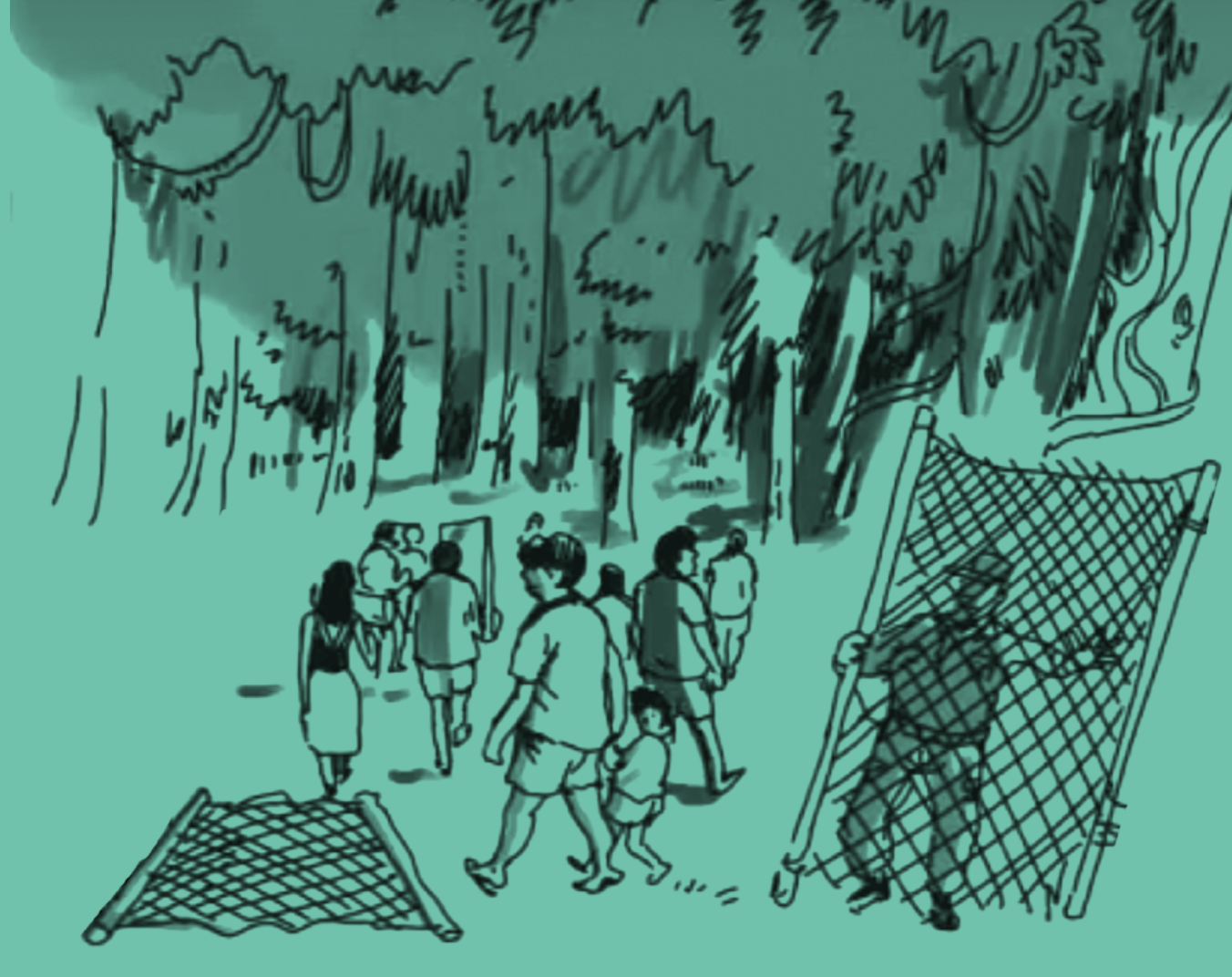


CARBON OFFSETS AND TRADING IN LIBERIA

HOW TO RESPOND WHEN
A CARBON TRADER VISITS
YOUR COMMUNITY

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Author : David Young and Saskia Ozinga

Designer : Jane Mery

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Sustainable Development Institute (SDI), Foundation for Community Initiatives (FCI), Civil Society-Independent Forest Monitors (CS-IFM), National Union of Community Forestry Development Committees (NUCFDC), National Union of Community Forest Management Bodies (NUCFMB), Liberia Forest Media Watch (LFMW) and Fern.



