

# The reality of REDD+ in Peru: Between theory and practice

Indigenous Amazonian Peoples' analyses and alternatives  
**November 2011**



Lead authors: Roberto Espinoza Llanos and Conrad Feather.

With thanks to: Paula Acevedo Llanqui, Felipe Pacuri Flores, Julio Pareja Yáñez, Tom Griffiths, Jutta Kill, Gemma Humphrys, Miguel Alexiades, Luis Manuel Claps, Maria-Isabel Griffiths and Aliya Ryan. Any errors are the responsibility of the authors.

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Co-edited by: AIDESEP and FPP

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Design: Gemma Humphrys

Maps: CIPTA, Aliya Ryan, Miguel Alexiades

Cover photo: Nahua hunter in his ancestral territory, SE Peru, Johan Wildhagen

Photo Part 1: Nahua hunters in their ancestral territory, SE Peru, Johan Wildhagen

Photos Part 2 and 6: Nahua children in their community, FPP

Photo Part 3: Border of Manu National Park, SE Peru, FPP

Photo Part 4: Rainbow over the river Pastaza, N Peru, Aliya Ryan

Photo Part 5: Nahua men demarcating their ancestral territory, FPP

This report uses the terms REDD and REDD+ interchangeably to refer to the overarching but constantly evolving concept of Reduced Emissions from Deforestation and Degradation.

The maps in this report that refer to indigenous territories are broadly indicative based on current data and should not be interpreted or used to illustrate definitive versions.

# Contents

<b>REDD+ Peru : Threat or opportunity?</b>	
Message from Alberto Pizango Chota, President of AIDESEP	4
List of acronyms	5
Executive summary	6
Introduction and overview	8
<b>Part One</b>	
<b>REDD+ and Indigenous peoples in Peru: The Context</b>	10
<b>Part Two</b>	
<b>Developing a national strategy for REDD+: Indigenous perspectives</b>	19
<b>Part Three</b>	
<b>Reality on the ground: Subnational initiatives in Peru affecting Indigenous peoples</b>	29
<b>Part Four</b>	
<b>Lessons learnt</b>	48
<b>Part Five</b>	
<b>Indigenous alternatives to REDD+: A rights based approach</b>	55
<b>Part Six</b>	
<b>Recommendations</b>	57
Annexes	61



## REDD+ Peru: Threat or opportunity?

**Alberto Pizango Chota, President of the Interethnic association for the development of the Peruvian Amazon (AIDESEP)**

We live here in the Peruvian Amazon where there is a new boom, a new fever just like for rubber and oil but this time for carbon and REDD. The companies, NGOs and brokers are breeding, desperate for that magic thing, the signature of the village chief on the piece of paper about carbon credits, something that the community doesn't understand well but in doing so the middle-man hopes to earn huge profits on the back of our forests and our ways of life but providing few benefits for communities. We denounce this 'carbon piracy' that is one side of the reality of REDD in the Peruvian Amazon. The other side is the big programs of the environmental NGOs, the world bank, the IDB and the government who promise to act with transparency and respect our collective rights but will this include the respect of our ancestral territories and self determination? The safeguards and guidelines of the big projects always say that they will respect our rights but the reality is always different. What will happen eventually? Which REDD will materialize? The one of harmony that they offer or one of conflict and broken promises?

At the same time the Amazon is being destroyed by climate change itself, an onslaught caused by the transnational companies and global consumption and resource extraction. This is made worse by local deforestation caused by loggers, colonists, dams, mines, oil companies and agri-businesses. Can REDD control this industrial destruction or will it only control the activities of communities and small farmers? The world does need to reduce deforestation but not in this way, without confusing nature with the accumulation of wealth, without mixing water and oil, without putting life itself onto the stock-market and without ignoring the real causes of deforestation. For thousands of years indigenous peoples have looked after a living planet and in only one hundred years industrialisation has caused it to overheat, all in the name of this confusing thing they call 'development'.

This report expresses some of these contradiction but it also shows the struggle of AIDESEP to control these 'carbon pirates' and to analyse the risks and theoretical benefits of REDD. However, we are not only raising alarms about the reality of REDD, we are also calling for and acting to transform forest and climate initiatives from a threat into an opportunity to support our ongoing struggle to protect the forests with indigenous alternatives to REDD driven by our communities that we call "Indigenous REDD". Will this be possible? We shall see because nothing is written in stone, not even REDD. First will always be our territories, our self determination and our visions for our futures and we will see how to incorporate, or not, policies such as REDD and all the others that come and go as the winds change.

We hope that this report will encourage greater understanding, support and solidarity with the work of indigenous peoples organisations associated with AIDESEP who are working towards *'la vida plena'*<sup>1</sup> for everyone.

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1 An indigenous concept similar to 'good living' - 'buen vivir' or 'sumac kawsay'

## Acronyms

<b>ACPC</b>	Association for the Conservation of the Patrimony of Cutivireni
<b>AFIMAD</b>	Indigenous Forestry Association of Madres de Dios
<b>AMPA</b>	Association of Amazonians for the Amazon
<b>AIDSESP</b>	Interethnic Association of the Peruvian Amazon
<b>BNDES</b>	National Development Bank of Brazil
<b>CARE</b>	Asháninka Centre of the River Ene
<b>CI</b>	Conservation International
<b>CIPTA</b>	Centre for Information and Territorial Planning - AIDSESP
<b>COP</b>	Conference of the Parties
<b>CODEPISAM</b>	Coordinator of the Development and Defense of the Indigenous Peoples of San Martin
<b>COICA</b>	Coordinator of Indigenous Organisations of the Amazon Basin
<b>CCBA</b>	Community, Conservation and Biodiversity Alliance
<b>ECOASHÁNINKA</b>	The Executor of the contract for the Administration of the Asháninka Communal Reserve
<b>FENAMAD</b>	Federation of the Native Peoples of the River Madre de Dios and its tributaries
<b>FCPF</b>	Forest Carbon Partnership Facility
<b>FIP</b>	Forest Investment Program
<b>FPP</b>	Forest Peoples Programme
<b>FPIC</b>	Free, prior and informed consent
<b>FSC</b>	Forest Stewardship Council
<b>GEF</b>	Global Environment Facility
<b>IADB</b>	Inter American Development Bank
<b>IDL</b>	Legal Defense Institute
<b>IFC</b>	International Finance Corporation
<b>ILO</b>	International Labour Organisation
<b>IPO</b>	Indigenous Peoples' Organisation
<b>IP</b>	Indigenous peoples
<b>MINAM</b>	Ministry of the Environment
<b>MRV</b>	Monitoring, reporting and verification
<b>OCBR</b>	Coordinating body for forests and REDD+
<b>PC</b>	Participants Committee
<b>PES</b>	Payments for Environmental Services
<b>PDD</b>	Project Design Document
<b>R-PP</b>	Readiness Preparation Proposal
<b>REDD / REDD+</b>	Reducing Emissions from Deforestation and Forest Degradation
<b>SERNANP</b>	National Authority for Protected Areas
<b>UNDP</b>	United Nations Development Programme
<b>UNDRIP</b>	United Nations Declaration on the Rights of Indigenous Peoples
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>WWF</b>	World Wide Fund for Nature
<b>VCS</b>	Verified Carbon Standard

## Executive summary

This report compiled by AIDSEP, FENAMAD, CARE (regional and national indigenous organisations) and FPP collates the experiences of indigenous peoples' organisations with REDD+ policies and projects in Peru. The report analyses the policies and strategies of the Peruvian government, examines the roles of international agencies and scrutinises pilot REDD+ initiatives already underway in indigenous territories.

### The main findings of the report are:

At a national level:

- ▶ Existing REDD+ policies and programs are undermining rights of indigenous peoples and are likely to lead to conflicts over land and resources.
- ▶ Existing national laws on forests, wildlife conservation and land ownership do not uphold Peru's international obligations on indigenous peoples' rights.
- ▶ Efforts to protect forests through REDD+ are undermined by contradictory policies of other government sectors overseeing mining, energy, agriculture, infrastructure and national defence.
- ▶ Millions of hectares of unresolved indigenous land applications could lead to a mass land grab for REDD+ projects.
- ▶ Implementation of REDD+ is leapfrogging readiness.

On the ground:

- ▶ Lack of national guidelines is resulting in an explosion of carbon piracy and the setting up of unregulated subnational projects in indigenous territories.
- ▶ 'Carbon pirates' are convincing indigenous communities to sign away their rights to land and carbon under terms that are highly favourable to commercial interests and offer little or no guarantee for the protection of indigenous peoples' fundamental rights.
- ▶ The impunity of these pirates is providing them with increasing control over forests and the intellectual property of indigenous peoples and leading to the manipulation of costs and the inequitable distribution of benefits.
- ▶ Community consultation is occurring only **after** projects have started.
- ▶ There is only minimal awareness of REDD+ and climate policies at a community level.
- ▶ Information provided by project developers is often partial and/or biased (emphasising benefits and monetary income, rather than costs and risks).
- ▶ Understanding of REDD+ and its complexities is lacking amongst government agencies and project developers.
- ▶ Local REDD+ projects are failing to recognise key principles of FPIC and lack effective FPIC procedures agreed with communities and their freely chosen representative organisations.
- ▶ Subnational projects fail to recognise international obligations to respect indigenous peoples' rights including customary land rights.
- ▶ Voluntary certification standards for REDD+ projects suffer from serious shortcomings in validation processes, including lack of scrutiny, lack of community consultations and failure to review compliance with human rights standards.
- ▶ Existing subnational projects are often based on technical inconsistencies and arbitrary reference scenarios.

### 'Indigenous alternatives to REDD+': From threat to opportunity

The report concludes that unless underlying legal and political reforms are made in Peru to address unresolved land and territorial applications and uphold the legal obligations of the Peruvian state to respect indigenous

peoples' rights, then REDD+ strategies will not only fail to reduce emissions but will undermine these rights and lead to social conflict. REDD+, as it is currently being proposed and developed in Peru, is a threat to indigenous peoples.

Despite the negative lessons of existing policies and projects, the report highlights that there is a solution. IPOs have developed their own alternative proposals for protecting forests that prioritise the recognition and demarcation of indigenous territories as well as support for their own systems for the sustainable use and protection of forest resources. IPOs in Peru also stress that to ensure climate integrity, forest and climate protection schemes must not be financed by carbon offsetting mechanisms and plantations and biofuels must be excluded from REDD+ schemes. In this way, and in the words of Daysi Zapata Fasabi, Vice President of AIDESEP:

*“REDD+ is a threat to indigenous peoples, our objective is to transform it into an opportunity”*

### Recommendations

Instead of channelling money at unproven and unstable carbon markets, modest funding could be targeted to secure the land and territorial rights of indigenous peoples and promote community forest management. These community and rights based approaches are cost effective and proven approaches to protecting forest that will not only reduce emissions from deforestation but will lead to poverty reduction, secure livelihoods and biodiversity conservation. Only in this way can REDD+ truly become an opportunity for indigenous peoples instead of a threat. Key recommendations of this report for the Peruvian government and international agencies include:

- ▶ **Territory:** Recognise and demarcate all outstanding indigenous territorial applications before REDD+ programmes are implemented.
- ▶ **Rights:** Align national legislation with international obligations to respect fundamental indigenous rights to land, resources and Free, Prior and Informed Consent (FPIC).
- ▶ **Social justice:** Prioritise direct financial support for communities in PES type schemes, promote community based forest management and respect and protect customary resource use and practices, including rotational farming.
- ▶ **Climate and ecological integrity:** Exclude REDD+ and PES schemes from carbon offsetting mechanisms, plantations and biofuel investments.
- ▶ **Deforestation:** Target deforestation caused by large scale infrastructure projects, hydroelectric dams and industrial logging rather than discriminating against smallholders and indigenous peoples
- ▶ **Regulation of carbon piracy:** Establish a moratorium on the signing of contracts between REDD+ developers and communities until the fundamental rights of indigenous peoples can be guaranteed.

Despite shortcomings in the existing national REDD+ strategy, significant progress has been made in recent months. In a meeting of the World Bank's Forest Carbon Partnership Facility (FCPF) in March 2011 the Peruvian government committed to reform land tenure legislation to align it with international obligations and to embark on the process of territorial recognition. The authors of this report and the international community will be monitoring their progress with great interest to ensure these commitments are upheld and put into practice.

# Introduction and Overview

## REDD+ development in Peru

Since 2008 the Peruvian government has positioned itself as a leading advocate of REDD+ and its finance through carbon markets. At the UN climate change conference in Poznan (COP14) the Peruvian Ministry of the Environment (MINAM) announced the establishment of its 'national forest conservation program' whose objective is to protect 54 million hectares of forest and reduce net deforestation to zero by 2020<sup>1</sup>. This strategy has paid immediate dividends. To date, Peru has been chosen as a pilot country for the World Bank's Forest Carbon Partnership Facility (FCPF) and Forest Investment Program (FIP) and has received, or had approval for, funding for over US\$350 million for the preparation and implementation of REDD+ readiness plans.<sup>2</sup> Peru's Readiness Preparation Proposal (R-PP) was finally approved by the FCPF in March 2011.

## REDD+ and indigenous peoples' rights

At COP 16 in Cancun an international consensus was reached that REDD+ can only succeed if the rights of people who actually live in the forest are respected. This is particularly relevant to Peru where over a third of its 69 million hectares of forest are traditionally occupied and used by Amazonian indigenous peoples and who seek the full legal recognition of their possession of these lands.<sup>3</sup>

Despite this, the importance given to indigenous peoples' rights in the development of Peru's national strategy has, until very recently, been minimal. Indigenous peoples' organisations in Peru have reiterated on numerous occasions that while an estimated 20 million hectares of indigenous territories remain unrecognised and the legislative framework undermines, rather than strengthens, their rights then REDD+ is a threat for indigenous peoples. Until such reforms are undertaken, they argue that current REDD+ policies will not only fail to benefit the people who live in the forest or to reduce emissions but are likely to lead to dispossession of indigenous peoples from their lands and restrictions on their livelihoods.

## Carbon Piracy: The reality of REDD+ in Peru

Concerns about REDD+ are no longer hypothetical and nor is carbon only a virtual reality; in the words of Alberto Pizango, the President of AIDESEP:

*“ REDD+ is in the forest and the forest is in indigenous peoples' territories ”*

Thus, in Peru while the development of national reference levels, monitoring systems, safeguards, risk assessments and legal reforms are moving along slowly, sub national REDD+ initiatives are proliferating. Currently there are at least 35 projects at various stages of design and implementation affecting approximately 7 million hectares of forest<sup>4</sup> almost all of which are being planned and implemented by national or international environmental organisations. Of the 35 known projects, at least 11 are planned in officially recognised indigenous lands, while at least 8 are operating on indigenous peoples' customary lands that as yet are legally unrecognised (see Map 5).

Since colonization the experience of Peru's indigenous peoples is that outsiders were only really interested

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1 [http://www.minam.gob.pe/index.php?option=com\\_content&view=article&id=788:gobierno-peruano-asume-trascendental-compromiso-al-conservar-54-millones-de-hectareas-de-bosques&catid=1:noticias&Itemid=21](http://www.minam.gob.pe/index.php?option=com_content&view=article&id=788:gobierno-peruano-asume-trascendental-compromiso-al-conservar-54-millones-de-hectareas-de-bosques&catid=1:noticias&Itemid=21)

2 Currently there are at least 47 existing funding sources for national REDD activities corresponding to at least 994 million soles although the exact amount of funds available is still unclear. The main contributors include: Japan (252 million), USA (204 million), FIP (180 million), CAF (154 million), Germany (117 million) and Perú (30.7 million). See 'La situación de REDD en el Perú', DAR, 2011: 43.

3 This includes 15 million ha of legally recognized territories, as well as approximately 10-20 million hectares whose recognition is pending see CIPTA, 'Communal territories and territoriality'. Presentation at Madre de Dios REDD workshop, Puerto Maldonado. 13-14 June 2011.

4 Ibid: 47.



in cutting down their forests. Peru's indigenous peoples are now experiencing an unprecedented external interest in their protection. Today, NGOs, carbon consultants and investors are roaming the jungle in search of communities with carbon offsetting potential. In one case this even involved an effort to convince communities to sign away their rights to carbon in a contract with no defined end point. Several of these deals are being conducted using strict confidentiality clauses and with no independent oversight or legal support for vulnerable communities. Some of these peoples are not yet fully literate in Spanish but are being asked to sign complex commercial contracts in English that are subject to English law. As a result, Peru is rapidly becoming the centre of international carbon piracy. This not only threatens the rights of indigenous peoples but undermines the integrity of the entire REDD+ program throughout Peru.

## Report overview

Much has been said or written about REDD+ in Peru<sup>5</sup> but existing analyses do little justice to the perspectives of indigenous peoples or the impact it is having on their lives and lands<sup>6</sup>. This report attempts to address this gap by providing some of the perspectives of indigenous peoples and their organisations who are experiencing these developments at first hand and for whom REDD+ is a source of confusion, expectation and suspicion.

