrastructure project ever developed in Africa when the Government of Guinea, **Rio Tinto**, Chinese mining corporation **Chinalco** and the IFC signed an Investment Framework in 2014 for expansion of the Simandou mine. The project includes an open-pit iron-ore mine in the Simandou mountain range; some 670 km of railway across Guinea to transport ore to the coast; a new port facility to export the ore; and associated infrastructure, such as housing, roads, quarries, and power generation and distribution. Moreover, an environmental impact report for another mining project in Guinea, Guinea Alumina Corporation's (GAC) Sangarédi mine, owned by **Emirates Global Aluminium** of Dubai, states that "it is strongly recommended that GAC invest in biodiversity offsets for the Sangarédi mine by boosting conservation efforts elsewhere in Guinea to better manage the uncertainty associated with the impacts on chimpanzees in the concession and the inevitable negative short- and medium-

term impacts on the population.” Whether the projects are actually implementing biodiversity offset projects, and how these affect communities depending on the areas considered as “offsets”, is not known. (2)

Elsewhere in Africa, the government of **South Africa** has been developing biodiversity compensation schemes at national level and state level that include biodiversity offsets; neighbouring country **Namibia** is said to be integrating biodiversity offset requirements into the country's Strategic Environmental Assessment; and in 2015, *Agence Française de Développement* (AFD – The French Developmental Agency) and the *Fonds Français pour l'Environnement Mondial* (French Funds for the Global Environment) provided a four-year, 3 million euro grant to the Wildlife Conservation Society “to work in four countries on promoting biodiversity offsets: **Uganda, Mozambique, Madagascar, and Guinea.**” (8) **Gabon**, in central Africa, adopted a “Sustainable Development Law” in 2014 that foresees the use of offsets for a variety of compensation purposes. The law establishes offset credits for among others, biodiversity, carbon and “community development capital”. (9)

Colombia was the first country in Latin America, according to Ecosystem Marketplace, to implement rules and regulations specifically designed to support biodiversity offsetting. The biodiversity regulation requires projects such as mining, oil and gas infrastructure “to offset residual biodiversity impacts by restoring or protecting an equivalent habitat elsewhere.” “With over 8 million hectares under mining titles, over 130 oil and gas companies, with operations in the country over at least 1.5 million hectares, including Shell, Oxy, Chevron, ExxonMobil, and Petrobras, and thousands of kilometers of highways in the pipeline that will affect critical biodiversity hotspots, one of the key questions is where are the hundreds of thousands of hectares needed in offsets going to come from,” Colombian NGO Fundepublico wrote. One of the mining operations required to implement biodiversity offsets is the Gramalote gold mining projects, which involves the South African company **Anglogold Ashanti** and Canadian **B2Gold Corp.** (10)

In **Peru**, a policy requiring biodiversity offsets has been developed but its adoption has been delayed. The policy will be implemented through the environment ministry's specialised agency - SENACE. Created in December 2012 (Law 29968), SENACE is expected to be the authority responsible for the technical review and approval of all Environmental Impact Assessments for large-scale investments. If the new policy is adopted, companies wishing to obtain an environmental license are required to develop a biodiversity offset plan.

NGOs **Forest Trends** and **Wildlife Conservation Society** received funding from the **Interamerican Development Bank** (IDB) to prepare interim advice to the Peruvian ministry of environment on the calculations and measurements involved in biodiversity offsets. The *Deutsche Gesellschaft für Internationale Zusammenarbeit* (GIZ - The German Development Agency) and the Peruvian agrarian university *Universidad Nacional Agraria La Molina* have also worked closely with the ministry of environment to further advance the methodology and metrics for biodiversity offsetting in Peru. “The choice was made to focus initially on the highland grasslands of Peru, given that much of the country's mining is carried out in this region and the availability of base line information on biodiversity and ecosystem characterization,” one report notes. (11)

Brazil's 2012 Forest Code provides an increased role for offsetting mechanisms, in particular “forest restoration credits” (CRAs, acronym in Portuguese). The 2012 Forest Code obliges land owners to restore illegally cleared forest, or risk losing access to agricultural credit lines. The tradable “forest restoration credits” allow a landowner to continue using illegally cleared land e.g. for cattle ranching and fulfil the legal obligation to restore illegally cleared land by buying “forest restoration credits” (see [article in WRM Bulletin 219](#), and WRM publication “[Trade in Ecosystem Services](#)”).

“Compensation in Legal Reserve opens market in the billions”, news reports commented, seeing the inclusion of such offset credits in the Forest Code as large speculative market in the making. (12)

In **Papua New Guinea**, even though there seems to be no national legislation or regulation requiring biodiversity offsets, offsetting plays a role in licensing decisions. “One of the Permit Conditions for Horizon Oil (Papua) Limited is to develop and implement a Biodiversity Offset Program (BOP) consistent with applicable regulations, which includes a biodiversity offset plan,” the Papua New Guinea Department of Environment and Conservation stated when granting an Environmental Permit to the Australian multinational **Horizon Oil Limited** to develop the Stanley Gas Project PNG’s Western Province.

Esso Highlands Limited (EHL), a subsidiary of the oil and gas company **Exxon Mobil**, also developed a Biodiversity Offset Delivery Plan with “the overall objective of achieving no net loss of biodiversity and the offset of residual impacts and losses” caused by its Papua New Guinea Liquefied Natural Gas Project (PNG LNG). EHL signed a collaboration agreement with **Conservation International** (CI) in June 2011, under which CI provided recommendations on the Biodiversity Offset Delivery Plan. CI’s role is described as follows: “to develop a technical rationale for offset selection, identify potential offset areas and activities, assess potential partners and consider offset implementation feasibility.” (13)

And it is not only the mining industry that is using biodiversity offsets to facilitate financing and passing through the licensing processes for their harmful projects. Project documents for the World Bank–funded Bumbuna Hydroelectric Project in Sierra Leone and the Lom Pangar Dam in Cameroon, backed by funding from the **World Bank**, the **African Development Bank**, the **Central African States Development Bank**, and *Agence Française de Développement* (**The French Developmental Agency**), also make reference to biodiversity offsets. (2) Operators of the Bumbuna “Hydroelectric Environmental and Social Management project” are also considering presenting some offset activities as a REDD+ project. (14)

Why do we hear so little about concrete biodiversity offset projects in the global South?