"Imagine trying to sell a product that you can't see. Imagine if the product has no value for the buyer. Imagine if what you are actually selling is not something you produced, but rather something you did not produce. Now imagine that it is very difficult for the buyer to know that you in fact did not produce this product... welcome to the strange market of carbon credits."

Report by the Special Presidential Committee to investigate an alleged Carbon Credit Concession Agreement between the Liberian Government and the Carbon Harvesting Corporation of the United Kingdom, 2010.

1. WHAT ARE CARBON CREDITS AND CARBON TRADING?

CARBON IS IN ALMOST EVERYTHING:

the air, plants, animals, and anything that burns, including trees, charcoal and bush. It's concentrated in oils and fuels like gasoline and kerosine which come from plant material left deep underground for millions of years.

The climate crisis is mainly caused when this carbon is burnt as fuel, turning into the invisible gas carbon dioxide (CO₂). Too much CO₂ in the earth's atmosphere acts like a blanket, trapping the sun's heat.¹ Rich countries are responsible for the majority of this burning as they generate more electricity, fly more, use more vehicles, and consume more than the rest of the world.²

The only way to tackle the climate crisis is to stop burning carbon, and although rich countries bear most responsibility, all countries have promised the United Nations that they will reduce emissions, and many have passed national laws to ensure this happens.

But people don't want to change their lifestyles, and big companies don't want to be less profitable.

While countries in Europe, the United States, and increasingly China and India are producing too much CO₂, forest-rich but low-emission countries like Liberia are looking for money to conserve their forests and help with social and economic development. Forests offer big climate benefits because they can absorb carbon.³

Carbon trading happens when a country or a company 'buys' an amount of carbon storage in the form of carbon credits from another company or country that is selling these credits. This is called carbon offsetting and in this kind of transaction carbon does not actually move. It goes like this:

- Rich, polluting country: "Instead of reducing the amount of CO₂ we produce, we want to pay another country to promise to store more of their carbon. Who will do this?"
- Poorer, forest-rich country: "We will not log an area we were planning to log; we will make some land into a protected area; we will plant trees; we can improve our forest management to store more carbon."

The company or country that stores the *carbon credits* which polluters can buy to permit them to keep polluting.

Carbon trading can happen at a national level (between governments) or at a 'project' level, where companies seek to negotiate with a forest license-holder such as a concessionaire or a community. Companies and governments often use *carbon traders* or *brokers* to create and sell the carbon credits. Offsets based in Africa are cheaper than in many other places due to the perception of poor regulations and weak policies.

When carbon traders or brokers visit communities, they often promise money, support such as community infrastructure or the promotion of 'alternative livelihoods' that do not harm the forest (such as farming or employment as forest guards). Such promises are similar to the social obligations that logging, agriculture and mining companies have offered in the past, and carry the same risks that they will not be fully delivered. There are, however, many *additional*

problems with carbon credits, which some African civil society organisations (CSOs) call "permits for rich countries to continue polluting".⁴ (See Box 1.)



For a detailed description of carbon markets and the rights of Indigenous Peoples and local communities, see the set of *Carbon Markets, Forests and Rights Explainers* published by Forest People Programme.⁵

Box 1

PROBLEMS WITH CARBON OFFSETTING

Even in the best case, carbon offsetting does not reduce emissions, it just replaces them, thereby doing nothing to tackle the climate crisis. But the best case rarely happens for the following reasons:

1 – An offset must ensure that any carbon being stored in the forest is *additional* to what would have been stored anyway. But this is impossible to predict and easy to falsify.

