

ECO

Volume 47, Issue 1

Monday, 16 June 2014

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The Perverse Incentives of Biodiversity Offsets

Simone Lovera, Global Forest Coalition, Paraguay

Aichi Target 3 on the redirection of perverse incentives has rightfully been given a central place in the deliberations on how to implement the Biodiversity Convention's Strategic Plan at the upcoming SBSTTA meeting. The balance between *perverse* and *positive incentives* is at the heart of biodiversity conservation policy.

To mention one example: The last Conference of the Parties, COP11 in 2012, agreed to double international support to biodiversity conservation to 13 billion USD per year in 2015. That sounds impressive, but at the time the OECD countries alone spend more than 50 billion USD per year on subsidies for their livestock sector. This sector is increasingly recognized as the main driver of deforestation in Latin America, the continent with the highest deforestation rates in the world. Redirecting these intensive livestock farming subsidies to more sustainable forms of agriculture and food production would have far more positive impacts on the biodiversity in Latin America than pumping money into the small islands of forests that currently remain between the endless monocultures of soy – one of the main feed stocks of OECD farm animals.

But the discussion on incentives should not be limited to a discussion on subsidy reform. As rightfully pointed out in previous COP decisions and background documentation on incentives: It is important to define incentives in a broad manner. Incentives include all kinds of stimuli, including moral, cultural, and traditional value systems, laws and regulations, social control, self-esteem, taxes,

price differences and certification and labelling systems. Together they form the key motivations for countries, Indigenous peoples, communities and individuals to either conserve or destroy biodiversity. For that reason, any biodiversity-related policy should include a profound sociological analysis of the broad range of incentives and potential perverse incentives it provides.

In terms of perverse incentives, *biodiversity offsets* are a case in hand. These offsets will be discussed once again as part of potential *innovative financial mechanisms* as part of agenda item 6 on *Resource Mobilisation*. They have been promoted based on the theory that biodiversity harm is unavoidable in certain human activities, but that some of this harm could at least be compensated with biodiversity restoration at another, preferably similar, location.

Of course, the notion that biodiversity is *not* location-specific is questionable from a biological science perspective. It also seems to ignore the socio-economic value of biodiversity for local communities, so often been highlighted by biodiversity policy-makers.

Offsets also require profound sociological analysis from an incentives perspective. For project developers, the government agencies licensing the project, and even for the public at large, the possibility of an offset could provide a moral incentive to pursue the relevant project, assuming that the harm caused by the project is compensated for. More importantly, for national and international conservation groups and national government agencies, the offset

Aichi Target 3

By 2020, at the latest, incentives, including subsidies, harmful to biodiversity are eliminated, phased out or reformed in order to minimize or avoid negative impacts, and positive incentives for the conservation and sustainable use of biodiversity are developed and applied, consistent and in harmony with the Convention and other relevant international obligations, taking into account national socio-economic conditions.

could provide a perverse economic incentive to approve the destructive project, as the compensation project might provide opportunities for their engagement. Thus, biodiversity offsets can provide an important incentive for some of the most powerful actors assumed to oppose the original destructive project to accept it instead. In turn, the local actors that still resist the original damaging project will find themselves isolated further, as they will only see the negative impacts. Often enough, these local actors are Indigenous peoples or other economically and/or politically marginalized groups.

There are also major equity issues if the destruction of the ecosystem on which the women and men in one community depend were to be compensated by the restoration of an entirely different ecosystem. Women in many rural communities are often directly dependent on the goods and other values the local ecosystem provides, like water, fuel wood and medicinal plants, while men tend to benefit more from the paid jobs both the destructive project and, possibly, the compensation project might provide.

Experience with large dams and other controversial projects has taught us that this is not just a theoretical notion. Meanwhile, these broader incentives to accept the destructive project and its offset also provide a logical incentive for the more powerful actors like national conservation agencies to overestimate the biological benefits of the offset and underestimate the destructive impact of the original project. The consultancy firms and scientific insti-

tutions that are to assess the validity of the offsets often have economic ties with these national conservation actors, e.g. because they are regular clients, so there is an incentive for these verifiers to give the offset a stamp of approval as well.