Considering the large number of countries and institutions requiring some sort of biodiversity offset plan, surprisingly little information is available on the concrete status of implementation of such biodiversity offset projects mentioned in impact assessments or biodiversity action plans.

One possible reason for this paucity of information is that locally, the companies and their partners from the conservation sector do not refer to conservation initiatives as “offsets”. The Rio Tinto biodiversity offset for its ilmenite mine in south-eastern Madagascar is one example. At the offset location, the project was introduced as a “conservation project”, with no mention to villagers that the reason for the restrictions put on their use of the forest was that this forest had been chosen to provide biodiversity offsets for the Rio Tinto mine some 50 kilometers to the south. The situation might be similar in the case of the Cobre Panama copper-mine project, which is expected to result in the loss of around 5,900 hectares of forest in the Central America’s Mesoamerican Biological Corridor. To compensate, the Canadian company **First Quantum Minerals** will contribute to the costs of managing two existing national parks (Santa Fe and Omar Torrijos), and of a new protected area to be established nearby. The Panamanian government can list these national parks when reporting the country’s progress towards its previously agreed conservation targets without having to declare the concomitant damage to biodiversity caused by the mine.

Another possible reason is that while projects are mentioned in environmental impact assessments,

and biodiversity offset plans are developed, the actual implementation of the offset project may start long after the mining or infrastructure project has begun operations, if ever.

Thus, while biodiversity offsets are not yet easily detectable in many places - or not presented as such - reference to biodiversity offsetting as with the IFC Performance Standards already paves the way for extractive and infrastructure industries such as hydropower dams expanding into ever more controversial areas. Where implemented, there also is a high risk of such biodiversity offset projects contributing to a double land grab where communities lose their territories for the mine or infrastructure project as well as for the biodiversity offset, as is the case with the Rio Tinto biodiversity offset in Madagascar. (15)

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(1) *Forest Trends (2011): State of Biodiversity Markets. Update 2011.*

(2) *Rebecca Kormos et al. (2014): Great Apes and Biodiversity Offset Projects in Africa: The Case for National Offset Strategies. Plos One Vol. 9 (11).*

<http://journals.plos.org/plosone/article/authors?id=10.1371%2Fjournal.pone.0111671>

(3) See for example the Conservation International Brochure "Leadership in Focus: Biodiversity Offsets" for a glance at CI's co-operation with mining and energy corporations on biodiversity offsetting:

http://www.conservation.org/publications/Documents/2013_Leadership_in_Focus_BiodiversityOffsets.pdf

(4) Paragraphs 16-18 of the IFC Performance Standard 6: http://www.ifc.org/wps/wcm/connect/bff0a28049a790d6b835faa8c6a8312a/PS6_English_2012.pdf?MOD=AJPERES

(5) The Biodiversity Consultancy presentation about the Oyu Tolgoi biodiversity offset: http://www.forest-trends.org/documents/files/doc_4589.pdf

(6) IFC project page:

<http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcdba85257a8b0075079d/08adee4304164e2185257cda00502f08?opendocument>

(7) Documents referring to the Biodiversity Action Plan and offsets: Simandou:

[http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/0/A87B7EA570082C41852578E700569CED/\\$File/Simandou%20Project%20ESAP%20July%202013%20FINAL.pdf](http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/0/A87B7EA570082C41852578E700569CED/$File/Simandou%20Project%20ESAP%20July%202013%20FINAL.pdf)

Global Aluminium's Sangarédi mine:

[http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/0/8A0EE1048673CB16852576BA000E2CAC/\\$File/Guinea%20Critical%20Habitat%20Assessment%20Report.pdf](http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/0/8A0EE1048673CB16852576BA000E2CAC/$File/Guinea%20Critical%20Habitat%20Assessment%20Report.pdf)

(8) <http://www.environmentjobs.co.uk/green-jobs/biodiversity-offsets-project---project-director.54785.htm>

(9) Video by Gabonese NGO Brainforest about the 2014 Sustainable Development law (in French):

(10) Presentation Forest Trends. http://www.forest-trends.org/documents/files/doc_4612.pdf

(11) Inter-American Development Bank (2014): Towards the development of metrics for no net loss of biodiversity in Peru / Ernani Pilla, editor. IDB Technical Note 708.

(12) <http://www.observatorioflorestal.org.br/noticia/compensacao-em-reserva-legal-abre-mercado-bilionario> and <http://oglobo.globo.com/economia/negocios/carbono-pode-se-tornar-moeda-no-mercado-financeiro-internacional-18443601>

(13) Esso biodiversity offset plans Papua New Guinea http://pnglng.com/downloads/1284_67_Ch09_1.pdf and <http://www.ipieca.org/topic/biodiversity/biodiversity-case-studies/exxonmobil-detailed-program-protecting-biodiversity>

(14) REDD Desk profil of Bumbuna REDD project proposal: <http://theredddesk.org/countries/initiatives/sierra-leone-bumbuna-hydroelectric-environmental-and-social-management-project>

(15) WRM and Re:Common (2016): Rio Tinto's biodiversity offset in Madagascar: Double landgrab in the name of biodiversity? Forthcoming.