2 – To decide on what is additional, it is necessary to first agree a *baseline*. The method of calculating how much deforestation was happening is difficult – and disputed. Governments often seek to artificially inflate the baseline deforestation rate to be able to continue or even increase logging. For example, if there is a 2% deforestation rate and they claim it is 10%, deforestation can increase by up to 8% and still generate carbon credits even though more CO₂ is being released.

3 – Carbon storage must be permanent, but this is impossible as forests can be destroyed through illegal activity, shifting agriculture, bush fires, floods, and other natural disasters which are increasing due to climate change.

4 – Reducing CO₂ emissions in one forest may increase them elsewhere. This is called *leakage* and it is a particular concern where people depend on the forest. Communities who are banned from one forest will need to move their farms, collect firewood or building poles, or cut and sell timber elsewhere.



Box 2

PROBLEMS WITH CARBON TRADING

Like other financial markets, the carbon market is a form of gambling in which there are winners and losers, vast quantities are traded but profits are made by middlemen, not communities or those trying to reduce emissions. Specific problems include:



1 – Agreeing “who owns the carbon”. Carbon is in the forests and in the soil. It is critical to know who owns the carbon and therefore has the right to sell it. Even if the state legally owns some forests, any deal is still conditional on communities giving their Free, Prior and Informed Consent. But this rarely happens.

2 – It is complicated, expensive and time-consuming to measure the quantity of carbon offset and therefore the number of carbon credits being produced. Expensive consultants are often brought in to do this, reducing potential community benefits.

3 – Verifiers need to be hired to monitor the carbon measuring. This adds to the cost and further reduces the money available for communities.

4 – Despite measuring, monitoring and verification recent studies found that over 90% of ‘verified’ credits were in fact worthless.⁶ This has further reduced the price of forest carbon credits.

5 – Just as with timber or coffee etc. the price of carbon credits depends on global market prices, meaning prices fluctuate, and if they fall so low that the trader makes no profit, communities may get no payment at all. (See Box 3.)

6 – The lack of a clear legal framework to govern carbon investments makes communities vulnerable to land-grabs and corruption. This can be worse than in the logging or mining sector where there are regulations.

7 – Carbon accounting is complex and there are risks that payments are suspended when there is a legal dispute (for example double-counting where the company and the government both include the carbon stored in the same forest in their calculations).

Box 3



GLOBAL PRICE OF CARBON OFFSETS 2022-24, IN US\$⁷

The price of CO₂ offsets when traded internationally fluctuates a lot, but generally has been dropping fast. By the end of March 2024 the price for a tonne of CO₂ offset was less than US\$1.00. This may be lower than the administration fee traders will charge.⁸ It has dropped from about US\$4.00 at the start of 2023, and from US\$18 a year earlier. This makes it impossible to predict the income any country, or community, might get from trading its carbon offsets.

2 • WHO MIGHT VISIT YOUR COMMUNITY, AND WHY?

VARIOUS CARBON TRADERS HAVE APPROACHED the Government of Liberia, and individual communities, to propose a carbon trading agreement. They offer to market, sell, and trade carbon credits on behalf of the forest (and carbon) owners. They are looking for forests that, for example, were Timber Sales Contract areas, are dormant Forest Management Contract areas, or are proposed or actual Protected Areas.

Some companies seek to make a national-level agreement with the government, in a similar way to a palm oil company. The United Arab Emirates company Blue Carbon has approached Liberia to do exactly that.⁹ The government must, however, first conduct a Free Prior and Informed Consent process with all communities in the target areas, in line with the Land Rights Act,¹⁰ before signing any agreement. In such situations, a **representative from the Forest Development Authority** is likely to be the first person to approach your community.