The result of this quite perverse package of incentives and political power imbalances was showcased at a recent *Nature is Not for Sale* forum¹ and exhibition that took place on 2 June in London. Some astonishingly flawed biodiversity offset cases were presented that raised serious issues of equity, environmental justice, biological integrity, permanence, leakage and additionality.² The general impression that emerged from this event, and the official high level and corporate-dominated conference *To No Net Loss of Biodiversity and Beyond*³ it opposed, was that biodiversity offsets are a mechanism that will mainly provide benefits and other positive incentives for large destructive corporations, and powerful nature conservation agencies, while Indigenous and non-Indigenous local communities, women, local authorities and other economically and politically marginalized actors will carry the burden of this mechanism. That turns offsets into one of the key environmental justice challenges of our time.

1 <http://naturenotforsale.org/>

2 See also www.criticalcollective.org, www.globalforestcoalition.org and <http://www.fern.org/sites/fern.org/files/Offset%20stories%20-%20Final.pdf>

3 <http://bbop.forest-trends.org/events/no-net-loss/>

Agenda item 6 – Resource Mobilisation

Offsetting the offset

Thaxted - an example of politics of the last resort

Mike Hannis, Bath Spa University

Current UK planning policy views *biodiversity offsetting* (BDO) as a potential last resort in mitigation:

“If significant [biodiversity] harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.”¹

Offset brokers *The Environment Bank* however call BDO “a

very important last resort, because it gives developers more options to make sure that what they do is sustainable.”² In other words, compensation – or offsetting – can make unsustainable development permissible, by turning it into ‘sustainable development’.

This is nicely illustrated by a recent case at Thaxted in Essex (UK), in which permission was granted for a development of 47 houses. These will be built on a grassland site

which was providing 'wildlife mitigation' for the same developer's adjacent earlier development of 55 houses, for which permission was granted in 2012 and which still under construction. Lizards and orchids were moved onto the current development site as part of this mitigation role.³

The decisive element was an offset agreement by the Environment Bank, using the DEFRA metric. The application stated:

"As a last resort, it is proposed to use the new biodiversity offsetting scheme. [...] The offsetting site would provide 20 credits through an agreed enhancement plan. This represents an overall gain of 2.9 credits, i.e. an increase of >10% [over the value of original site]."

Uttlesford District Council refused permission. Their ecologists pointed to local policies mandating *no loss* of old grassland, except in very exceptional circumstances. They also raised detailed ecological concerns regarding:

- "salami slicing" of habitats;
- the condition, quality and history of the grassland;
- the estimates of specific fauna and flora on the site;
- the developer's interpretation of "significant harm";
- whether lizards can be included in an offset scheme;
- the use of BDO in principle; and
- the details of the offset calculations, particularly the assessment of the site's distinctiveness as 'medium' rather than 'high'.

At appeal, the developer's own ecologists argued strongly against all these objections, presenting the grassland as being of much lower ecological value than the Council claimed, but also instructed the Environment Bank to recalculate the offset using a 'high' distinctiveness assessment, raising it to 25 units. The Council eventually gave in, and didn't contest the appeal. Permission was given:

"Whilst it is accepted that the proposed compensation site is not located next to or close to the appeal site, it seems clear that, with suitable management, it would provide a suitable habitat for the *Common Lizard* and would provide a grassland of greater value and size than the appeal site does or could. In these circum-

stances, I consider that the proposal would not have any unacceptable effects on biodiversity, when taken as a whole and would enhance it."

An area of old grassland, which was being managed to compensate for an earlier loss, will itself now disappear. The developer states that "91.5% of the biodiversity on site will be lost". This lost 'biodiversity value', plus an additional amount to offset the loss of agreed mitigation for the earlier development, will be compensated for by improving the condition of 5ha of different grassland at Hempstead, 9 miles away, from its current 'poor' condition to 'good' by year 10 of a 25-year management agreement. This will be achieved by bringing in seed-bearing green hay from another (fourth) site. The lizards will be moved (again) to the offset site.