This report outlines the current status of REDD+ at both a national and sub national level in Peru from the perspective of key indigenous organisations whose communities lie in the eye of the REDD+ storm. It is based on an extended conversation with indigenous organisations and community leaders at a national and regional level since 2009, field visits to some of the affected communities, four workshops held with key community leaders in Madre de Dios, San Martin and Ucayali regions of Peru<sup>7</sup>, analyses of the existing documentation including PDDs (Project Design Documents<sup>8</sup>) and contracts of some pilot initiatives and interviews, conversations with key government, NGO and private sector actors working on REDD+ at both a national and sub national level. The activities that informed this study were carried out in Peru between May 2010 and June 2011. This report has been co-written and edited by AIDESEP, the national indigenous Amazonian federation of Peru that represents over 1400 indigenous communities in the Peruvian Amazon, and the Forest Peoples Programme (FPP), a UK based NGO that supports forest peoples' rights. Specific written contributions from regional and local indigenous organisations including FENAMAD (Madre de Dios) and CARE (river Ene) are also included alongside inputs resulting from workshops held with CODEPISAM (Indigenous organisation of San Martin) and ORAU (Regional indigenous organisation of AIDESEP- Ucayali).

The report is organised in six sections.

- ▶ Part 1 outlines the **legal, political and territorial context** in respect to indigenous peoples in which REDD+ is being developed.
- ▶ Part 2 describes the status of **REDD+ at a national level** focusing on the development of Peru's R-PP and the observations of indigenous organisations.
- ▶ Part 3 provides an overview of the multiple **sub national projects** currently underway and an in-depth examination of a selection of these projects including some detailed case studies.
- ▶ Part 4 reviews the **lessons learnt** from these experiences at a national and subnational level.
- ▶ Part 5 summarises the **alternatives to REDD+** that indigenous peoples are proposing.
- ▶ Part 6 proposes **recommendations** to address the shortcomings in current REDD+ developments at the level of policy and practice.

5 See 'La situación de REDD en el Perú', DAR, 2011 for an overarching review.

6 A notable exception which addresses some of these issues is: 'Inclusión social en el proceso REDD en el Perú', Die, GIZ, 2011.

7 ORAU (7-10 May 2010 and 27-29 June 2011), FENAMAD (13/14 June 2011), CODEPISAM (19-20 May 2011).

8 Project Design Document is the general term given to the written submissions of REDD project developers that outline the nature and scope of the REDD+ project and are required by the certification agencies to complete their evaluation.



# Part 1

## Forests and indigenous peoples in Peru: The context

In order to understand the key issues relating to REDD+ it is first necessary to appreciate the political, legal and territorial context in which these initiatives are being developed. This first section provides an overview of the key issues.

### Forests and Indigenous peoples in Peru

The Peruvian Amazon houses almost 70 million ha<sup>9</sup> of tropical rainforest approximately 15 million hectares of which is either legally recognised with some form of indigenous ownership or management<sup>10</sup>. Census data from 2007 indicates that the indigenous population of the Amazon is over 330,000 and pertains to at least 60 different peoples and 17 different language families<sup>11</sup>. The state acknowledges that there are at least 8 million hectares of pending applications for proposed indigenous reserves but recent and on-going research demonstrates that there are at least 102 communities that are neither recognised as existing nor with legal title to their lands, 525 communities that are recognised but have not been titled and 178 communities with pending applications for extensions as their titles are too small to physically support their populations<sup>12</sup>. Apart from these there is strong anecdotal evidence of hundreds of 'invisible' communities whose existence is not even informally recognised.

In addition to these pending community title applications there are at least ten well advanced initiatives<sup>13</sup> to secure the recognition of their collective territories as peoples which amount to an extension of over five million ha (see Map 1). See Box 2 for a summary of the results so far of this gap analysis and Annex A for a detailed review by region.

9 'Readiness Preparation Proposal', p47. MINAM, January 2011.

10 See Box 1 for more details and CIPTA, 'Communal territories and territoriality'. Presentation at Madre de Dios REDD workshop, Puerto Maldonado. 13-14 June 2011.

11 IBC, 2011, 'Mapa Amazonia Peruana' 2011. These are the official statistics but the actual numbers are likely to be much higher owing to limitations of the census.

12 CIPTA, 'Communal territories and territoriality'. Presentation at Madre de Dios REDD workshop, Puerto Maldonado. 13-14 June 2011.

13 To date this includes the 8 peoples mentioned in Map 1 as well as the Ese Eja in Madre de Dios.

**Box 1: Principal categories of indigenous land ownership in the Peruvian Amazon**

Category	Property and use rights according to Peruvian legislation
<b>Native community</b>	Ownership rights over fishing and agricultural resources. Forest rights are ceded in exclusive use and commercial use of forest resources requires permits from the forestry authority but ownership rights retained by the state. Since constitutional modifications in 1993, titles are no longer inalienable or unseizable. <sup>I</sup>
<b>Territorial Reserves for isolated peoples</b>	Undemarcated land titles that safeguard the land until the inhabitants establish a formal native community. No commercial activities are permitted although this has been repeatedly violated by oil and gas exploitation within the borders of the Reserves.
<b>Communal Reserves</b>	Indigenous territories recognized as natural protected areas that are co-managed by the protected areas authority (SERNANP) alongside an indigenous organisation awarded a contract for managing the Reserve whose representatives are elected by surrounding communities. Communal reserves permit subsistence and some commercial activities on the part of neighbouring communities on the basis of a Master plan developed for each Reserve approved by SERNANP. No commercial use of forest resources is permitted but the State retains rights to exploit subsurface resources.
I Article 89 of the constitution states that, "property of these lands is imprescriptible except in the case of abandonment". The 1979 constitution of Peru (Art 163) recognised the unseizable, inalienable and imprescriptible legal character of indigenous territories.	

**Box 2: Outstanding indigenous territory and land applications in the Peruvian Amazon**

<b>Forestry concessions and indigenous lands</b>	50 overlaps with indigenous areas <sup>I</sup> .	
<b>Oil, gas and mining concessions</b>	Oil and gas: 47,961,405ha (covering 61.2% of the Peruvian Amazon. These overlap 4 territorial reserves, 5 communal reserves and at least 70% of native communities Mining: 2,510 087ha <sup>II</sup>	
<b>Reserves</b>	<b>Recognised</b>	<b>Pending</b>
<b>Territorial reserves</b>	5 Reserves exist: Total area: 2'856,223.32 Ha	5 pending: Cacataibo, Tapiche- Blanco-Yaquerana, Yavari-Mirim, Napo-Tigre, Kapanawa (Sierra del Divisor). <b>Total area: 4'242,484.87 has</b>
<b>Communal reserves</b>	6 Reserves exist. Total area: 1'663,966.25 Ha	8 Pending: Airo Pai, Huimeki, Napo Curaray, Chambira, Tigre Corrientes, Tamaya Caco, Inuya-Tahuanía, Yurúa. Total area 4'108,565.75 has
<b>Titled and demarcated Native communities</b>	1254 communities 10,707,812 Ha	
<b>'Invisible' communities</b>	Hundreds that have yet to be documented	
<b>Unrecognised communities</b>	102 identified to date	
<b>Recognised Communities requiring titling</b>	525 identified to date	
<b>Community titles requiring extensions</b>	178 identified to date	
<b>Territorial application to date</b>	Including: Ese Eja, Achuar, Chayahuita, Shiwilo, Candoshi , Cocama-Cocamilla, Quichua, Awajun, Huampis, Shapra	

I IBC cited in 'Large acquisition of rights on forest lands for tropical timber concessions and commercial wood plantations' ILC and RRI, 2011, p30.

II IBC, 2011, 'Mapa Amazonia Peruana' 2011, see Map 3.





## Indigenous peoples' rights to land and forests in Peru

15 million hectares may seem significant but a comparative review of the rights of indigenous Amazonian peoples illustrates that the legal status of indigenous peoples' land and resource rights in Peru is amongst the most precarious in the Amazon basin<sup>15</sup>. Unlike their neighbours in Colombia, Brazil, Bolivia and Ecuador, the character of indigenous peoples' land rights in Peru are no longer inalienable or unseizable but have steadily been downgraded in status by constitutional and legal reforms in the last 20 years. Even within titled areas indigenous peoples have use rights but not ownership over forests which is claimed by the State.

## Indigenous peoples' relationship with forests in Peru

For indigenous Amazonian peoples the forest is synonymous with life itself. Despite some integration into the market economy many retain an intimate relationship with the forests that they continue to depend on not only for their livelihood but for their sense of unique identities as peoples. Forests provide physical sustenance in the form of hunting and fishing grounds, wild fruits and seeds, fire wood and agricultural land for cultivation. It is a vital source of materials for construction and tools, fibres for weaving clothing as well as medicines and substances that enable the critical relationship with non humans that underly their cosmologies. The nature of this relationship can be seen in the map below that illustrates Ese Eja resource use in a section of their ancestral territory and demonstrates the interdependence of their relationship with the forest.

## Integration into the market economy, poverty and extractive industries



Map 2: Ese Eja resource use in a section of their ancestral territory on the river Sonene

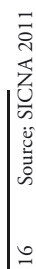
Despite the critical importance of the forest for their way of life and cultures, the connection between indigenous peoples and their forests has been progressively undermined over many years as a result of a variety of factors. Government policies have opened up their forests for extraction of natural resources, illegal and uncontrolled logging, gold mining and other extractive industries have spread to their territories and vital ecosystems have been contaminated through oil, gas and mining projects. Finally, the provision of community land titles that are too small and do not correspond to their customary lands have meant that *many communities are now confined to small parcels of degraded land on which they are unable to maintain their customary livelihoods.*

To add to these burdens, many of the changes in their ways of life has meant that indigenous peoples are now increasingly dependent on manufactured goods and other basic necessities that are an increasing part of their local economy. In such remote areas where the value of agricultural produce is low and the cost of transport and manufactured goods are high there are very limited means for families to earn an income other than working for extractive industries.

15

See 'Avoided Deforestation (REDD) and Indigenous Peoples: Experiences, challenges and opportunities in the Amazon context'. Forest Trends





## Community Forest management in Peru

In recent years community based forest management has been actively promoted in much of Latin America having been identified as a potentially successful tool for the sustainable management of forests and for empowering communities<sup>17</sup>. Despite successes in some countries such as Mexico (as a result of intensive public sector investment), community based forest management has received little or no official support in Peru. While some communities are wanting to develop low impact logging on their lands this has not received backing by the Peruvian state which has consistently privileged industrial scale extraction of timber. This has forced communities who are unable to log on such scales to sell raw timber for low prices to large scale logging enterprises who are only too keen to clear all the valuable timber before moving on to the next community. The state has failed to dedicate any funds or technical support to promote community based forest management. It was only in 2006 that the state finally introduced a legal measure (RJ 232-2006-INRENA) to support community forest management which constituted a small step in the right direction. Despite this partial progress the new forestry law (July 2011) ignores this resolution and replaces it with vague declarations about ‘managing forest with indigenous cosmovision’ but without assigning any actual financial or human resources to translate this into concrete action.<sup>18</sup> It is the continued lack of support for community empowerment and the continued state preference for models of intensive timber extraction that is one of the greatest contributory factors to deforestation and degradation in Peru.

## Deforestation in Peru

There is very little precise data on current and historic deforestation rates in Peru and their causes. Nevertheless, the government proposal for climate programmes refers to a level of 150,000ha/year between 1990 and 2000 and lists amongst the principal causes factors ranging from the construction of roads and infrastructure projects to artisanal mining, mega hydroelectric projects, oil and gas exploitation and the slash and burn cultivation of small scale farmers migrating from the Andes<sup>19</sup>. One thing is clear however, maps of current deforestation illustrate that the vast majority has taken place beyond the borders of titled indigenous lands<sup>20</sup>.

The message is clear, where indigenous peoples land rights are recognised in some way the forests are more likely to be protected. This conclusion is confirmed by numerous studies including a recent World Bank report on global deforestation. The study concluded that areas that permitted sustainable forest use were on average even more effective than strictly protected areas while community controlled and *indigenous areas (which are only officially designated in Latin America) were by far the most effective*<sup>21</sup>.

## Policies towards indigenous peoples, natural resources and forests

The potential implications of REDD+ for indigenous peoples cannot be divorced from the wider political context within Peru and the underlying conflicts between the policies and practices of the Peruvian government and the rights of indigenous peoples. For decades, Peruvian policies have favoured industrial scale resource extraction over the rights of indigenous peoples. This came to a head in October 2007 when President Alan Garcia delivered his now infamous discourse of the *perro del hortelano* (dog in a manger<sup>22</sup>) to refer to indigenous peoples’ protest against exploitation of the Amazon’s natural resources: “There is too much unproductive land in the hands of people without education and resources...the progress of Peru will not be held back by a minority who are not the most advanced in this country”<sup>23</sup>.

From December 2007, state discourse began to be put into action when the Peruvian government was granted special faculties by Congress to legislate on specific issues related to the signing of a free trade agreement with the

17 Augusta Molnar, Marina France, Lopaka Purdy and Jonathan Karver ‘Community-Based Forest Management: The Extent and Potential Scope of Community and Smallholder Forest Management and Enterprises’, RRI 2011.

Porter-Bolland, L., et al. Community managed forests and forest protected areas: An assessment of their conservation effectiveness across the tropics. Forest Ecol. Manage. 2011.

18 Despite this, and due to the persistent demands of AIDESEP, the law includes a transitory provision that maintains RJ 232-2006.

19 ‘Readiness Preparation Proposal’, p47-51. MINAM, January 2011.

20 Presentation AIDESEP, Taller REDD Indígena, Puerto Maldonado 13-14 June 2011.

21 Nelson A, Chomitz KM (2011) Effectiveness of Strict vs. Multiple Use Protected Areas in Reducing Tropical Forest Fires: A Global Analysis Using Matching Methods. PLoS ONE 6(8): 2011

22 The ‘dog in the manger’ is used as a short hand to refer to those who prevent others from having access to something that they themselves have no use for. It derives from one of Aesop’s fables in which a dog lying in a manger did not eat the grain but who nevertheless prevented the horse from being able to eat anything either.

23 See ‘El síndrome del perro del hortelano’: [http://elcomercio.pe/edicionimpresa/html/2007-10-28/el\\_sindrome\\_del\\_perro\\_del\\_hort.html](http://elcomercio.pe/edicionimpresa/html/2007-10-28/el_sindrome_del_perro_del_hort.html)

US. Although the Government lacked the mandate to do so (the legislation was therefore unconstitutional) it issued a series of controversial decrees that further reduced the legal protection for indigenous territories with the explicit objective of facilitating their privatisation and dismantling the collective property rights of indigenous peoples (see Box 3 below for more details).

### Box 3: 2008 Dismantling Indigenous land rights: The controversial decrees

1. **Decree 1015** attempted to facilitate the privatisation of indigenous land by drastically reducing the number of voters required for a community to sell its land to a third party to only 50% (of those attending a communal assembly).
2. **Decree 1064** established that third parties who have invaded and been occupying indigenous land since 2005 can claim a land title within communal lands<sup>1</sup>.
3. **Decree 1089** established a new agency called COFOPRI with sweeping powers to modify existing community boundaries and annul existing titles.
4. **Decree 1090** established a new forestry law that did not recognise customary indigenous lands when granting forestry concessions. It also permitted biofuel companies to convert forest lands to biofuel plantations.

<sup>1</sup> The same decree abolished the state's obligation to consult with indigenous communities regarding exploitation of minerals or oil and gas on their land and their right to negotiate their own compensation with the companies concerned. Instead, these compensation deals would be unilaterally imposed on the community.

### Indigenous response to unjust land and resource reform

Many indigenous peoples and their organisations were outraged by these reforms. For years they had witnessed the increasing expansion of the oil, gas and logging industries on their lands whilst their own pending applications for land rights had been stagnating for years in government ministries. As can be seen in Map 2 almost 70% of the Amazon is currently in the stages of negotiation, promotion or exploration or exploitation by oil, gas and mining companies yet the unwillingness of the Peruvian government to resolve indigenous land claims was explicit; in the judgement of President Alan Garcia who said in 2009 that: "12 million hectares of forest have been set aside, this is more than enough for 400,000 people"<sup>24</sup>. The mass mobilisations and peaceful protests of indigenous peoples that were triggered by the reforms eventually resulted in the violent repression by the military in 2009 of peaceful protests in Northern Peru (See Box 4 below).

### Box 4: Violence in Bagua: 5th June 2009

In response to these policies, indigenous organisations and communities throughout Peru organised a series of massive mobilisations during which they peacefully blockaded roads and rivers. Tensions were highest in Northern Peru where Awajum and Wampis peoples were also protesting at the massive reduction in the size of a National Park<sup>1</sup> (established to protect Awajum ancestral territory and biodiversity in the Cordillera del Condor) in favour of mining interests. At five am on the 5th June 2009 Peruvian police opened fire on protestors who for 55 days had been peacefully blockading a road outside Bagua, a town in Northern Peru. In the ensuing violence at least 21 policeman and 10 civilians (according to official figures) died and hundreds were injured.

In the immediate aftermath, government sponsored TV adverts described how the protestors 'incited' the violence. They alleged that behind a 'savage mob' lay international conspirators attempting to destabilise Peru. In later communiqués this dehumanizing discourse on indigenous peoples was modified to depict them as ignorant children easily manipulated by shadowy foreign 'agitators'. Leaders of indigenous organisations were accused of inciting violence, sedition and being 'anti-development'. Alberto Pizango, the leader of AIDSEP had to seek asylum in the Nicaraguan embassy in order to escape arrest. Mr Pizango, whose calls to the government for dialogue over the previous year had gone unheeded, had been calling for the protests to remain peaceful. Human rights advocates in Peru were intimidated, the director of the Legal Defense Institute (IDL) was arrested for speaking out and international advocacy organisations were threatened with legal action.