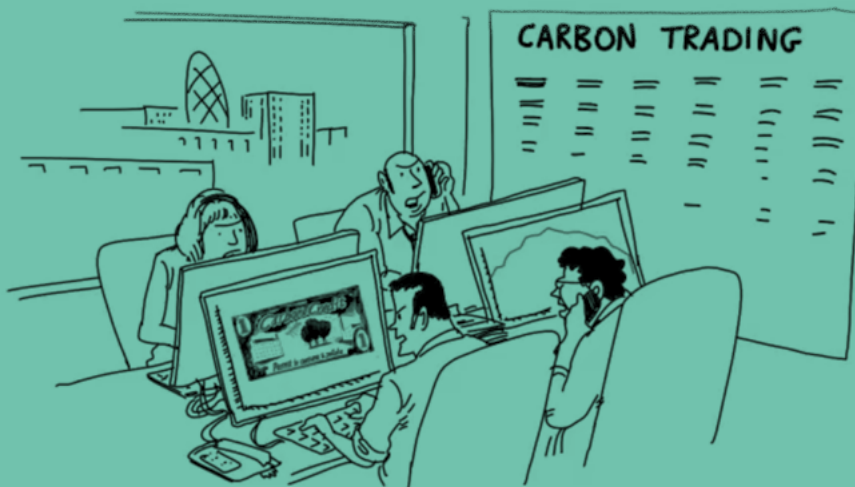
Companies may also approach communities directly, in a similar way to logging companies in community forests. For example, a company called BlueEarth Capital directly approached Ziadue Clan in Rivercess County, but it was subsequently criticised for not first contacting the Environmental Protection Agency.¹¹ If a **representative from a foreign company** is the first person to approach your community they may need to make a subsequent agreement with the government.

Middle-men with connections to the government and/or international carbon traders may also approach you as they may have authority or people's trust



at the local level. **Representatives of the logging industry**, local businesses, traditional and political leaders are all people who may seek community agreement to carbon deals across Liberia.

Approaches may take the form of a town hall meeting, or a meeting with the leadership or key people in forest and land management committees, like the Community Forestry Management Body (CFMB), Community Forest Development Committee (CFDC) or the Community Land Development and Management Committee (CLDMC).



3 • HOW TO DECIDE WHETHER TO AGREE TO A CARBON OFFSETTING PROJECT

Prior to any negotiation, it is important to carefully consider Boxes 1 and 2 above. You need to follow a similar process as you would when considering negotiating logging or oil palm contracts, or to not give your land away at all:



→ Be informed

Keep in contact with any community leader, group or committee (CLDMC, CFDC, CFMB etc) that may be considering leasing your forest as an offset. It is important to understand the legal and practical implications as what you can do with the forest will be restricted for several generations.

→ Get financial advice

- Agree what the community wants to be paid for. Land rental payments are regular and predictable, profit-share arrangements depend on carbon price fluctuations.
- Agree what other benefits the community wants, including priorities for community infrastructure and whether income or infrastructure is more important.
- Demand independent calculations of what the community should expect to receive from a fair deal.

→ Get legal advice

A Liberian lawyer with experience of carbon contracts and land and natural resource law should be able to explain your rights to the land, the trees and the carbon. Consider the following issues:

- **For land under customary ownership**, how can you use the Land Authority's process to formalise your ownership?¹²
- **For land under a concession**, note that "expiration or sooner determination of Concession(s) located on Customary Land, the Concession Area(s) shall revert to the Community and shall become Customary Land".¹³ You will therefore need advice on when and if any concession expires or is cancelled.
- **For land under concession not expired or cancelled, or land in a proposed or actual protected area**, follow the Free Prior Informed Consent process in compliance with the Land Right Regulations.¹⁴

→ Involve the whole community

Make sure the whole community understands what a carbon deal means. Make sure women's voices are heard as closing people's access to, or use of the forest will impact women and men differently.

→ Take your time

The community should demand sufficient time to collect advice, organise itself, and discuss and collectively establish a position, prior to and independently of any approach from a carbon trader.