Without the 'last resort' of compensation, the biodiversity impacts would have justified a refusal of permission. The development would not have happened, and there would have been no loss to offset. As predicted in theoretical work:⁴

- Development has happened which otherwise would probably not have been permitted;
- The apparent simplicity of the offset calculation disguises fierce battles over alternative expert interpretations of ecological data;
- Claims that value has been conserved rely on questionable commensurability assumptions;
- A previous mitigation site has quickly become a development site, requiring "offsetting the offset";
- The broker's role was central, and raised major conflict of interest questions.

1 National Planning Policy Framework (2012), para. 118

2 <http://www.environmentbank.com/files/7busting-the-offsetting-mythssept2013-1.pdf>

3 Decision ref. APP/C1570/A/13/2206357, 22 May 2014. Documents at <http://tinyurl.com/thaxted-docs>

4 see e.g. http://www.greenhousethinktank.org/files/greenhouse/home/Offsetting_nature_inner_final.pdf

<http://thestudyofvalue.org/wp-content/uploads/2013/11/WP5-Sullivan-and-Hannis-Nets-and-Frames1.pdf>

CBD Alliance would like to thank Swedbio for their continued and ongoing support

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Submissions are welcome from all civil society groups.
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Signing the CBD – where are the teeth?

Implementation and Compliance in Australia

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The Convention on Biological Diversity (CBD) was a great initiative back in 1992. But is it only a façade, providing cover behind which signatory countries can recklessly destroy the very values they have signed up to protect? What happens if a country does not comply to its obligations?

Australia signed the CBD in 1992 but since then its remarkable diversity of Gondwanic wildlife, plants and ecosystems have become critically endangered or even worse have had their existence on our planet snuffed out.

Two weeks ago, the *Action Plan for Australian Mammals*¹ was published. This definitive scientific account finds that Australia has the worst rate of mammal extinctions in the world: the extinction of the bat *Christmas Island Pipistrelle*² five years ago; the listing the meat-eating marsupial *Spot-tailed Quoll* as threatened for 12 years now with no recovery plan in place while populations continue to decrease; and even the internationally iconic koala now listed as vulnerable in several states.

Under Australia's federal system the national Australian government is responsible for matters covered by international treaties but the national laws introduced in 1999 to protect our most significant environmental values in accordance with these treaties have clearly failed; a reflection of the inadequacy of the laws and the government's

unwillingness to enforce them. Now the Australian government plans to weaken them further by handing decisions on logging, mining and development to state governments. Experience shows that the state governments are even less likely to meet the already weak standards of the current legislation. Two weeks ago, Humane Society

International altered both the CBD Secretariat and the Secretary General of the Ramsar Convention about this *One Stop Shop* and about Australia's wilful failure to protect wetlands and migratory bird habitats.⁵ At the same time the Australian government weakens biodiversity protection by asking for forest listed under *World Heritage Convention*⁶ to be de-listed so they can be logged.

Eight groups of environmentalists, lawyers and scientists representing thousands of people across the country have therefore sent a petition the CBD Secretariat about Australia's failure to comply with the Convention. In brief, we are requesting the Secretariat to carry out an audit. The text of the petition and its more than 100 pages of supporting documents are available online.⁷

We received a short reply stating that “the Secretariat does not have a legal mandate to look into questions or allegations related to the compliance of an individual Party to its obligations under the Convention.”

But who has that mandate? There is a clear need to strengthen the compliance and enforcement regimes for all multilateral environment agreements. If Australia, as a wealthy nation with a booming economy can thumb its nose at its international environmental duties and commitments, we must wonder how many other countries are also tipping their species into the abyss behind the name of the CBD. If the Convention has no teeth, it either needs to get some or we need a new plan.

1 <http://www.publish.csiro.au/pid/7010.htm>

2 <http://theconversation.com/threat-of-extinction-demands-fast-and-decisive-action-7985>

3 http://www.edgeofexistence.org/mammals/species_info.php?id=165

4 <http://www.environment.gov.au/science/soe/2011-report/8-biodiversity/2-state-and-trends#c2>

5 <http://hsi.org.au/go/to/1653/4th-june-one-stop-shop-breaches-international-treaty-obligations.html>

6 <https://www.wilderness.org.au/articles/protect-your-world-heritage>

7 <http://envirojustice.org.au/blog/petition-to-the-convention-on-biological-diversity>



Jill Redwood