<sup>1</sup> Parque Nacional Ichigkat Muja-Cordillera del Cóndor, for a full version of these events see ¿Tierras de nadie? Actividad extractiva, territorio y conflicto social en la Amazonía peruana: el río Cenepa, ILC 2011.



## Post Bagua: The failure to reform

After sustained pressure from within Peru and international condemnation of the government response, two of the most controversial decrees (1090 and 1064) were repealed and a series of roundtable negotiations on political and legal reforms were set up to address the underlying issues. Promises included the development of a new forestry law that would respect indigenous peoples' rights, and the development of a law that would bring Peru's domestic legislation on consultation with indigenous peoples in line with international obligations.

## Failed Forestry Law

Despite these developments the negotiations broke down in 2010 and ultimately ended in failure. On the 16th June 2011 the outgoing government forced through a new forestry law that still failed to recognise indigenous peoples' key concerns.

- ▶ Failure to recognize indigenous peoples' customary rights to land and territories.
- ▶ Handing out of more than 10 million hectares in the form of concessions for timber, tourism, REDD+ and conservation over forests within the customary lands of indigenous peoples that still lack official recognition.
- ▶ Promotes large-scale capital-intensive forestry activities but lacks concrete measures to promote small-scale community based forest management that could empower indigenous communities.

In so doing the regressive law paves the way for imposition of logging concessions and REDD+ projects on customary lands of indigenous peoples. In addition, it perpetuates a system which degrades their forest and forces indigenous communities into asymmetrical relationships with logging companies if they wish to extract timber from their lands.

Furthermore, the initiatives to supposedly 'consult' indigenous peoples about the forestry law were roundly and repeatedly rejected by numerous indigenous organisations who have insisted that these meetings did not constitute a consultation but an information generating exercise. Their principal point was that before any consultation efforts were made, the overarching law of consultation must be approved. As a result the consultation process was not carried out with sufficient time for the proposed law to be read and analysed nor was it based on procedures that had been mutually agreed with indigenous peoples prior to the process<sup>25</sup>. In order to align the new law with the rights of indigenous peoples AIDESEP is demanding the modification of approximately 30 of the 180 articles in the law<sup>26</sup>.

## The law of prior consultation

Initial negotiations regarding the law that regulates consultation were slightly more successful. After much compromise by indigenous peoples' organisations the final text simply reaffirmed those rights recognised by ILO 169 but did not endorse the higher standard of Free, Prior and Informed Consent that is now reflected in international human rights instruments and jurisprudence. This text was initially approved by Congress on May 19th 2010. Shortly afterwards it received 'observations' from the government and was returned to the Congress with proposed reforms that would entitle the State to ascertain when indigenous peoples should be consulted and would only oblige them to do so when they are directly affected by certain activities. These proposed changes would have weakened the right to consultation even below the standards of ILO 169.

Finally, and after the entry of a new government, on the 23rd August 2011 the May 2010 text of the law of consultation was approved by congress with modifications.<sup>27</sup> Despite some advances this law must still be improved.

<sup>25</sup> The most serious of which is that the State did not comply with the agreements reached at a national consultation meeting that it convened in May 2011 which in itself makes this law unconstitutional.

Also see 'Indigenous organisations reject call for the consultation of the Forestry Law', 21/11/2010, Servindi. Manifiesto de de organizaciones indigenas, instituciones agraria, forestales y sociales de Madre de Dios, Puerto Maldonado 2/2/2011. Pronunciamiento de Federacion de los pueblos indigenas Kechwas de la region San Martin (FEPRIKESAM), Lamas 2/2/11.

<sup>26</sup> Carta No242-CD/AIDESEP-2011, 13/9/2011

<sup>27</sup> Amongst other contentious issues the new law does not recognise the concept of free, prior and informed consent and introduces a distinction between those who are indirectly and directly affected by external initiatives.

## Climate crisis and carbon offsetting in Peru

For indigenous peoples in both the Peruvian Andes and Amazon climatic crisis is already a reality.

*“Presently drastic changes are being observed in the frequency and intensity of rain, frost, hail, and drought. In the past five years, according to figures from the Peruvian Ministry of the Environment, 22% of glacier volume (some 7 thousand million m<sup>3</sup>) have been lost. This is the equivalent of the capital city of Lima’s water consumption in ten years. What is worse, for 2025, glaciers below 5500 meters above sea level will have disappeared, drastically reducing the supply of a vital resource.”<sup>28</sup>*

In the Amazon the effects are no less dramatic. While the lowest ever recorded levels of water were registered in 2010 these were followed in 2011 by the highest floods in living memory of residents on the Ucayali river<sup>29</sup>. For the Amazon at large a study in 2009 found that a 2C rise above pre-industrial levels, (the minimum target for international emission reduction plans) would still see 20-40% of the Amazon die off within 100 years. A 3C rise would see 75% of the forest destroyed by drought over the following century, while a 4C rise would kill 85%<sup>30</sup>.

*The conclusion of such studies is that if global greenhouse gas emissions are not reduced then local forest protection schemes will not function.* This exposes the controversial nature of carbon offsetting schemes; by selling offset credits, forest protection schemes would be permitting fossil fuel consumption elsewhere and thereby ultimately contributing to their own destruction. Offsetting schemes are therefore even more controversial for a country such as Peru because it is one of the countries in the world most vulnerable to the impacts of global climate change<sup>31</sup>.

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28 ‘Climate change in Andean Communities. Facts, perceptions and indigenous adaptations’ PRATEC, 2009, p7.

29 ‘De sequias e inundaciones’. José Álvarez Alonso see <http://servindi.org/actualidad/43759>

30 ‘Committed ecosystem change due to climate change’ Chris Jones, J Lowe, S Liddicoat, R Betts Met Office Hadley Centre, UK in IOP Conf. Series: Earth and Environmental Science 6 (2009) 062017

31 ‘Country level risk measures of climate-related natural disasters and implications for adaptation to climate change’. Nick Brooks and W. Neil Adger January 2003, Tyndall Centre.





# Part 2

## Developing a national strategy for REDD+: Indigenous perspectives

Currently the Peruvian government has been able to secure support from a range of international donors<sup>32</sup> for the development of their national REDD+ strategy. Peru is also participating as a pilot country in three international programmes that are promoting REDD+. These include the World Bank's FCPF (2009) and FIP (2010). In June 2011 Peru's participation in the UNREDD+ programme was also confirmed. This section examines Peru's engagement with the FCPF and the FIP.

### The FCPF

In order to obtain finance, countries are required to submit a Readiness Preparation Proposal (R-PP). Peru has submitted multiple iterations since 2009 which have been subjected to rigorous comment and critique by civil society and indigenous peoples' organisations. In common with the R-PPs of many countries the Peru R-PP contains measures to identify causes of deforestation, to develop national monitoring and accounting systems, consultation measures with local communities and indigenous peoples. Some key characteristics of the planned national REDD+ process include the following:

1. The adoption of a 'nested' approach in which REDD+ efforts will be primarily focused on developing subnational pilots in two regions, Madre de Dios and San Martin, whilst national level frameworks are developed.
2. The active involvement and role of the REDD+ round table (*mesa REDD+*), a network of civil society and predominantly environmental NGOs that are continually engaging with the Ministry of Environment.
3. The influential role played by environmental NGOs in the development of national REDD+ strategies and REDD+ projects both at the level of developing regional accounting systems for carbon and the development of pilot projects on the ground.

32 These include the German and Japanese governments and the Gordon and Betty Moore Foundation.

4. The establishment of the OCBR (Coordinating body for forests and REDD+) a body that will oversee the implementation of REDD+ whose structure is indicated below.

5. Recent acceptance of some of AIDESEP's demands including commitments to align national land laws with international obligations, recognise Indigenous REDD+ groups, dedicate funds for titling and demarcation in Loreto, and support for indigenous alternatives to REDD+ etc.

### Development of the R-PP: Failure to address fundamental rights<sup>33</sup>

The various iterations of the R-PP have been subjected to rigorous critique by AIDESEP throughout its development.<sup>34</sup> Until March 2011 the R-PP had largely failed to address the substantive issues raised by Indigenous peoples (some modifications had been made with respect to procedural issues regarding consultation). In particular it failed to:

- ▶ adequately address the issue of outstanding indigenous territorial applications.
- ▶ recognise that the legal reforms in process in Peru undermined and weakened indigenous peoples' rights.
- ▶ adequately consult with indigenous peoples and their organisations.

See Box 5 below for a more detailed analysis.

#### Box 5: Key failings of the January 2011 R-PP

##### Land and territory

- The R-PP failed to mention the consistent failure of the Peruvian government and the lack of concrete measures or commitments to resolve the territorial demands of indigenous peoples<sup>I</sup>.
- The R-PP failed to recognise the problem of superposition of Protected Areas on Indigenous territories thereby violating their rights to territorial recognition.
- The R-PP failed to address the gaps between existing land tenure legislation and Peru's obligations to respect customary land rights and limited itself to an *analysis* of existing national legislation<sup>II</sup>.

##### Causes of deforestation

- The R-PP failed to consider the historical marginalisation and abandonment of community based forest management by the state<sup>III</sup>. Such abandonment has historically forced communities to enter into inequitable agreements with industrial scale loggers resulting in widespread degradation of forests.

##### Legal reforms undermining indigenous rights

- The R-PP failed to recognize the grave flaws in ongoing legal reforms. The Forestry law (since approved) undermines territory rights and will create conflict because it does not recognise customary rights. The version of the consultation law (that ex-President Garca was attempting to push through) referred to by the R-PP reduced its standards beneath those of ILO 169<sup>IV</sup>.

##### On consultation of indigenous peoples

- The R-PP failed to clearly establish whether Free, Prior and Informed Consent of indigenous peoples would apply to REDD+<sup>V</sup>.
- The R-PP confused the sporadic participation of Indigenous peoples in meetings regarding the R-PP with appropriate processes of consultation and consent<sup>VI</sup>. Crucially, none of their key recommendations were incorporated as a result of these 'consultations'.
- The R-PP failed to incorporate Indigenous peoples' calls for their participation in the national REDD+ coordinating body (OCBR).

33 These failings are not unique to Peru, for other examples see: Dooley, K, Griffiths, T, Martone, F and Ozinga, S (2011) Smoke and Mirrors: a critical assessment of the FCPF FERN and FPP, Moreton-in-Marsh

34 Carta No 0011924-2010, AIDESEP, 10/9/2010, Analisis y propuestas indigenas sobre el RPP (3ra version) del REDD Peru (17.2.2011), AIDESEP.

### On REDD+ as a solution to global climate change

- The R-PP failed to analyse the implications of carbon trading as a source of funding for REDD+ activities and rested on unquestioned assumptions that meeting the 'opportunity costs' of those agents causing deforestation was the only way of achieving success. The R-PP failed to acknowledge that Peru will be the third most affected country in the world by global warming caused by greenhouse gas emissions.
- Indigenous organisations in Peru maintain that if REDD+ is financed by carbon offsets then it constitutes a false solution to climate change<sup>VII</sup>.

I The issue is analysed in superficial fashion and does not incorporate the analysis of AIDESEP, including details about the extent and nature of the problem and the measures need to resolve it. 'Readiness Preparation Proposal', p42. MINAM, January 2011. The R-PP does recognise the issue of unrecognised lands as an underlying cause of deforestation but evades any concrete commitments to address this situation (Ibid:60). Instead the R-PP reduced this issue to a diagnosis of the general issue, an analysis of the problem of land conflicts and the design of a programme to identify uncategorized lands and a series of actions to resolve land-titling problems. Nevertheless, only US\$99,000 was devoted to this whole issue which in the context of a budget in excess of US\$11 million and the scale of the problem was practically insignificant. The solution for this issue is already known: funding and political support must be assured for the recognition and demarcation of indigenous lands and territories. The lack of necessary concrete measures identified in the R-PP was a source of mistrust for indigenous organisations in a context where there has been no evidence that the government had any intention to address this issue.

II Ibid: 60

III Ibid: 60

IV The R-PP referred to the proposed laws of consultation, the proposed forestry law and the proposed law of environmental services to attempt to demonstrate the positive measures the government is taking to address the rights of indigenous peoples. The R-PP's reference to the law of consultation for example only referred to the text that was approved by the Congress on May 19 2010 but not to the subsequent observations of the government that reduced these rights beneath the standards of ILO 169.

V The R-PP referred to the right of consultation and Peru's obligation to comply with jurisprudence in the Inter American system that goes further and establishes the right to free, prior and informed consent. However it did not clearly establish that this principle applies for REDD+. Ibid: 33

VI The R-PP made various references to the *constant* participation of indigenous peoples in both the development of the R-PP in civil society REDD+ groups and wider political processes in Peru (Ibid: 30) In contrary to this claim, AIDESEP and other indigenous organisations assert that while they have assisted in some of these meetings and sustained some dialogues with government representatives this has been sporadic rather than constant and that this is a repetition of the failures of the dialogue groups that were established after the violence in Bagua. These dialogues have all failed as the government has not incorporated their comments into the proposed legal reforms. The failure of these consultation processes have not been reflected in the R-PP.

VII The R-PP confuses the issue by failing to acknowledge that its own emissions of GHG (although primarily from deforestation) are miniscule compared to those of industrialised countries.

### Modifications to the R-PP, March 2011

Indigenous input into the R-PP was not taken on board until the third iteration was submitted for approval in March 2011 to the 8th meeting of the FCPF Participants Committee in Vietnam (PC 8). The desperation of MINAM to secure its approval before the change in government combined with determined advocacy work on the part of indigenous organisations meant that PC 8 was preceded by unprecedented and intensive dialogue between MINAM and AIDESEP. This dialogue eventually resulted in public governmental commitments to address some key grievances, these included<sup>35</sup>:

1. Initiate actions to reform national land legislation in order to align it with Peru's international obligations to recognise and demarcate indigenous peoples' traditional territories.
2. Designate US\$200,000 from the R-PP budget and find a further US\$800,000 to initiate measures to recognize and demarcate outstanding territory claims in the region of Loreto;
3. Prioritize funding for the recognition of indigenous territories using other REDD+ funds such as the Forest Investment Program (FIP);
4. Recognize the Indigenous REDD+ committees to be established at the national and regional levels and ensure their meaningful participation within the national REDD+ process.

After the Peruvian government's presentation of these commitments to the PC, AIDESEP representatives acknowledged the improvements, but emphasised that this was only the first step towards respecting indigenous peoples' rights within any future national REDD+ strategy<sup>36</sup>. AIDESEP declared that they would subject the

35 For a complete list of the agreements reached between MINAM and AIDESEP see <http://www.forestpeoples.org/topics/redd-and-related-initiatives/publication/2011/resumen-de-los-acuerdos-entre-aidesep-y-minam-s>

36 The full response is available at <http://www.forestpeoples.org/topics/forest-carbon-partnership-facility/publication/2011/indigenous-peoples-national-amazonian-org>

new version of the R-PP, which is currently unpublished, to scrutiny to ensure that these commitments were included and they would continue to be vigilant to ensure the implementation of these commitments on land and territorial issues and to ensure the inclusion of further critical issues relating to the need for measures to fully respect the right to free, prior and informed consent (FPIC). On a final note, they highlighted the need for further urgent measures to control a wave of REDD+ and carbon projects in Peru that threaten to engulf indigenous communities with unsubstantiated promises of millions of dollars.

In a hitherto unprecedented step the Participants Committee resolution that approved the R-PP requires the Peruvian government to coordinate with the national indigenous REDD+ committee that includes AIDESEP and other civil society organisations when they present a progress report of the implementation of these commitments to the 10th or 11th meeting of the Participants Committee.

*“Today in Peru there are companies that in the name of REDD+ are pressuring communities for their rights to carbon, offering them only 20 cents for one hectare. This is unacceptable exploitation. This is why REDD+ in Peru is a threat for indigenous peoples but AIDESEP is working to transform it into an opportunity. Whether we achieve this or not will depend on the new government of Peru and the understanding and support of you all”*

(Daysi Zapata Fasabi, Vice President of AIDESEP addressing PC 8 in Dalat, Vietnam, 25th March 2011.)

## The Forest Investment Program (FIP)

In 2010, Peru was also selected as a pilot country for the Forest Investment Program (FIP), another World Bank strategic climate fund initiative. The objective of the FIP is to provide funding and capital loans to public and private sector to assist a country to implement their REDD+ readiness plans in the form of an investment strategy (IS). Provisionally, Peru has been allocated approximately US\$50 million. The FIP also provides for a specific mechanism to address indigenous peoples' issues, see Box 7. The exact relationship between the FIP and the FCPF however remains unclear.

### Box 6: The FIP and indigenous peoples

The design document of the FIP states that a parallel outcome of the programme should also include: “...biodiversity conservation, protection of the rights of indigenous peoples and local communities, poverty reduction and rural livelihoods enhancements”.<sup>I</sup> Furthermore, the investment strategy and its programmes should be “consistent with relevant international instruments, obligations and domestic laws... and designed and implemented under a process of public consultation, with full and effective participation of all relevant stakeholders on matters that affect their distinctive rights, including in particular groups that historically have tended to be marginalized such as indigenous peoples”.<sup>II</sup> One of the key objectives of the FIP is to provide support for “...securing and strengthening customary land tenure and resource rights and traditional forest management systems of indigenous peoples”<sup>III</sup>.