The steps taken to form a CLDMC are a good basis for developing a collective position on carbon deals. Ideally all community land should be demarcated, and title deeds issued, prior to any investment.¹⁵



4 • WHAT TO LOOK FOR BEFORE SIGNING ANY AGREEMENT

If the community decides to move forwards with a carbon deal, it will need to sign an agreement. Before doing so, a community needs to understand the following issues:

□ Are the community responsibilities and liabilities clear and acceptable?

The community must be fully aware of and accept any changes to their livelihoods. These may last decades, and could include being prevented from accessing the forest, and/or conducting agricultural activities.

There may also be obligations for the community to actively protect the forest. They must therefore fully understand what happens if, nonetheless, carbon stocks are lost (e.g. through fire, encroachment or illegal logging.) The community is likely to be liable if it cannot deliver the agreed credits.



□ How is the quantity of carbon in the forest calculated?

Carbon traders need to measure the carbon credits accrued. They should have transparent accounting methods, rigorous verification processes, and clear criteria to determine *additionality and permanency*, and to avoid *leakage* (see Box 1). The contract must be clear about who is responsible for this and who pays for this.



□ What are the payment terms?

The income, benefits and a commitment to report publicly should be clear. Issues to look out for include whether the company will pay land rental fees;¹⁶ what happens if the credits can't be sold; who decides on the size of payments, and who receives them (does it go straight to the community or is it handled by the government or some other body?)¹⁷

For other benefits, such as community infrastructure, support for local livelihoods, education scholarships, or local employment, check that there are detailed specifications, deadlines, and that delivery isn't reliant on the carbon traders' profits. Include clear, enforceable penalties for non-delivery.



□ How will the community manage any income?

Ensure the community has internal agreement about decision-making related to forest management, compliance with the agreement, and how income is spent. The CLDMC is suited to this role.



□ Keep a copy of the contract.

A copy of all draft agreements, and especially the final one, should be retained by the community and made publicly available. The community should not allow a government agency to take it away unless it also has a copy.

As there is no approved template or guidance for company-community carbon agreements, communities are advised to refer to the [Commercial Use Contract Legal Guide](#) (for carbon deals on community forest land)¹⁸ or the [Social Agreement Template](#) (for forests that are not community-owned).¹⁹



LAST WORDS

There are very few cases around the world where communities have benefited from carbon deals, and in Liberia there is not yet any regulation or official procedure to govern these deals. Making carbon deals is risky and demanding a clear and fair regulatory framework, which builds on the Land Rights Act and the Community Rights Law, to enshrine community rights when it concerns carbon trading, is important.



Fern believes carbon offsets do not work and carbon trading is not a solution to climate change but rather an excuse to allow polluting companies to continue polluting. We also believe, however, that communities should be given all the information they need to negotiate carbon deals so that they can make an informed choice about whether or not to consider carbon projects.

REFERENCES

1 - There are other gases that contain carbon and cause global warming, and other ways to emit these 'greenhouse gases', apart from burning. One other is methane, which is produced by animals. Globally, these are combined into a 'CO₂-equivalent' or CO₂e, to measure the total emissions from all sources.

2 - Information about individual countries' emissions of CO₂ in 2021 can be seen here: https://en.wikipedia.org/wiki/List_of_countries_by_carbon_dioxide_emissions. China, the US, the European Union and India are the top four emitting countries. Liberia ranks 164th out of 214 countries and territories, with 0.03% of the emissions of the US and 0.01% of China's.

3 - In addition to forests there are other types of geography that can absorb and store a lot of carbon, including oceans, mangroves and peatlands. There are also other ways rich countries have sought to reduce their CO₂ emissions through deals with developing countries, including providing technology for renewable energy (like solar panels) and developing fuel-efficient cooking stoves. This briefing only describes forest carbon schemes.

4 - A pan-African campaign group called Powershift Africa said this in a publication launched at an international Africa Climate Summit held in Kenya in September 2023. See www.downtoearth.org.in/news/world/africa-climate-summit-2023-opinion-split-on-carbon-markets-some-call-it-license-for-global-north-to-pollute-91612 for more information.