I FIP Design Document, Para 10.

II FIP Investment Criteria, Para 31.

III Documento de Diseño del FIP en párrafo 39.

## FIP dialogue with Indigenous peoples

In January 2011 a FIP scoping mission spent five days in Peru in order to plan for the first full ‘joint mission’ initially proposed for June 2011 (but subsequently postponed) during which time the Investment Strategy is supposed to be developed. The initial mission included a bilateral meeting with the Peruvian civil society REDD+ group and also a two hour bilateral meeting with AIDESEP. During this meeting, AIDESEP were able to present their concerns about the existing R-PP. This included their key recommendation that REDD+ will only function if reforms of land tenure and related legislation ensure the respect of indigenous peoples' rights and if such reforms take place before REDD+ implementation begins. AIDESEP representatives were also able to describe in detail the full extent of outstanding land tenure issues in the Amazon.



### Box 7: FIP dedicated mechanism for indigenous peoples

In order to promote the involvement of indigenous peoples within the FIP a special global fund has been established. In February 2011, AIDESEP delegates participated in a regional meeting of Latin American indigenous peoples' organisations whose objective was to contribute to the definition of the specific parameters of the FIP dedicated mechanism. The meeting resulted in the "**Declaration of Pachacamak**" which supported the guidelines for REDD+ as developed by AIDESEP as part of their 'Indigenous REDD+' proposal (see concluding section) and concluded that for Latin America, FIP funds should be prioritised to **support recognition of outstanding indigenous peoples' land applications**<sup>I</sup>. This priority was captured by the on-going global consultation process for the mechanism<sup>II</sup>.

Provisionally it is proposed that Peru will receive approximately 9% of the funds outlined for the dedicated mechanism. The fund has thus far been allocated approximately US\$50-75 million indicating that Peru might receive anywhere between US\$4.5 and US\$6.7 million to address these issues.

#### Sidelining Indigenous peoples' rights: Key IP concerns

- Rather than incorporating the key issues that affect indigenous peoples into the broader national investment strategy there is a danger that they will simply be sidelined into the dedicated mechanism<sup>III</sup>.
- The dedicated mechanism will have limited funds and scope and may be directed to support indigenous participation within the FIP rather than address the substantive issues such as land tenure and legal reform that underlie the problem. The existence of the dedicated mechanism could therefore be used as a pretext by governments who wish to evade tackling the real issues. On this latter point at least the mechanism makes it clear that; *the presence of the Grant Mechanism in FIP pilot countries should not serve as a substitute for the obligations of governments, including FIP contributor and pilot countries, to protect, promote and fulfill the rights of indigenous peoples and local communities*<sup>IV</sup>.

I Full declaration available at: <http://www.climateinvestmentfunds.org/cif/sites/climateinvestmentfunds.org/files/Declaración%20de%20Pachacamac%20%20040211%20%20VF.pdf>

II Key objectives include: Provide support for strengthening territorial and resource rights, broadly understood to include traditional forest stewardship roles and management systems, and the collective decision-making processes, autonomy, ways of living and rights of indigenous peoples and local communities (Para 18, FIP/SC.6/6 June 13, 2011 Meeting of the FIP Sub- Committee.) The work of the Grant Mechanism should lead to specific gains in tenurial rights, forest governance, livelihoods of forest-dependent indigenous peoples and local communities in a sustainable manner that enhances local empowerment (Para 19 FIP/SC.6/6 June 13, 2011 Meeting of the FIP Sub- Committee).

III The relationship between the dedicated mechanism and the broader investment strategy is not yet clear (was it this or the FCP and the FIP?) was specified as a key concern in the CIF's letter of approval to the Peruvian government's request for a preparation grant. (ref)

IV Para 17, FIP/SC.6/6 June 13, 2011 Meeting of the FIP Sub- Committee.

All FIP representatives at the meeting<sup>37</sup>, agreed that this recommendation was entirely coherent with the aims of REDD+ and that such initiatives were well within the funding remit of both the specific FIP funds for Peru as well as the FIP dedicated mechanism for indigenous peoples. The representative of the Inter American Development Bank (IADB) also informed participants that such proposals could also be covered by their own climate change fund for Peru that is currently being implemented and whose funding priorities for the next phase had not yet been defined.

The Peruvian government has since applied for a preparation grant of US\$250,000 to be administered by the IADB (that would be responsible for the initial development of the investment strategy) in order to identify further funding gaps for REDD+ preparation and identify drivers of deforestation. Surprisingly, despite the fact that approvals and financing for the R-PP will not be finalised until 2012, the government hope that the final version of the FIP investment strategy will be concluded by November 2011. IPOs question how the FIP strategy could be finalised within such a short time frame and also guarantee meaningful and prior consultation.

#### *Conservando Bosques* (Conserving forests): National Payment for Environmental Services (PES) scheme:

Aside from its national REDD+ strategy the Peruvian government is also piloting a PES scheme with indigenous communities. The program is still in its design phase but pilot projects are planned with Ashaninka communities in the central jungle region. They are currently working with indigenous organisations to identify possible community partners based on several criteria including area of forest cover and prior experience with productive

37 This included representatives of the IFC, IADB and UNDP.



projects. Under the current proposal S/.10 (approx. US\$3) per hectare/yr will be paid to communities for forest protection but any restrictions on their resource use are as yet unclear. The proposed project has funding to work with 300,000 ha and will run for a yearly contract that is renewable after evaluation.

The Ashaninka Centre for the River Ene (CARE), a community organisation that represents many Asháninka communities in an area highlighted for a pilot, welcome these initiatives to support community conservation efforts but have highlighted serious weaknesses in the scheme. These include the inadequacy of the payment, problems with the distribution mechanism that is planned and the requirement that communities cannot receive funds directly but must invest in productive enterprises that do not address the real drivers of deforestation in the area. The national scheme has modified its initial proposal to ensure that some direct finance will be provided for communities, but it still includes a proviso that 80% must be for investment in productive enterprises. CARE warn that the use of finance derived from forest protection schemes must be determined by the people otherwise these well intentioned projects are likely to fail. CARE believes that if conservation funds are to be implemented in communities then indigenous organisations and communities themselves must propose exactly how to use these funds. These must include the possibility to make long term investments in education, health and governance.

Despite the contradictions in the program CARE decided to participate in the capacity building exercises and proposed that 10 Asháninka from the Ene should be trained in the management of their cocoa bean farms. However, a year after making this proposal and after several postponements this activity remains pending.

### **‘No rights, no REDD+’: Responses from indigenous organisations to national REDD+ developments**

Aside from AIDSEP’s determined advocacy, indigenous organisations throughout Peru have been active in demanding that REDD+ only be implemented with the full respect of their fundamental rights especially their territorial rights. In April 2011, 22 organisations convened in Iquitos under the auspices of COICA, the coordinating body for national indigenous organisations of the Amazon and issued the declaration: **No REDD+ without territories, rights and autonomy of indigenous peoples**<sup>38</sup>.

#### **Key demands included:**

- ▶ **Insistence** that global GHG emissions are reduced by those industrialised countries who are most responsible for global climate change.
- ▶ **Rejection** of the carbon market that seeks to absolve responsibility from those most responsible for this contamination
- ▶ **Warning** that if REDD+ is financed by such markets it constitutes a false solution to the problem of global climate change which if unchecked will lead to eventual desertification of the Amazon.
- ▶ **Denouncing** the fraudulent schemes of ‘carbon cowboys’ attempting to convince communities to sign away their rights to carbon.
- ▶ **Support** for indigenous alternatives to forest protection based on the respect for indigenous peoples’ rights and perspectives.

*“We reject that instead of recognizing and paying this ecological debt, the global powers continue to contaminate, deforest and degrade and try to cover them up in the ‘carbon market’ using contracts that companies can use to ‘compensate’ for these damages through payments to indigenous and local communities whose forests clean up this contamination. These contracts further reduce our control over our ancestral territories, ways of life and rights that they will negotiate in the stock markets for huge profits. It is unacceptable to risk all forms of life just for the sake of more and more money.”*

**Declaration of Iquitos, COICA, April 2011**

38 For the full declaration see [http://www.rightsandresources.org/publication\\_details.php?publicationID=2284](http://www.rightsandresources.org/publication_details.php?publicationID=2284)

Within Peru, different indigenous organisations have reached similar conclusions. During meetings in May and June 2011, CODEPISAM, FENAMAD and ORAU, the indigenous organisations of San Martin, Madre de Dios and Ucayali regions, discussed and debated the risks and opportunities related to REDD+ and all concluded that much greater protection for rights and livelihood are needed before any REDD+ projects can go ahead on IP lands and territories.

**'No signing of REDD+ contracts in Madre de Dios, San Martin and Ucayali: Indigenous organisations call on their communities to exercise caution:**

1. Until all **pending territorial applications are respected** REDD+ projects must not be implemented in their regions. Federations from each region produced an updated review of unresolved land and territory issues in their region which contributed to AIDESEP's ongoing analysis of the issue at a national level. See Box 8.
2. **No signing of REDD+ contracts** until indigenous peoples' and local communities' rights are guaranteed and due processes for FPIC are agreed and the nature of REDD+ projects and programmes have been clearly defined at a national and international level.
3. Each indigenous organisation established their own **autonomous REDD+ committees** (*mesa REDD+ Indígena*) to monitor regional REDD+ developments, to continue to voice indigenous concerns and to put forward grassroots proposals for forest protection and the reaffirmation of indigenous peoples' rights.

**Box 8: Preliminary territorial review in San Martin, Madre de Dios and Ucayali**

**San Martin**

In San Martin, the collective territorial rights of the Awajun, Kechwa and Shawi peoples were asserted, as well as the applications of 64 communities still requiring recognition, titling and extensions. These include those communities whose lands are overlapped by the "Cordillera Escalera" regional conservation area, in contravention of their right to free prior and informed consent (FPIC).

**Madre de Dios**

In Madre de Dios, recognition of Ese Eja ancestral territory, which is affected by two protected areas (Bahuaja Sonene National Park and the Tambopata Reserve), was reaffirmed, as well as the rights of the Arakambut to determine whether and how REDD+ projects proposed for the Amarakaeri Communal Reserve should go ahead. It was also revealed that at least 27 communities still require recognition, titling and extensions.

**Ucayali**

In Ucayali, alongside the documentation of at least 91 communities whose lands require titling or extension the problems are even more serious:

- AIDESEP and the regional government of Ucayali have signed an agreement that facilitates the process of titling and demarcation of indigenous lands. Despite this, the authorities demand elevated fees (over and above their travel expenses) and insist on employing technical procedures that are highly expensive and extremely detailed. These requirements however seem only to be imposed on communities and not on the claims of private companies or individuals.
- In the case of the community of *Tsimpinka* the community was finally recognised in 2011 but then only 6 months later this resolution was annulled in favour of a logging company who had been awarded a forestry concession on community lands<sup>1</sup>.
- The community of *Santa Isabel* who have been waiting for years for a pending application for the extension of their land title but in the interim it has been ceded as a concession to a *Papaya* plantation.

<sup>1</sup> The community had been living in the area prior to the outbreak of civil conflict in the 1980s during which time they were forced to leave. They returned in 2000 but never secured any official title and only two years later their land was declared a logging concession.

## From expectation to suspicion: Some Indigenous opinions and perspectives on REDD+

REDD+ is a new strategy that is yet to be fully defined at a conceptual level yet is already being implemented on the ground in indigenous territories. Amongst communities, attitudes and understanding of REDD+ is predictably varied. On the one hand, REDD+ has raised expectation about millions of dollars being made available to communities while others are more suspicious about such schemes. Their opinions reflect varying levels of knowledge and awareness about these schemes as well as their particular historical experiences.

The following set of questions and opinions from indigenous leaders and community members collated from the four regional workshops held as part of this project reveal a growing degree of critique, understanding and awareness of the complexity of REDD+. Some comments also reflect the level of confusion and expectation fuelled by the REDD+ bonanza.

## What is REDD+ and will it benefit our peoples?

### Will REDD+ benefit our communities?

*What about natural forest regeneration – will this not be included in REDD schemes – why are only areas threatened by deforestation included?*

*We are receiving computers and telephones from SE Peru (an NGO promoting REDD+) and it is related to REDD but we don't know whether these are donations or will they have to be returned at some stage? What is their interest?*

*We do not fully understand this issue of REDD but we believe that we should benefit but as partners. What we are seeking is to conserve the forests and to strengthen our organisations. Oil companies offer us 'development' they say but there never is any development in the communities.*

### Will it stop climate change?

*Carbon offsets are about selling rights to contaminate*

*What is the real interest of people selling carbon credits on the voluntary market?*

*They say that 20% of global contamination comes from deforestation and degradation but that cannot be from indigenous peoples. In 3 or 4 years the forest is regenerating and what had been contaminated will once again be green. This point needs to be clarified.*

*We are seeing the changes in communities, we are seeing that there are less rains. These changes are not only at a national level but are international. Those who are to blame are others but those who will feel it are the communities*

*Europe, China and America want to pay us so they can continue contaminating and this is a concern. This is a negotiation without indigenous peoples and between the big companies and the Peruvian government but that harms indigenous communities*

*In the negotiations preference is given to the voices of the big ranchers and timber extractors while communities are simply decorative participants and we are not recognised as the true guardians of the forests. They are the ones who do most harm but receive preferential treatment while we are treated as destroyers*

### Who is interested in our forest and why?

*The jungle is like sweet honey which is why people from the outside keep on arriving.*

*We thought that the 'bosses' had gone but now we see that they are still here in the form of the NGOs.*

*Why the rush with REDD+ if this is something that will affect communities in the long term?*

*We have many doubts still. We need to know what are the intentions of all these NGOs, we need transparency from them and we need to make sure that they do no just speak with our chiefs, this is what always happens. We need them to speak to us with a language that is clear and direct.*

*When it comes to deals with timber we see that the owners (the communities) always lose out while the loggers profit and we see the same thing happening with REDD except now it is NGOs and not loggers.*

*Why are they asking us to do nothing and get paid for it? What is the real interest in our forests?*

*What do the gringos want with our forest?*

*I do not understand this REDD that they say is not a fishing net<sup>11</sup> but is all about carbon; Now I understand that REDD is a monster that will burn us all and leave us indigenous people as ash.*

*We are very few now and we are disappearing but the NGOs tell us about development but they are monsters just like the monster macaw that cut off the Harakmbut's head in the past. If we organise and are united then the NGOs will leave our communities but if not they will take advantage of us and our resources.*

*There is no transparency amongst NGOs conducting these operations in Peru.*

## How will it affect our land, territory and resources?

*What happens if our territory is overlapped by protected areas that are applying for REDD+ projects? Will we get any recognition? For example the Cordillera Azul Park (object of a REDD Project led by CIMA) overlaps the territory of 11 communities. We want CIMA to leave because there is already so much control of our hunting and other forest activities.*

*Will NGOs support territorial applications of communities or is it simply a more subtle form of taking rights from indigenous peoples?*

*What could happen to communities who do not comply with regulations – could there be sanctions?*

*We cannot continue to talk about REDD without addressing the land reforms.*

*In the communities almost nobody knows what is this REDD and there is a risk that the NGOs and the companies will arrive in the communities to cheat and enslave us. Many communities do not know their rights or the laws and are tricked, this is what happens with loggers.*

*REDD might even be more dangerous than oil and gas or logging because it will affect everywhere in the whole Amazon and because of the subtle details in the contracts that can take away our control over the forest*

*In the communities the people cut down trees, if everything will be controlled by satellite how will the people meet their own needs?*

*The carbon contracts may be like the Annual Forestry Operation Plans (POA) of INRENA<sup>II</sup> “if you don’t comply you are sanctioned*

*I see that there are risks and dangers imposed by REDD programmes for the customs and traditions of indigenous peoples. They could blame us as if we were the destroyers of forest. I hope that the intention is not to evict indigenous peoples.*

## Our organisations

*The Indigenous movement is being divided by REDD as NGOs are telling communities that FENAMAD is an obstacle to REDD+ and they can and should make decisions on their own.*

*We need to calm down and take things slowly, FENAMAD is the maximum authority, we know the NGOs are rushed with their projects but this is not FENAMAD’s problem*

*NGOs need to publically respect indigenous organisations but the projects already seem to be finished before they are put before the communities*

## Contradictions

*Why are the regional government of Madre de Dios promoting REDD to avoid deforestation from the Inter-oceanic road and receiving funding from BNDES for this work? At the same time it is BNDES who are funding the Inter-oceanic highway and 6 hydroelectric dams for energy for Brazil.*

*“The NGOs only want to help us with this scheme but not when we want to secure our territories.*

I A reference to the system of debt peonage in the Peruvian Amazon in which capital was controlled by a small group of non indigenous ‘bosses’ (patrones) who controlled the region’s economy.

II *Red* in Spanish is fishing net.

III The national institute for natural resources was previously the agency responsible for the regulation of forestry operations in Peru.

## From policy to practice

Within Peru, REDD+ has achieved almost universal acceptance amongst NGOs and governments as a win-win-win solution for climate, business, forests and communities. It is interesting therefore that it is only indigenous peoples and forest communities who are questioning REDD+ and carbon offsets as an effective strategy to combat climate change. They are also drawing attention to it as a potential threat to their right and need to control their territories. While NGOs, investors and policy makers are curiously silent on this subject, all project implementers and policy proponents interviewed for this report did acknowledge the huge uncertainties with which REDD+ is associated and the challenges this presents for implementation on the ground. For these groups the main uncertainties include:

- ▶ The lack of an international agreement and national regulations on REDD+ and carbon rights
- ▶ The uncertainty of finance mechanisms and the carbon market
- ▶ The lack of reliable methodologies to measure and account for carbon flows

Despite this fiscal, regulatory and technical uncertainty, pilot projects are advancing throughout Peru and as Map 3 illustrates, of the 35 pilot projects that are known to be currently underway, 19 are operating on indigenous peoples' territories. The vast majority of these projects are all advancing towards certification of emissions reductions through voluntary certification schemes such as the Verified Carbon Standard (VCS) and Climate, Community and Biodiversity Alliance (CCBA) and are developing the social and environmental baselines and projected deforestation models necessary for the elaboration of Project Design Documents (PDD) while they raise awareness in the communities of the nature of REDD+. An approach that is classified as 'learning by doing'. The following chapter examines the situation on the ground in more depth.





# Part 3

## Reality on the ground: Subnational initiatives in Peru affecting indigenous peoples

Peru's national REDD+ policy may still be in the design phase but this has not prevented a burgeoning interest in developing pilot projects on the ground. Almost everybody who once worked on conservation and forest protection in Peru is now talking about REDD+ and countless workshops and courses on REDD+ have taken place in both Lima and in the provinces<sup>39</sup>. Since 2009, the NGO *mesa REDD+* group has been meeting regularly in Lima to monitor and provide input into these processes. At the same time, local civil society REDD+ groups have been set up in several provinces including San Martin and Madre de Dios with the active participation of the Regional Governments but with limited or no participation from IPs.

On the ground at least 35 pilot projects have sprung up throughout the country covering an extension of over 7 million hectares focussing mainly on the regions of Madre de Dios, San Martin and the Central jungle (Selva Central)<sup>40</sup>. These projects range from an FSC certified logging concession that has already sold carbon credits to a Chinese wood flooring company using the VCS and CCBA voluntary standards to projects run by environmental NGOs in protected areas and direct partnerships between indigenous communities and investors. The tables below summarise eight of these projects in different stages of development for which there is some project literature available. These projects have been identified because they have a direct impact on indigenous peoples and although they are all at an early stage they permit an assessment of some of the key implications for their rights.

<sup>39</sup> The Peru R-PP refers to at least 16 of these events organised between October 2008 and January 2010. See 'La situación de REDD en el Perú', DAR, 2011. For a fuller list of activities and pilot projects. The same report refers to at least 70 publications in relation to REDD+ developments in Peru since the presentation of the Peruvian government's Readiness Preparation Note (R-PIN) Ibid: 66-73.

<sup>40</sup> 'La situación de REDD en el Perú', DAR, 2011: 47.

## Project Analysis in Brief

Project name	Affected area and peoples	Implementing Bodies	Scope, duration and activities	Funding and carbon rights	Potential livelihood restrictions and other impacts	FPIC	
<b>“REDD+ as sustainability mechanism for administration of Tambopata National Reserve and Bahuaja Sonene National Park”.</b>	4 indigenous communities in buffer zone of the Reserve: Palma Real, Sonene, Infierno, (Ese Eja) and Kotsimba (Harakmbut).	AIDER (Peruvian NGO – administrator of Reserve), SERNANP (National Protected Areas Authority)	20 year duration. Improved system of forest policing and control.  Improved management capacity of natural resources agency.  Promotion of alternative productive activities for neighbouring communities including aquaculture, sustainable timber harvesting and agroforestry.	SFM BAM (Bosques Amazónicos - Peruvian company) are owner of carbon rights and have invested \$5million (approx.) that will be used to cover the first seven years of costs. No information available about the source of finance and the interest of the investor.	Acknowledges that there will be an impact on communities but does not clarify the nature of this impact simply stating that only ‘illegal activities’ will be restricted. Crucially, the assessment of Ese Eja current and ancestral resource use is inadequate in nature <sup>l</sup> and scope when compared with Ese Eja studies of their own resource use <sup>l</sup> .	Consultation of communities planned as part of project implementation but not prior to project planning as communities not considered as rights-holders, only stakeholders. No acknowledgement of right to Free, Prior and informed Consent (FPIC) although they do refer to FPICconsultation <sup>iii</sup> .	
<b>“Promotion of forestry development by native communities in Peru”.</b>	Infierno (Ese Eja) community in Madre de Dios	AIDER (Peruvian NGO) contracted by ITTO (International Tropical Timber Organisation) interested in financing pilot REDD+ programmes.	Operating in community titled area and in community conservation concession. Activities as yet undefined but the objectives include the development of a PDD and the promotion and sale of carbon credits <sup>ix</sup> .	Approximately \$350,000 from ITTO, carbon rights have as yet been undefined. Again, the ultimate interests of financiers is unknown and undeclared.	Unknown but the map of Ese Eja resource use conducted by AIDER as part of the Tambopata REDD+ project does not reflect Ese Eja’s own resource use study which raises questions for this project (see page).	An agreement has been signed between the community President and AIDER to develop this project (March 2010). It is of concern however that the objectives of the Project that were agreed between the funders (ITTO) and AIDER that include the promotion and sale of carbon credits are not the object of this Agreement which simply regulates the development of ‘annual plans’. Furthermore this agreement is used by AIDER as evidence of Infierno’s consent for the Tambopata REDD+ project <sup>x</sup> .  It seems that the community is aware of project although not its specific objectives. A field visit by DIE (2011) confirmed that knowledge of project is confined mainly to community leaders and there is an absence of genuine understanding of the project. AIDER recognise the huge obstacles to raising awareness of the REDD+ project and is currently focussing on an ongoing process of consultation and information sharing parallel with technical studies of carbon stock. It is clear that the objective of the Project, however well intentioned, has already been established (generation and sale of carbon credits) without the informed consent of the community.	



Land tenure and customary rights	Recognition of key indigenous rights instruments	Role and opinions of indigenous organisations	Project status (Oct 2011)	Additionality, ecological integrity and other issues
<p>Both protected areas overlap almost entirely with Ese Eja ancestral territory. Nevertheless, only indigenous land rights as manifested in community land titles are recognised. Acknowledges ancestral and actual occupation of protected area by Ese Eja<sup>V</sup> but ultimately does not recognise them as rights-holders concluding that the only rights holder is the State<sup>V</sup>.</p>	<p>No mention, nor recognition nor of relevant national or international legal instruments. implementation of relevant national or international legal instruments.</p>	<p>No formal involvement of FENAMAD, regional indigenous Federation representing the Ese Eja. Acknowledges 'opposition' of FENAMAD to REDD+ initiatives but does not explain these concerns.</p> <p>IPOS insist that project should be reformulated in the following ways: include the Ese Eja and FENAMAD in the decision making process and not only as 'beneficiaries', explicitly reject the Inambari mega dam and the mining concessions and evaluate these activities in terms of their leakage potential, not permit creation of offsets from activities resulting in violations of indigenous peoples' fundamental rights and environmental degradation that result from mining concessions and mega dams.</p>	<p>PDD undergoing validation as part of CCBA process</p>	<p>The Inambari mega dam is acknowledged as major factor that could render planned emission reduction strategies through tackling deforestation as immaterial. The dam will flood over 44,000 ha in the buffer zone of the Bahuaja Sonene National Park but the leakage effects of the dam are not considered<sup>VI</sup>.</p> <p><b>Questionable additionality:</b> The project simply seeks to implement the existing obligations of the Peruvian state to protect the area and describes the lack of existing protection for the park as a question of finance This does not seem consistent with the reality: Mining concessions are being granted within the protected area<sup>VII</sup> and until July 2011 the Inambari dam was being rushed through with an urgent legal decree that meant it would escape requirements for environmental impact assessments<sup>VIII</sup>.</p> <p>AIDER are developing a separate REDD+ project with the community of Infierno but the relation between both projects is unclear as are any measures to avoid potential double counting of carbon credits.</p>
<p>Community is titled but the title does not reflect the extension of its customary territory that is covered in large part by the Tambopata Reserve. No explanation of how the REDD+ project will explicitly support these rights.</p>	<p>No mention nor recognition of relevant national or international legal instruments in Agreement with community President.</p>	<p>No federation currently involved but AIDER are planning to invite FENAMAD to form part of advisory committee for community and have engaged in informal discussions with them. Despite this, such efforts should have occurred before the project began and not afterwards.</p>	<p>Technical studies of carbon stocks, socio economic analysis and information sharing with community being carried out with view to production of PDD.</p>	<p>This community and the leakage belt are also considered in the REDD+ project in the Tambopata Reserve. It remains to be seen how potential double counting of carbon credits will be avoided.</p>

Project name	Affected area and peoples	Implementing Bodies	Scope, duration and activities	Funding and carbon rights	Potential livelihood restrictions and other impacts	FPIC	
“Avoided deforestation through sustainable forest management via timber production for FSC” in forestry concessions, Maderacre and Maderija”	<p>Indigenous peoples in voluntary isolation occupying/transiting one of the concessions.</p> <p>Titled indigenous community that neighbours the forestry concessions: ‘CN Bélgica’</p>	Maderija and Maderacre (Peruvian/Chinese logging concessions)	<p>Reduced emissions through sustainable forest management techniques such as reduced impact logging (RIL) and claim that they can reduce 30% of emissions with such systems.</p> <p>Financing systems of control and surveillance.</p> <p>Promotion of environmentally friendly income generating alternatives for neighbouring communities with their agreement.</p>	<p>Maderacre and Maderija hold the carbon rights. Nature holdings’ a large Chinese flooring company had purchased 40,000 carbon credits by mid 2011. No information about whether Nature Holdings wish to use these credits to green their image or whether they really intend to reduce their own emissions and contamination.</p>	<p>Area transited by indigenous peoples in isolation whose lack of immunity to introduced diseases means that they are vulnerable to exposure to lethal diseases in case of contact.</p> <p>PDD recommends that activities are permitted in these areas but suggests development of a ‘protocol’ to be followed in cases of encounters<sup>XI</sup>.</p> <p>No further information provided about this protocol and not a single mention of the issue of isolated peoples in entire validation report.</p>	Neighbouring community (Bélgica) aware of project. No information included in PDD that documents community acceptance of project or validation that it does not infringe on their rights or territory that is claimed by PDD.	
“Sustainable community use of forest and resources in the native community of Bélgica”	Bélgica native community (Yine, Madre de Dios)	CN Bélgica Asesorandes (Peruvian investment company)	<p>Reduced impact logging by community and other community projects to be specified by the community. Main potential causes of deforestation include agricultural expansion promoted by the construction of the interoceanic highway and possible deals with loggers – currently Bélgica rent their land to loggers rather than work themselves.</p> <p>Asesorandes refers to estimated carbon stock of 25 million tonnes and projected deforestation of 1%/yr. At \$7/tonne they estimate annual income of \$1.5million/yr. From this they will need to pay for monitoring and verification costs (estimation of \$400,000/yr) and the implementation of social and environmental projects.</p>	<p>Unidentified US Bank invested \$500,000 worth of credits, unclear distribution of carbon rights. The contract provides 20% of the value of the credits to Asesorandes (after having paid off the project expenses) for a period of 30 years.</p> <p>Asesorandes say that CN Bélgica would receive 80% of benefits and Asesorandes 20% after investors had been repaid but unclear if this repayment refers only to the money invested or to an option to claim carbon rights.</p>	Unknown, no information.	Since 2008 the community have signed at least two contracts and a term sheet with a potential buyer of carbon credits. According to Asesorandes, community to date have signed ‘many contracts’ and that while they are aware of the principles of REDD+ they have little or no idea of the carbon market.	



Land tenure and customary rights	Recognition of indigenous rights	Role and opinions of indigenous organisations	Project status (Oct 2011)	Additionality, ecological integrity and other issues
Acknowledges the presence of isolated peoples who transit and or live within the concession but does not recognise any rights they might have over this area.	No mention of relevant national or international legal instruments.	<p>No formal involvement of FENAMAD, regional indigenous Federation Acknowledges role of FENAMAD in protecting rights of isolated peoples but no documentation of contact or coordination with them. Refers to FENAMAD's apparent contingency plans in cases of undesired contact but seems to consider that these contingency plans justify the absence of their own or their ability to work in the area<sup>xii</sup>. FENAMAD have an active project to defend the rights of isolated peoples in the region but this does not extend to the implementation or elaboration of contingency plans that are the responsibility of the state.</p> <p>The logging concession must be modified to exclude the area transited by these isolated peoples, this is the only way to effectively guarantee their survival and their human rights,. Capacity building for the community of Bélgica is also required to ensure that this Project will not further exacerbate the existing inequality between the community and the concessions . This Project also reflects the grave deficiencies of an environmental and social safeguard system that permits the certification of such projects with such ease and calls into question the reliability of applying voluntary socio-environmental standards on REDD+<sup>xiv</sup>.</p>	PDD completed and validation carried out. Gold standard awarded by CCBA 40,000 credits at an average rate of \$7/credit sold to China Flooring Holdings Inc: the largest wood flooring producer in China and owner of Maderija concession.	<p><b>Questionable additionality:</b> The high costs of complying with FSC certification are cited as the principal need for carbon credits but the logging concession has been FSC certified since 2007 which means that it should be implementing at least some of these practices already.</p> <p>Project validators recognised this but justifies its decision by arguing that the carbon project originated before the FSC programme. "A requirement of FSC is sustainable forest management which precludes inappropriate forestry practices such as deforestation and degradation. However, since the project start date is prior to FSC certification, the requirements of FSC sustainable management are not applicable"<sup>xii</sup>. No documentary evidence provided to establish the prior existence of the carbon project which seems to be based on verbal assurances on the part of the logging concession thereby raising serious methodological issues with CCBA validation techniques.</p>
Project operating within community land title of approx. 54,000 hectares	Unknown – no access to documentation.	No involvement of FENAMAD, regional indigenous Federation that represents CN Bélgica	PDD almost complete with carbon stock assessment finished and use of regional deforestation projection model developed by BAM. However, due to disagreements between the parties and controversies over the contract terms a communal assembly (15 May 2011) determined to end the contract negotiations (see case study for more details).	Unclear how this project will coordinate with Maderacre/ Maderija project where Bélgica is considered as part of the leakage belt in order to avoid potential double counting of carbon credits.

Project name	Affected area and peoples	Implementing Bodies	Scope, duration and activities	Funding and carbon rights	Potential livelihood restrictions and other impacts	FPIC
“Development of experiences in REDD+ pilots with native communities in three regions of the Peruvian Amazon” (Madre de Dios, Ucayali and San Martín)	1. <b>Madre de Dios</b> – Seven native communities: Puerto Arturo, Boca Iñimbari, Sonene, Palma Real, Boca Pariamanu, Tres Islas, San Jacinto. 2. <b>Ucayali</b> - Shipibo communities of Calleria, Patria Nueva, Nuevo Saposo and Flor de Ucayali. 3. <b>San Martín</b> (CI) Alto Mayo forest – does not appear to directly affect Indigenous Peoples.	1. <b>Madre de Dios</b> (WWF and AFIMAD - Forestry association incorporating seven indigenous communities in Madre de Dios) 2. <b>Ucayali</b> (TNC and probably AIDER) 3. <b>San Martín</b> (CI and AMPA – local NGO).	<b>Madre de Dios:</b> Unknown but will involve building on existing support for sustainable livelihood project developed by WWF and AFIMAD. <b>Ucayali:</b> A pilot study with 4 Shipibo –Konibo indigenous communities in close proximity to Pucallpa. AIDER is likely to be contracted to carry out the work owing to their previous experience in the area. TNC plan to invest an extra \$15,000 to help communities with productive activities such as fish farms and craft products.	<b>Madre de Dios:</b> IBD - \$500,000 <b>Ucayali:</b> IBD - \$120,000 Carbon rights undefined	<b>Madre de Dios:</b> AFIMAD are not aware of any livelihood restrictions that may result but no information available. <b>Ucayali:</b> Unknown	<b>Madre de Dios:</b> According to AFIMAD they have signed an MoU with WWF that can be annulled at any moment and that all information generated by the study belongs to AFIMAD. AFIMAD representatives and some leaders of communities have participated in workshops about REDD+ and are well informed of the basic principles yet this does not extend to the communities. AFIMAD recognise that most of them know very little except that “there will be money available for not cutting down the trees”. Complement with Agreement- get copy from Roberto. <b>Ucayali:</b> 3 of the 4 community leaders involved have attended REDD+ courses for three days. Other than these individuals, awareness of REDD+ is minimal. The communities do not have a negative opinion of REDD+ but see it as an alternative to complement their existing activities. ORAU has not participated in the design of the project and has only been informed now that they are going to begin implementation.
“Payment for Ecosystem Services in Shipetiari and Diamante”	2 indigenous communities in Madre de Dios in the buffer zone of Manu National Park	SE Peru (Peruvian NGO)	Initial work has focussed on carrying out consultation and awareness raising with communities regarding potential PES schemes. SE Peru are supporting development of community communication tools including provision of computers and internet and telephones to facilitate information sharing about PES schemes. The direct link with PES schemes remains unclear.	Unknown	Unknown	Recognises the critical role of free, prior and informed consent and says it will respect the right of communities to say ‘no’. They refer to one community who have already declined to participate in their project <sup>xv</sup> . In the opinion of FENAMAD however, SE Peru “are not applying the right to prior consultation or participation or free, prior and informed consent with communities...at no time has FENAMAD participated in decision making meetings with SE Peru let alone meetings with communities to endorse this Project. Instead, we have seen these projects as something that is being carried out with communities without respecting the structure of indigenous organisations. With SE Peru we have only carried out very general meetings and we know little or nothing about this Project they wish to implement.” <sup>xvi</sup>