5 - This introductory series on carbon markets, forests and rights for indigenous peoples and communities, written in 2023 by FPP and the Global Justice Clinic can be downloaded from www.forestpeoples.org/en/report/2023/carbon-markets-forests-rights-explainer.

6 - There have been an increasing number of media articles alerting people to the weaknesses in the way carbon credits are counted. See for example one in The Guardian in early 2023: www.theguardian.com/environment/2023/jan/18/revealed-forest-carbon-offsets-biggest-provider-worthless-verra-aoe.

7 - This graph is from a website that monitors carbon and other international prices, <https://carboncredits.com/carbon-prices-today/>.

8 - In 2023 the UN estimated (in the context of REDD+) transaction costs might be in the range of US\$1.4 and US\$7 per tonne of CO₂. See www.un-redd.org/sites/default/files/2023-02/ForestCarbonPricing_Report_16Feb_FINAL.pdf for more information.

9 - To read more about Blue Carbon in Liberia, Tanzania, Zambia, and Zimbabwe see the news report, In **New Scramble for Africa, an Arab Sheikh Is Taking the Lead**, published in August 2023, <https://e360.yale.edu/features/al-maktoum-uae-dubai-africa-carbon-credits>. For an NGO perspective on the draft Liberia agreement, see <https://loggingoff.info/library/ngo-statements-on-liberia-blue-carbon-deal-21-july-2023/>.

10 - 'FPIC' is described in Section 20.13 of Lands Rights Regulations, see <https://lla.gov.lr/index.php/downloadable-resources/policies-laws-regulations-repository?download=202:lra-regulations-2022>.

11 - The response from the EPA can be read here: <https://thenewdawnliberia.com/epa-warns-against-unauthorized-carbon-credit-deal-with-us-firm/>. For news coverage of the initial approach by BlueEarth Capital to the leadership of Ziadue see <https://thedaylight.org/2023/09/14/inside-a-problematic-carbon-deal-in-river-cess/>. BlueEarth Capital has subsequently changed its name to BluEarth Carbon Development Inc., see <https://blueearthcarbon.com/>.

12 - See A Guide to Customary Land Formalization: Making the Law Work for the People, <https://loggingoff.info/library/guide-customary-land-formalization/>.

13 - This is according to the Land Rights Law, Article 48.4. See <https://lla.gov.lr/index.php/downloadable-resources/policies-laws-regulations-repository?download=79:land-rights-act>.

14 - See the Land Rights Regulations, Section 19.25, <https://lla.gov.lr/index.php/downloadable-resources/policies-laws-regulations-repository?download=202:lra-regulations-2022>.

15 - The template for CLDMC bylaws suggests that the Community Assembly have the exclusive right to approve the sale, lease or transfer of land. The Land Rights Regulations (2022) state that it's the responsibility of the CLDMC to allocate land, including forests, to different purposes (Section 18.1) and any investments should be transparent and demonstrably beneficial (Section 18.13). See <https://lla.gov.lr/index.php/downloadable-resources/policies-laws-regulations-repository?download=202:lra-regulations-2022>.

16 - The Land Rights Act states, in Article 49.5 "A lease agreement relating to any Customary Land must include payment of rent and equitable benefits to the Community; an agreed payment schedule and a mechanism to ensure full and timely payment of rent and the performance of other obligations" stated in the lease. See <https://lla.gov.lr/index.php/downloadable-resources/policies-laws-regulations-repository?download=79:land-rights-act>.

17 - For example the multi-stakeholder National Benefit Sharing Trust that exists for distribution of land rental from logging concessions.

18 - The Commercial Use Contract Legal Guide is available from the NUCFMB or <https://loggingoff.info/library/cfmp-processes-and-cuc-legal-guide-template/>.

19 - The Social Agreement Negotiations Guide is available from the NUCFDC or www.clientearth.org/media/bwkhdbnc/social-agreement-negotiations-guide-liberia-coll-en.pdf.