Land tenure and customary rights	Recognition of indigenous rights	Role and opinions of indigenous organisations	Project status (Oct 2011)	Additionality, ecological integrity and other issues
<p><b>Madre de Dios:</b> This project is working with 7 titled communities but many of these have outstanding titling and applications for extensions. WWF are aware of this demand from communities and specifically the need for geo-referencing their existing titled areas but WWF say that because of the prohibitive cost of such activities they will only geo-reference the areas threatened by deforestation that will form part of the REDD+ project.</p> <p><b>Ucayali:</b> Unknown</p>	<p>Unknown. No access to project documents.</p>	<p><b>Territory:</b> Secure tenure is essential for the effectiveness of REDD+ projects thus the issue should be resolved for the entire community territory and not only a portion threatened by deforestation as this frontier will move over time.</p> <p><b>Consultation and participation:</b> In Madre de Dios, consultations should not only be held with AFIMAD but with each affected community and FENAMAD in order to avoid creating divisions. These communities must not be treated as 'beneficiaries but as co-executors of possible projects. In the same vein in <b>Ucayali</b> the exclusion of ORAU must be remedied.</p> <p><b>Finance:</b> FENAMAD and AIDSESEP have proposed that a PDD should not pre-empt only the sale of carbon or be directed towards private sector markets. Instead it must maintain as a possibility the integrated management of forests (not only carbon) and the possibility of public finance.</p>	<p><b>Madre de Dios:</b> Development of PDD including deforestation model and carbon stock, work on the PDD expected to be completed within 2 years.</p> <p><b>Ucayali:</b> Initial work to form basis of PDD including carbon stock, socio- environmental baseline, opportunity-cost study, historical deforestation baseline and projected models, and further fundraising to develop PDD.</p>	<p><b>Madre de Dios:</b> Potential overlap with AIDER project with Sonene and Palma Real. This project is building on successful existing initiatives by AFIMAD with support of WWF to develop a brazil nut cooperative amongst its affiliated communities.</p> <p><b>Ucayali:</b> Potential overlap with AIDER REDD+ project that is also operating with Calleria.</p>
<p>Unknown: Communities involved have titled lands, unclear if these titles adequately cover customary tenure or if the project will be operating in areas outside borders of communities.</p>	<p>Refers to ILO 169 and Peruvian law of consultation that endorse right to consultation but does not acknowledge higher standards of free, prior and informed consent as endorsed by the UNDRIP or other international instruments that are obligations for Peru<sup>XVII</sup>.</p>	<p>FENAMAD only informed after Project already initiated. In a workshop in Madre de Dios (13/14 June 2011) FENAMAD leaders questioned this lack of coordination. FENAMAD has demanded that SE Peru <i>"desist from using the conception of community autonomy as the basis of their activities, thus undermining the structure of indigenous organisations."</i><sup>XVIII</sup></p> <p>FENAMAD insists that coordination with indigenous organisations is not a choice nor does it compromise the autonomy of communities. As a representative organisation prior coordination with federations is indispensable prior to setting up such projects.</p>	<p>Currently, SE Peru say they are focussing on raising community awareness of PES schemes. However, and given the existing problems with the project, FENAMAD has demanded that they suspend their project. "until they are able to reach agreements with FENAMAD and be able to analyse and discuss the project with the active participation of FENAMAD, COHARYIMA and ECA (other indigenous organisations of the region) before then meeting with communities to provide them with corresponding information and the taking of decisions in a community assembly."<sup>XIX</sup></p>	<p>In May 2011 FENAMAD workshop participants from community of Shipetari referred to the donations of computers and telephones that they were receiving from SE Peru and expressed a concern that they did not know why they were receiving these 'donations' and that at some stage these 'donations' would have to be reimbursed. They also manifested that the areas that they use and are requesting as title extensions are occupied by loggers.</p>

Project name	Affected area and peoples	Implementing Bodies	Scope, duration and activities	Funding and carbon rights	Potential livelihood restrictions and other impacts	FPIC	
<b>Avoided deforestation with 3 Asháninka communities on the River Ene, Central Jungle, Peru.</b>	Cutivireni, Parijaro and Camantavishi	Ecotribal (Peruvian/UK NGO) Cool Earth (UK NGO) TSIMI (Asháninka Bioclimatic Association) BNP Paribas	Developing PDD for formal REDD+ project by building on existing voluntary carbon offset project of tree planting run by Tree flights and Cool Earth. Of every £10 donated to Tree flights, £4 was given to the Asháninka while £1 was given to Ecotribal to administer the project. Project has since stopped due to lack of demand from consumers but is now being developed into a full scale REDD+ project.	Financing from BNP Paribas, proposed distribution of carbon rights is unknown.	Unknown	Enthusiastic and proactive role being played by persons directly involved in TSIMI but the involvement of other community members is unclear. Project developers recognise limited knowledge and awareness of community members about REDD+ but believe that information sharing could lead to unrealistic expectations and that this is part of the process of project development.	
<b>REDD+ project in the Asháninka Communal Reserve, Peru</b>	Asháninka communal reserve and 22 surrounding communities	ECOASHÁNINKA (Organisation responsible for co-management of Reserve with Peruvian state- committee members elected by communities but not a representative organisation) ACPC- Peruvian NGO Bioforest – Peruvian company acting as financial intermediary with investors Carbon Capital/Less Carbon – Carbon trading company based in Chile.	20 years. Efforts to reduce emissions from the Reserve. Activities unknown or undefined.	Initial MoU signed between ECOASHÁNINKA and ACPC who form a consortium and agree to a 50-50 deal on any profits from environmental services. Contract signed between consortium and Bioforest for Bioforest's services as financial intermediaries. Bioforest granted 10% of any future carbon credits as well as \$2000/month + tax deal to retain their services. Subsequent contract signed between ECOASHÁNINKA and Carbon Capital providing exclusive right to take up options on carbon credits for initial 10 year period and first refusal on 2nd period in return for minimum payment of \$2/credit (for full analysis see Case study).	Unknown but it is likely that the plans would not only impact neighbouring communities but also the livelihoods of isolated Asháninka populations who currently inhabit certain areas of the RCA.	Communities unaware of the details of this contract has been signed in their name, confidentiality clause prevents discussion of contract with others and breach of right to FPIC.	

- I. Reducción de la deforestación y degradación en la Reserva Nacional Tambopata y en el Parque Nacional Bahuaja-Sonene del ámbito de la región Madre de Dios – Perú, bajo los estándares de la Alianza para el clima, Comunidad y Biodiversidad – CCBA. Documento de Diseño del Proyecto (PDD) bajo los estándares de la Alianza para el Clima, Comunidad y Biodiversidad (CCBA) Agosto 2010, AIDER: 170.
- II. See Alexiades, M.N. Historia y territorialidad del pueblo Ese Eja. Manuscrito en preparación
- III. Ibid:80
- IV. Ibid:29
- V. Ibid:119
- VI. Ibid:99 The dam will also affect subsistence livelihoods of indigenous peoples which will result in increasing pressure on resources within the park.
- VII. Although recently the granting of new concessions has been suspended.
- VIII. Currently, construction plans have been suspended but the company involved still plans on pursuing the project.
- IX. Ibid:189
- X. Ibid: 190
- XI. Project Design Document Madre de Dios Amazon REDD Project, Greenox 2009: 222



Land tenure and customary rights	Recognition of indigenous rights	Role and opinions of indigenous organisations	Project status (Oct 2011)	Additionality, ecological integrity and other issues
Unknown: Communities involved have titled lands, unclear if these titles adequately cover customary tenure or if the project will be operating in areas outside borders of communities.	Unknown – no access to documentation.	Project is questioned by Asháninka federation CARE who represent two of the communities involved yet whose requests for information have been ignored by project developers and are extremely concerned that the project is seeking to prevent their participation. CARE have expressed cautious approval of the direct benefits for communities that have initially resulted from project but is concerned about the internal divisions the distribution of these funds have caused. They are highly concerned at the lack of transparency in project development. For indigenous organisations' opinions see Case Study 1.	Technical feasibility studies for formal REDD+ project currently being funded by BNP Paribas. As a result of the complaints of CARE a multi-lateral meeting was held in Lima with involved parties to address the issues. Due to the complaints of CARE and the unresolved nature of these issues BNP Paribas has withdrawn from the project until agreement can be reached between the parties.	Entire area threatened by construction of major hydroelectric dam, Pakitzapango that would flood several of the communities involved. The dam is opposed almost universally in the region including by project developers. If however the dam were to be cancelled in favour of a REDD+ project then project developers also argue that this makes an excellent case for demonstrable avoided emissions.  See case study for more details.
	Importance of guaranteeing indigenous rights as established by ILO 169 and UNDRIP in contract with Bioforest but this has been violated already (see case study).	CARE, representative organisation of 10 of the concerned communities only received copies of contracts in August 2011, over a year after their initial signing despite repeated requests for information.	Unknown. Contracts have been terminated by ECOASHÁNINKA after revision of terms.	Unjust contractual details provide bulk of benefits to intermediaries and very little to communities. Confidentiality clauses breach right to FPIC.

XII. Ibid:276

XIII. Final CCBA project validation report, Madre de Dios Amazon REDD project Puerto Maldonado, Peru. SCS, December 2009:13.

XIV. On this issue more generally AIDESEP demands that in such cases the forest concessions must be modified to exclude a corridor through which these peoples may transit. AIDESEP warns against trusting the paper 'protocols' of these companies nor simply allow future possible modifications according to information generated by the companies concerned (as decreed by Forestry law 29763). This would convert such companies into judges of their own cases, This law must be modified before its regulation compounds such errors.

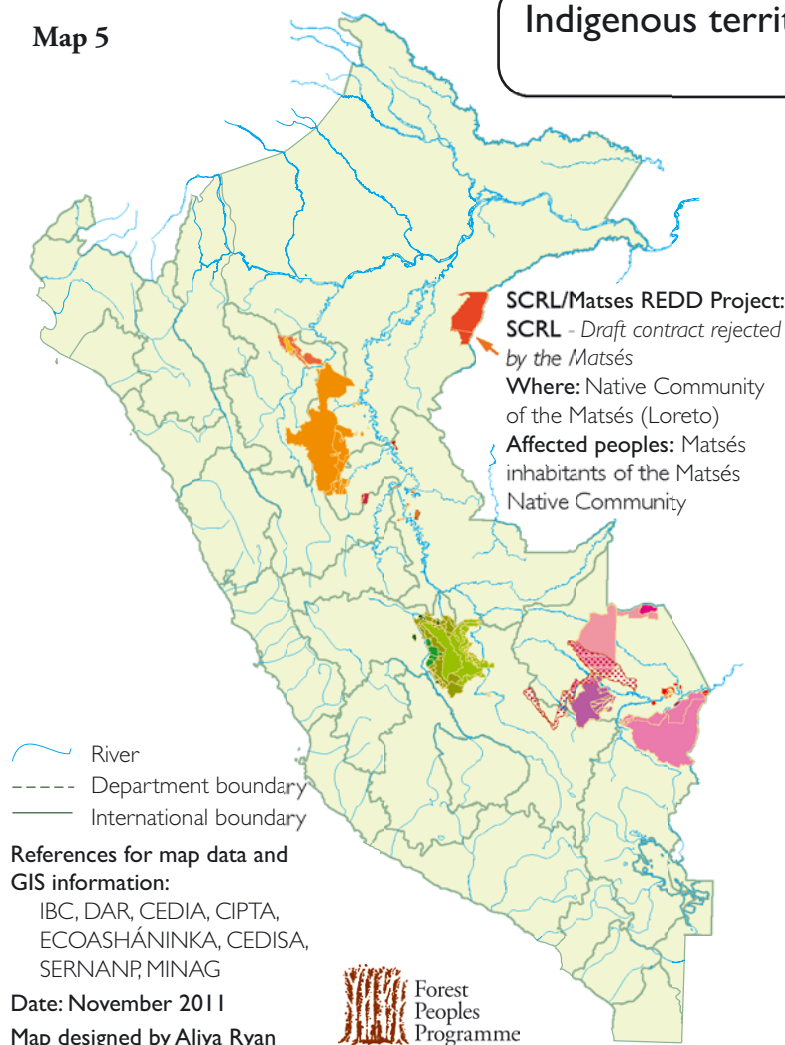
XV. See <http://www.seperu.org/pse-y-consulta-previa.html>

XVI. CARTA N° 436•2011•FENAMAD, 25/10/2011.

XVII. See <http://www.seperu.org/pse-y-consulta-previa.html>

XVIII. CARTA N° 436•2011•FENAMAD, 25/10/2011.

XIX. CARTA N° 436•2011•FENAMAD, 25/10/2011.



The objective of this map is to provide an overview of all the subnational REDD+ projects in the Peruvian Amazon that to date are known to be directly affecting indigenous peoples and their territories. These territories include those both legally recognized and (where data is available) those that are under claim. For the sake of clarity the map is split into three regional areas.

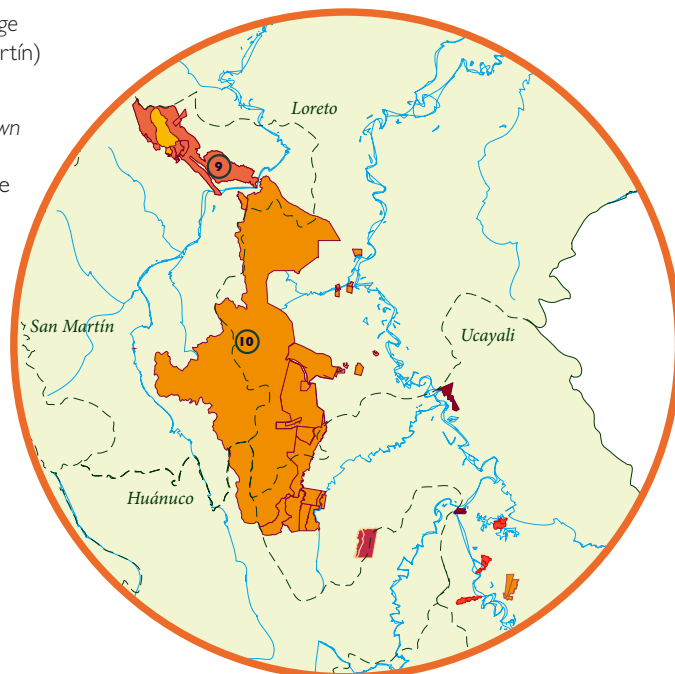
Given the lack of available information about many of these projects some of the data is incomplete. Those projects that are in development but about which no information is available have not been included. Information comes from publically available sources and indigenous organisations.


The coloured areas refer to the project area itself as well as neighbouring affected areas. Some projects are operating exclusively in areas that have been titled in the name of indigenous peoples. Other projects are less straightforward and affect a range of land categories comprising: titled communities and customary indigenous territories that have been superimposed with protected areas (including Communal Reserves) and logging concessions.

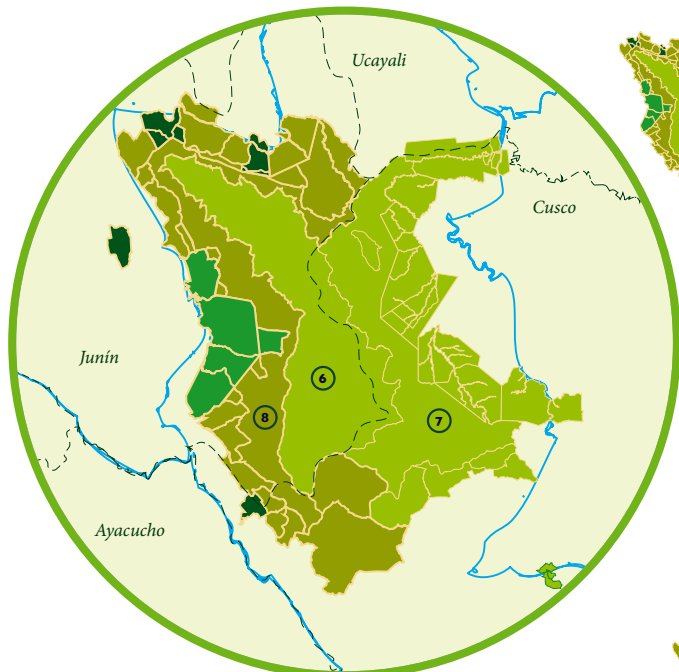
The numbered areas refer to indigenous territories that have not been officially recognized where REDD+ projects are occurring or are affecting. These are:

- ① Maderija and Maderacre logging concessions
- ② Amarakaeri Communal Reserve
- ③ Tambopata National Reserve
- ④ Bahuaja Sonene National Park
- ⑤ Manu National Park Buffer Zone
- ⑥ Otishi National Park
- ⑦ Matsigenka Communal Reserve
- ⑧ Asháninka Communal Reserve
- ⑨ Cordillera Azul National Park
- ⑩ Cordillera Escalera Regional Conservation Area

-  **Pure Planet** - CDM validation in process, REDD project planned as next stage  
**Where:** Native Communities of Yurilamas and Alto Shamboyacu (San Martín)  
**Affected peoples:** Kichwa Lamas inhabitants of the above communities
-  **Regional conservation area, Cordillera Escalera: CEDISA** - Status unknown  
**Where:** Cordillera Escalera Regional Conservation Area (San Martín)  
**Affected peoples:** Kichwa Lamas and Chayahuita inhabitants of the Native Communities of Yurilamas, Chumbaquihui, Pampa Sacha, Chunchiwi, Chirikyacu, Aviación, Alto Shambuyaku, Charapillo
-  **Sustainable management of community forests as an alternative to deforestation and degradation in the Peruvian Amazon: CNF / AIDER** - Status unknown  
**Where:** Native Community of Sinchi Roca (Huánuco and Ucayali)  
**Affected peoples:** Cacataibo, inhabitants of Sinchi Roca
-  **Sustainable forest management in three certified communities as an alternative to deforestation and degradation to the forests in the Peruvian Amazon: AIDER** - Status unknown  
**Where:** Native Communities of Callería, Curiaca and Pueblo Nuevo del Caco (Ucayali)  
**Affected peoples:** Shipibo-Conibo and Isconahua inhabitants of the above communities
-  **Avoided deforestation by means of forestry management in FSC certified forests in indigenous communities in the Peruvian Amazon: AIDER** - Status unknown  
**Where:** Native Communities of Roya, Dos de Mayo, Junín Pablo and 9 others (Ucayali, Huánuco, Pasco)  
**Affected peoples:** Shipibo-Conibo inhabitants of the above communities
-  **Development of experiences in REDD pilots (Ucayali) with native communities in three regions of the Peruvian Amazon: TNC, AIDER** - PDD in development  
**Where:** Native Communities of Callería, Patria Nueva Mediación de Calle, Flor de Ucayali, Nuevo Saposo (Ucayali)  
**Affected peoples:** Shipibo-Conibo and Isconahua inhabitants of the above communities



-  **Developing a REDD project in Peru's Cordillera Azul National Park: CIMA** - PDD under development  
**Where:** Cordillera Azul National Park (Ucayali, Loreto, Huánuco, San Martín)  
**Affected peoples:** Cacataibo people in voluntary isolation in and around the proposed Cacataibo Territorial Reserve; Shipibo-Conibo, Yine, Cashibo Cacataibo and Kichwa Lamas peoples of the Native Communities of Yamino, Santa Rosa, Mariscal Caceres, Manco Capac, Nuevo Eden, Mushuk Llacta de Chipaota, La Cumbre, Nuevo Irasola, Libertad, San Luis de Charasmana, Túpac Amaru, Vencedor, Isolaya, Santa Rosa de Piracocha, Santa Rosa.



**“Conserving forests” Pilot national PES scheme: Peruvian Government, MINAM** - More communities in process of being identified

**Where:** Native Communities of Coriteni Tarso, Anapate, Monkirenschi, Capirushiato, Mapotoa (Cusco and Junín)

**Affected peoples:** Asháninka, inhabitants of the above communities

**Otishi national Park REDD Project: SERNANP, FUNDACOR** - Project PIN presented, currently in suspension

**Where:** Otishi National Park, Matsigenka Communal Reserve, Asháninka Communal Reserve (Junín, Cusco, Ucayali)

**Affected peoples:** Asháninka, Matsigenka, Yine and Caquinte Native Communities bordering the Reserves and National Park: Puerto Rico, Miaria, Porotobango, Kitepampani, Tangoshiari, Kochiri, Mayapo, Camana, Timpia, Poyentimari, Taini, Chakopishiato, Alto Picha, Poyeni, Tipeshiari, San José de Koribeni, Timpiniari, Marontuari, Tsegontini, Comitarincani, Pitirinkini, Paveni, Quempiri, Camantavishi, Cutiriveni, Parijaro, Quiteni, Meteni, Centro Caperaica, Coriteni Tarzo, Otica, Oviri, Anapate, Cheni, Tsoroja

**Avoided deforestation with 3 Asháninka communities on the River Ene, Central Jungle, Peru: Tsimi, ECOTRIBAL, BNP Paribas** - PDD under development. Complaints by CARE (Asháninka Federation) have led BNP Paribas to suspend their participation

**Where:** Native Communities of Camantavishi, Parijaro, Cutivireni, Quempiri, Quiteni (Junín)

**Affected peoples:** Asháninka, members of the above communities

**Asháninka communal Reserve REDD project: Bioforest, Carbon Capital, ACPC, EcoAsháninka** - Initial agreements signed with ECOASHÁNINKA in 2010 for development of PDD but in August 2011 ECOASHÁNINKA reviewed the terms and decided to terminate the project

**Where:** Asháninka Communal Reserve (Junín, Cusco)

**Affected peoples:** ECOASHÁNINKA members (Asháninka, Matsigenka and Caquinte): Native Communities of Pitirinkini, Quempiri, Camantavishi, Quiteni, Meteni, Centro Caperaica, Coriteni Tarso, Otica, Oviri, Anapate, Cheni, Tsoroja, Poyeni, Tipeshiari, Comitarincani, Timpinari, Tsegontini, Alto Picha, Marontuari, Parijaro, Paveni, Cutivireni

**Avoided deforestation through sustainable forest management via timber production for FSC: BAM, Maderacre** - Carbon credits sold

**Where:** Maderacre and Maderija logging concessions (Madre de Dios)

**Affected peoples:** Mashco Piro and other unidentified peoples living in voluntary isolation within and around the Madre de Dios Territorial Reserve for Isolated Indigenous Peoples

**Sustainable community use of forest and resources in the native community of Bélgica: Asesorandes** - PDD in development but project currently suspended due to community rejection of terms

**Where:** Native Community of Bélgica (Madre de Dios)

**Affected peoples:** Yine inhabitants of Bélgica

**Avoided deforestation with the inhabitants of the Manu buffer zone: DRIS** - Status unknown

**Where:** Manu National Park buffer zone (Madre de Dios)

**Affected peoples:** Harakmbut and Matsigenka Communities and isolated peoples of the Madre de Dios Territorial Reserve

**Amarakaeri Communal Reserve REDD Project: Bioforest** - FENAMAD has demanded that ownership rights of communities over environmental services be respected

**Where:** Amarakaeri Communal Reserve (Madre de Dios, Cusco)

**Affected peoples:** Harakmbut, Amarakaeri, Yine and Matsigenka members of the Native Communities Shintuya, Puerto Luz, San Jose de Icarene, Baranco Chico, Diamante, Boca Ishiriwe, Shipetiari, Puerto Azul, Masenawa, Queros.

**Development of experiences in REDD pilots (Madre de Dios) with native communities in three regions of the Peruvian Amazon: AFIMAD and WWF** - PDD under development

**Where:** Native Communities of Puerto Arturo, Boca Inambari, Sonene, Palma Real, Boca Pariamanu, Tres Islas, San Jacinto (Madre de Dios)

**Affected peoples:** Harakmbut, Ese Eja, Amahuaca, Shipibo-Conibo and Quechua inhabitants of the above communities

**Payment for Ecosystem Services: SE Peru** - Suspension of project demanded (esp) by FENAMAD

**Where:** Native Communities of Shipetiari and Diamante (Madre de Dios)

**Affected peoples:** Matsigenka and Yine inhabitants of the two communities

**Promotion of forestry development by native communities in Peru: AIDER / ITTO** - PDD under development

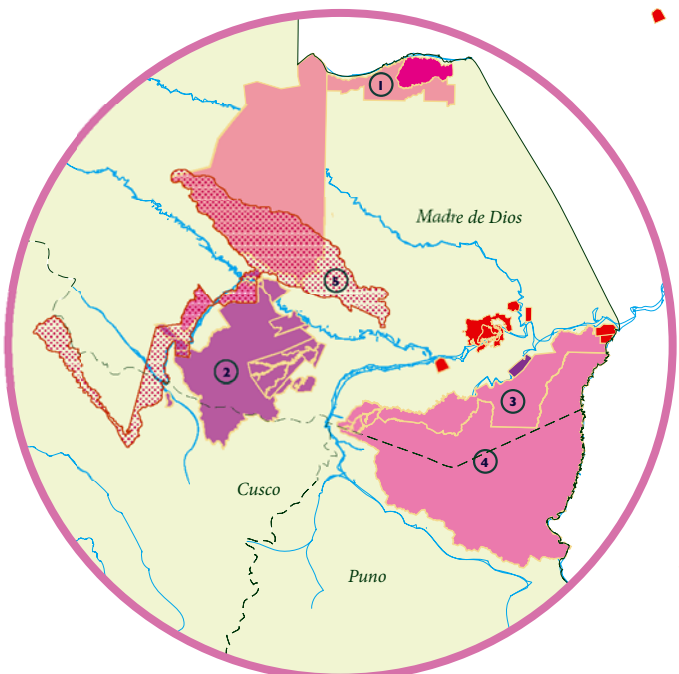
**Where:** Native Community of Infierno (Madre de Dios)

**Affected peoples:** Ese Eja inhabitants of Infierno

**REDD as sustainability mechanism for administration of Tambopata National Reserve and Bahuaja Sonene National Park: AIDER, SERNANP** - Undergoing validation by CCBA

**Where:** Tambopata Reserve and Bahuaja Sonene National Park (Madre de Dios, Puno)

**Affected peoples:** Ese Eja and Pukirieri inhabitants of the Native Communities of Palma Real, Sonene, Infierno and Kotsimba



## Case Studies

The following section reviews some projects in more depth. These case studies offer many useful lessons for other communities engaged in similar processes and policy developers in order that they can see that REDD+ policies are already having real impacts on the ground. Continued monitoring of these developments on the ground must be prioritized.

### Case study 1: REDD+ and the Asháninka, Central Jungle

#### Cool Earth, Ecotribal and BNP PARIBAS

One project working with indigenous peoples that is underway and offers some interesting lessons is the Cool Earth/Ecotribal avoided deforestation project with three Asháninka communities on the River Ene (Cutivireni, Parijaro and Camantavishi). The project was born in 2008 when members of the Cutivireni community approached Ecotribal (a UK based NGO) to request support to help resist the tempting offer of a logging company who were offering almost US\$30,000 to the community in exchange for operating in their territory. In response, Ecotribal teamed up with Cool Earth (UK NGO) and Tree flights (UK not for profit carbon offsetting company) to match and surpass this offer in exchange for community rejection of the deal with loggers. A tree planting project over two hectares was also established and of every £10 donated to Tree flights, £5 was received by Tree Flights, £4 was received by the community while £1 was received by Ecotribal who were managing the project.<sup>41</sup> The tree planting project is now inactive due to a lack of demand for the carbon credits from consumers<sup>42</sup>.

The project seems to have been highly successful in terms of preventing the entry of loggers and actually ensuring the direct transfer of funds to the communities. Ecotribal say that last year Cutivireni received US\$30,000 while Camantavishi and Parijaro together received US\$30,000. Nevertheless, local federation CARE report that the project has suffered subsequent problems due to internal conflicts raised by inequitable distribution and poor management of the funds. Project implementers have recognised some of these issues but have insisted that these are teething problems and the lessons have been learned.

Ecotribal is now supporting a community organisation called TSIMI (Asháninka Bioclimatic

Association) that has recently been established by members of the Cutivireni community heavily involved in the original project. Together they are initiating a REDD+ program for avoided deforestation that they feel will provide the sustainable finance that the work requires. This project is being supported by European Banking Group BNP Paribas in the development of a feasibility study and a PDD and is considering the inclusion of two further Asháninka communities, (Quempiri and Quiteni). To date no formal process of consultation of communities has been carried out that would respect their right to Free, Prior and Informed Consent. Project developers explain that they are wary about raising false expectations.

Indigenous federation CARE that represents two of these communities has warned that TSIMI is an organisation managed by a single family who have historically dominated the community of Cutivireni which is preventing appropriate benefit sharing. CARE also point out that their efforts to establish dialogue with Ecotribal and to acquire information about the project have been ignored. They feel that this reflects a lack of transparency and an effort to undermine and divide community organisations. In August 2011 they wrote formally to BNP Paribas requesting the suspension of the project until existing problems had been evaluated and resolved. See Box 10 for a list of their key concerns outlined in a recent letter to BNP Paribas.

After receipt of two letters sent by CARE a meeting was arranged in Lima between CARE, BNP Paribas and Ecotribal. In this meeting, CARE expressed their concerns regarding the manner in which the project was developing and the lack of information for themselves and the communities. No agreement was reached between the parties and as a result the BNP Paribas representative agreed that any activities related to the project would be suspended until a potential agreement had been reached.

#### REDD+ and the Asháninka communal Reserve

The Asháninka communal Reserve (RCA) was established in 2005 as one of the first Communal Reserves in Peru. It is a State protected area that partially recognises indigenous peoples' rights by permitting the non-commercial use of its resources and creating an elected committee from neighbouring communities to co-manage its administration in coordination with the State.

One project that is being developed is a joint venture

41 See <http://olyecology.livejournal.com/82043.html>  
42 See <http://96.30.44.172/elti/resources/resource/91/>



### Box 9: Key concerns of CARE regarding Ecotribal REDD+ Project<sup>I</sup>

- The role played by Ecotribal in leading to divisions between indigenous organisations in the region and defamation of CARE at times when an oil and gas company was attempting to begin exploratory activities in Asháninka territory.
- No provision of any information about the project to CARE despite repeated requests. CARE only received information regarding the project after direct contact with potential financiers and other institutions.
- The extension of the project to two neighbouring communities; Camantavishi and Parijaro that are represented by CARE. CARE still has no access to information about this project and the communities are unaware of the nature of this process in which they are involved.
- No meaningful consultation realized with communities

I Source: CARE letter to BNP Paribas, 1st August 2011.

between **Bioforest** (a Peruvian company), **ACPC**<sup>43</sup> (Peruvian NGO) and the **ECOASHÁNINKA** (Asháninka Committee for the administration of the Reserve)<sup>44</sup>. In July 2011 it emerged that from September 2010 several contracts between these parties and a Chilean based Carbon group, **Carbon Capital** or **Less Carbon** had been signed on the following basis:

► **Contract 1:** ECOASHÁNINKA and ACPC form a consortium in which they agree to split the potential benefits of any carbon credits 50-50. ACPC will provide technical support to ECOASHÁNINKA for the implementation of the project.

► **Contract 2:** The financial tasks will be outsourced to Bioforest who take US\$2000/month fee (plus tax) for the duration of the project and a 10% stake in any credits generated.

► **Contract 3:** Carbon capital agreed terms with ECOASHÁNINKA to an exclusive option to purchase the carbon credits at a minimum of US\$2/credit with the possibility of an increase depending on the floating price of carbon in the market. In return for this option they pay for the costs of project development up to US\$150,000 (see Box 11 for a more detailed analysis).

It is unclear why it took almost a year for the details of these contracts to be brought to the attention of indigenous organisations concerned such as CARE or why their continual requests for information had been denied.

It is clear that some information sharing workshops have been carried out but there has been no formal consultation process to date with any of the 22 communities affected prior to the signing of these agreements. It is unclear how many of communities are aware of this agreement having been signed in their name or its potential implications. Again, project developers have attributed the lack of a formal consultation process to the problems of raising unrealistic expectations.

Once again, these contracts were only brought to the attention of CARE and other organisations after ACPC were pressured to make the information accessible. After a thorough investigation by CARE it was revealed that the members of the ECOASHÁNINKA committee were unaware of the implications of the contracts despite the fact that they had signed them and had allegedly been capacity built to understand and approve the project.

**In August 2011 the newly elected leadership of the ECOASHÁNINKA reviewed the terms of the contract and decided to terminate the project<sup>45</sup>.**

Meanwhile, another project that is proposing to operate with the RCA is being developed by the Otishi National Park authorities for whom the RCA constitutes a buffer zone. This is creating rivalry between the two projects and a potential conflict in which two REDD+ projects overlap. Recent reports indicate that this latter project has currently been suspended.

<sup>43</sup> Association for the conservation of the patrimony of Cutivireni.

<sup>44</sup> El Ejecutor del Contrato de la Administración de la Reserva Comunal Asháninka (The Executor of the contract for the Administration of the Asháninka Communal Reserve).

<sup>45</sup> They however have not disqualified the possibility of future REDD type projects with the RCA they are clear that these initiatives must be conducted in full partnership with Indigenous organisations and communities and respecting indigenous concerns related to REDD.

## Box 10: Contract Analysis: ECOASHÁNINKA, Carbon Capital, Bioforest and ACPC

- **Rights:** Only one of the contracts (2) refers to the importance of guaranteeing fundamental indigenous rights and refers to ILO 169 and the UNDRIP but the precise application of these rights is not included in the contract.
- **Administration:** There is insufficient information and clarity regarding the administration and management of funds or activities relating to the Project. While ECOASHÁNINKA must provide monthly reports on their expenditure to Carbon Capital there are no similar guidelines for ACPC or Bioforest. No mention of how administrative capacities might be progressively transferred to ECOASHÁNINKA.
- **Consultation:** There are no further details, terms of reference or outlines of the procedures to consult with the communities. After pressure from organisations and communities Bioforest designed an information campaign but according to CARE this was directed at simply validating the project rather than generating a meaningful and independent consultation process.
- **Costs:** It is unclear in the contract whether the US\$150,000 will cover the development costs of the entire PDD as well as its implementation or is simply a contribution towards implementation costs and Carbon capital would cover all the costs for development of the PDD. As part of a first payment of \$15,000 to ECOASHÁNINKA some funds were used to promote a debate about REDD+ projects in protected areas. It remains unclear whether this payment must be repaid or the obligations to Less Carbon that this entails for ECOASHÁNINKA.
- **Financial terms:** The financial terms are extremely favourable to Carbon Capital who receive an exclusive option to purchase potential credits for the first 10 years and then first refusal on the second period. The contract however does not permit ECOASHÁNINKA to renegotiate the terms of this deal thereby potentially locking them in to an unfavourable commercial contract for at least 20 years.
- **Carbon credits:** It seems disproportionate and unjustified to provide ACPC, a not for profit organisation, with 50% of the carbon credits while an indigenous organisation and 22 communities who are rights holders to the forest receive the same share.
- **Participation:** Most project activities (methodological, administrative, and financial) are managed by ACPC and Bioforest reducing the role of ECOASHÁNINKA to participation in training sessions and coordination of logistics. This division of labour is not designed to empower indigenous organisations and reduces them to beneficiaries rather than partners.
- **Role of intermediaries:** There is no indication that the intermediary roles played by ACPC and Bioforest will be diminished over time and the ECOASHÁNINKA will own an increasing share of the project. If this were truly an effort to attempt to empower the communities there would provisions to phase out the role of intermediaries throughout the course of the project or to retain their services but on the basis of contracted technical consultants rather than shareholders.

## Case study 2: The Matsés and Sustainable Carbon Resources Limited (SCRL), Loreto

### Background

The Matsés are a Panoan speaking indigenous people whose ancestral territory lies in lowland jungle between the Javari and Galvez rivers in the frontier region between Peru and Brazil. In Peru, a portion of this ancestral territory is recognised in the Matsés native community title which at 452,735ha is the largest recognized native title in Peru. The community includes 14 satellite communities each of which has its own leader. These leaders participate in the general assembly of delegates. Together the

communities have also elected one leader but the general assembly of delegates is responsible for all decisions in relation to territory and resources

SCRL is a Hong Kong based carbon company established in November 2010 apparently represented by an Australian citizen<sup>46</sup> who is neither resident nor citizen of China. SCRL does not have its own office in Hong Kong but uses a 'virtual office' in order to receive telephone calls. SCRL apparently has capital of HK\$10,000 (Approximately US\$1200)<sup>47</sup>

<sup>46</sup> The developer has started legal action against the watchdog website "REDD+ monitor" for use of his name <http://www.REDD+-monitor.org/2011/08/05/carbon-cowboy-censored-denounces-indigenous-chief-in-peru/>

<sup>47</sup> Secuestro y venta de carbono" John Nilsson y la

It appears that initially SCRL attempted to strike a deal with the Regional Government of Loreto (GOREL) for a forest carbon project but GOREL rejected the profit sharing proposal. From February 2011, the developer began establishing direct relations with the Matsés, making promises that they would receive considerable amounts of money from the sale of carbon. As a result, SCRL drafted a contract in English and a meeting was scheduled on the 16-17 April 2011 with the Matsés General Assembly in order to sign the contract<sup>48</sup> (See Box 12 for details). The developer had explained that it was necessary that the contract was in English because ‘the world bank can only approve carbon contracts in English’<sup>49</sup>. Despite the fact that this is supposedly a joint venture, the draft contract grants considerable control and powers to SCRL for an indefinite period. Effectively this would reduce the Matsés to the role of forest ‘gatekeepers’ rather than playing an active part in the administration or co-management of the Project.

#### The contract<sup>50</sup>

- ▶ An unincorporated ‘**joint venture**’ is formed in which any profits made will be divided between the Matsés (50%) and SCRL (50%). (3.1 and 3.2). The Matsés are defined as rights holders over carbon but agree to hand over these rights to SCRL as a security (*lien*) for the duration of the project and until all ‘Project expenses’ are paid. (3.4)<sup>51</sup>.
- ▶ **Project expenses** are to be determined entirely by SCRL but exclude any costs to each party. (3.7) In the case of the Matsés this involves logistical and transport support for the project, securing any necessary permissions and any necessary human resources (6.1, 6.2, 6.3).
- ▶ SCRL is entirely in charge of **administration**, project management (8.3) and management of a trust fund (10.2). The grant of these powers would be irrevocable (8.4).

▶ “The agreement is **confidential** in nature and constitutes a **trade secret** belonging to SCRL (15.3)”<sup>52</sup>.

▶ “All **intellectual property** and other proprietary rights in or related to the agreement and remain SCRL’s exclusive property” (15.1)

▶ The contract is governed by and in accordance with **English law**.

#### Matsés reject contract

▶ Matsés leaders were extremely concerned about the implications of any carbon deal and alerted AIDESEP, the Peruvian human rights ombudsman (*Defensoria del Pueblo*), and the local press about their concerns. The scandal that began to unfold meant that the developer did not appear for the planned meeting and AIDESEP were able to assist the Matsés with an evaluation of the contract that had to be first translated from English into Spanish.

▶ On the 13th April the Matsés general assembly reviewed the details of the contract and *concluded that it was prejudicial to the rights and interests of the Matsés and was a subtle form of appropriating rights to their territory, resources and traditional knowledge of the community*.

▶ In response to this rejection on the 15th July 2011 the developer initiated legal actions against Daniel Jimenez, (one of the Matsés leaders) in which he was accused of crimes including ‘Coercion, fraud, aggravated theft, extortion in the form of blackmail, falsified declarations and documents’<sup>53</sup>

Comunidad Indígena Matsés – LORETO, AIDESEP presentation 20 May 2011, Lamas.

48 Ibid

49 Ibid

50 Joint venture agreement between SCRL and the Matsés indigeneous people of the Amazon draft March 2011.

51 The Matsés agree to provide such security of tenure to SCRL over such lands over which carbon assets or biodiversity assets have been created or for the duration of the term as may be within its lawful powers or reasonably required by SCRL”. (6.5) “SCRL shall have possession and control and be entitled to the registered and recorded in its name as owner of the Joint Venture Assets (includes carbon rights) to be held on trust... until distributed in accordance with each Party’s respective interest.”(8.2)

52 Any contravention of this clause constitutes a material breach of this Agreement and that in such a case, the license granted may be terminated by SCRL in its sole discretion and the Province (Matsés) shall be strictly liable for all loss or damage to SCRL that result from such disclosure” (15.3) All information must be kept confidential and must not be divulged without prior written consent of other party (14.1)

53 CITACION No 226-2011-V-DIRTEPOL-I-RPL-DIVINCRI-SAMP

## Box 11: Contract Analysis: Matsés and SCRL Ltd

### Objective

The objective speaks of developing a Project Design Document in order to determine project viability. This could cause confusion. It could be understood that the objective is to conduct a viability study and develop a Project Development Document. However the other clauses in the contract make it evident that the project also extends to implementation of the marketing and sale of environmental/carbon credits and sharing the profits.

### Joint venture formation

The 50:50 distribution of potential income is disproportionate and unjustified given that the Matsés are the customary owners of the forest while SCRL are simply providing technical services with no financial contribution or exposure to risk.

The contract involves raising of a lien (a right to hold – but not sell – the carbon rights of the Matsés) as a security in the situation where the Matsés do not conform with their obligations under the contract.

Doubts have been raised about the credentials of SCRL and further investigations would need to be carried out to assess who they are and question why they are registered in Hong Kong but do not have an office. Importantly, this process would need to consider whether they are an appropriate and trustworthy company for a project such as this, with reference to factors such as previous experience and practice.

### Restrictions on resource use

“The parties agree not to engage in any activity in respect of the project area except as provided or authorized by or under this agreement or as agreed between them” (5.2b). This clause is unclear but could effectively permit the control of Matsés customary use of resources such as agricultural and other traditional activities.

### Duration and Termination:

The agreement can only be terminated after mutual consent or at the point at which all credits have been sold (4.1) The contract is for an indefinite period effectively meaning that terms could not be renegotiated.

### Management and administration

Full control given to SCRL for the financial management and administration of the project with no role for the Matsés to determine allowable costs, consultants fees etc thereby permitting the use of Project expenses for activities in which the Matsés have no say. This means that in theory all their expenses could be discounted from any shared revenue received.

The Matsés are responsible for certain **up-front costs** and other obligations but there are no costs specific to SCRL. It is unclear how upfront costs met by the Matsés (providing travel and security for the company staff etc.) would be met. It is unlikely that Matsés would be able to cover these costs without assistance, and if so it is unclear how they would secure the necessary finance.

### Disparity in access to information

The Matsés are expected to make themselves available to project workers at all times (6.2) they must give ‘reasonable notice’ to SCRL if they wish to see the accounts (11.4).



### Liability

SCRL shall not be liable to the Matsés “for any losses sustained or liabilities incurred if...it has in good faith performed...its obligation under this agreement and not committed fraud or Gross Negligence or Willful Misconduct” (8.7). It is highly doubtful that this would be held up in court but with this clause SCRL attempts to remove from the contract any potential liability it might incur.

### Confidentiality and intellectual property

There are a few exceptions to the confidentiality clause one of which would include review by third parties, therefore it is probably broad enough to permit consultations.

It seems contrary to the objective of good faith that the confidentiality of the agreement should be such a priority. Even if a confidentiality was deemed appropriate by the Matsés it is unacceptable (given that this is a joint venture) that the Agreement and intellectual property rights should not belong equally to the Matsés and why the same criteria would not apply to SCRL if they broke the confidentiality clause.

### Power of attorney

SCRL is appointed with power of attorney (22.1) that cannot be withdrawn during the life of the project<sup>I</sup>.

### Applicable laws and dispute resolution

The use of English law for any interpretation of the contract (26.1, 30.3) and the writing of the contract in English would appear to privilege SCRL. This is a factor of particular concern particularly given the disparity in resources between the two parties in the circumstances of a contract and where there are inevitable risks, e.g. of dispute/litigation<sup>II</sup>.

### Respect of indigenous peoples' rights

There is a reference to respect of the **UNDRIP** but the non-binding nature makes it weak as it only obliges SCRL to *endeavor to respect*. In any case the reference is misleading as provisions of the contract violate UNDRIP standards on multiple accounts. Critically, there are no clauses within the Agreement that would oblige the respect for the **fundamental rights** of indigenous peoples such as the Matsés to:

- Free, Prior and Informed Consent
- Traditional knowledge
- Customary use of resources

### FPIC

The Matsés “will assist the National Commission of Indigenous Peoples (NCIP) with the process of Free, Prior and Informed Consent (FPIC) to validate this agreement” (6.4). This reference to **FPIC** is misleading not only because the National Commission on Indigenous Peoples does not exist in Peru<sup>III</sup>. Of more concern the concept of FPIC employed by the Agreement is simply conceived of as a formal procedure to validate its contents rather than an iterative process defined by the Matsés according to their own decision making processes<sup>IV</sup>.

I “.... and in its name and at its expense in all things to make, do and execute all things which it agrees to do or execute under this Agreement or which SCRL or the attorney shall consider necessary or expedient to do or execute in the fulfillment, enforcement or attempted enforcement of this Agreement”.

II “This Agreement is governed by and is to be construed in accordance with the law for the time being in force in England and Wales” (26.1) and “each party waives any right to object to any proceedings brought in the courts of England and Wales”. (30.3)

III The NCIP is the government agency in the Philippines where it appears that the developer has also attempted to establish carbon projects with communities <http://www.REDD+-monitor.org/2011/05/03/aidesep-and-coica-condemn-and-reject-carbon-cowboy-censored-and-demand-his-expulsion-from-peru/#more-8275>. This contract thus appears to be a generic version that the developer is using in multiple locations.

IV The first step of such a process necessarily requires the Matsés establishing a culturally appropriate procedure that can be used to determine how, and under what conditions, they are able to give their consent. Critically such a process would need to be free from coercion or persuasion, fully informed by sources independent of the developer about the agreement including its commercial terms, the developer, REDD+, ecosystem services, offsets and the security and reliability of carbon markets.

**Excerpt from Declaration of Iquitos: 'No REDD+ without territories, autonomy and rights, signed by 22 indigenous organisations of Peru', April 27th 2011, Iquitos**

*We denounce and reject* the HONG KONG company SCRL (Sustainable Carbon Resources Limited) represented by an Australian citizen ..... who is dividing and pressuring the Matsés peoples to sign a carbon contract in which our brothers contribute 420,00ha of intact forest and give total control to a company with only US\$1200 over the carbon, the forests, the intellectual property and the Matsés way of life. It is an illustration of their bad faith that they are obliging the Matsés to sign a contract in English, governed by English laws with no termination point and now threaten legal action against those community members who have opposed this fraud. We demand the intervention of the government to expel this businessman from Peru. This is yet another bad example of the REDD+ bubble that is sweeping the world with fraudulent schemes and those who are initiating similar schemes in bad faith in Peru in Madre de Dios, Amazonas and San Martin and elsewhere where the rights of indigenous peoples are trampled on and in which they seek to control the forest and carbon in indigenous territories, dividing our people with illusions of millions. The promoters of REDD+ (Peruvian government, United Nations and multi lateral banks) have a duty to intervene and prevent such frauds.

### Case study 3: REDD+ and the community of 'Bélgica', Madre de Dios<sup>54</sup>

Bélgica is a *Yine* native community with a title extending to 53,394ha. In 2008 they were approached by Asesorandes, a Peruvian firm interested in developing a REDD+ project with the community. Asesorandes specializes in financial services but has no prior experience of developing environmental services or carbon project. Since 2008 the community signed at least two contracts with Asesorandes and one term sheet with a potential buyer of carbon credits. The contract provided Asesorandes with **20% of the value of the sale of carbon credits for a 30 year period**. Nevertheless, this protracted relationship was also marked by a series of disputes in relation to details of the contract and the failure on Asesorandes' part to deliver on some of the expected outcomes. On the 15th May 2011 a communal assembly decided to terminate relations between the two parties.

*“...the contractual relationships with Asesorandes using various different instruments has been going on for 2 years and seven months but there has been no concrete result in favour of the community. Instead, it has generated great expense, frustration amongst community members whose expectations*

*have been raised on false grounds. Worse still, we were presented with a trustfund in which the community is obliged to hand over the administration (of communal territory) and be subject to the decisions of ASESORANDES for 30 years that do not allow us to develop as people nor permit us to make decisions about our territory or plan for the future of our children.”<sup>55</sup>*

On the 20th July 2011, Asesorandes responded to the decision by proposing the following financial settlement.

- ▶ US\$ 120,000 to be paid to them by the community for expenses incurred in project development.
- ▶ 10% of the value of carbon credits issued and sold during the first five years of operation .

The community have rejected this proposal and the dispute continues<sup>56</sup>.

<sup>55</sup> Acta de 15 de marzo del 2011, obra de folios 176 a 180 del libro de actas de asambleas generales de la Comunidad Nativa de Bélgica.

<sup>56</sup> This dispute reflects a set of wider problems experienced in Bélgica with other 'projects'. In all of these cases, external projects have not emphasised the capacity building of the community organisation (technical and organisational) nor have they worked alongside FENAMAD. Instead these projects have tended to increase Bélgica's dependency on external actors and pushed the idea that money can be received in exchange for the control of their forests either for logging or for REDD.

## Breaking News: Shipibo communities asked to hand over land title documents to REDD+ developers in Ucayali

In July 2011 AIDESEP revealed that the recently established Peruvian NGO, **Alliance for the Capture of Carbon as a Solution to Climate Change** had proposed 10 year 'agreements' with various Shipibo indigenous communities in the Caco river basin in the Ucayali region. The agreements focus on developing the potential for 'environmental services, REDD+ and carbon deals' and are offering 'US\$100 per hectare and thousands of dollars each year' to these communities. In an alarming turn the communities are being asked to sign agreements and hand over their land title papers to the NGO.

The communities involved are Ahuaypa, Caco Macaya, Colonia del Caco, Amaquiria, Nazaret del Pozo, Utucuro, Samaria, Belén and Vista Alegre de Iparia and the information provided by the NGO to communities states that land title documentation is 'required by the Kyoto Protocol'. AIDESEP vice President Daysi Zapata responded by recommending to the communities that they avoid signing any such deals especially as such institutions do not possess their own funds, but will be using any agreements with communities to try and find financial backers. "...communities of the river Caco must not rush into these deals, the forests are not going to disappear and these carbon brokers will have to come back....they should exercise more caution and inform themselves more fully about this issue".<sup>1</sup>

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<sup>1</sup> See AIDESEP press release 20th July 2011 <http://www.aidesep.org.pe/index.php?codnota=2126>.



# Part 4

## Lessons Learnt

For many policy developers, REDD+ remains a relatively new and abstract concept but for many indigenous peoples in Peru REDD+ is already a reality in their forests and territories. Although REDD+ is a new phenomenon, these experiences combined with an analysis of national policies enable us to pinpoint some emerging lessons and what these might imply for the rights of Indigenous peoples and forest dependent communities.

**Policy and national level processes** (applicable to the exiting government, it is hoped that the new government will lead to improvements)

**Existing REDD+ policies and programs are undermining rights of indigenous peoples and are likely to lead to conflicts over land and resources**

Peruvian legislation is not only violating international laws on indigenous peoples' key rights to land and resources but is backward in recognising these rights in comparison to most other countries in the region. The failure to recognise indigenous peoples' rights to land is likely to lead to land grabbing and marginalisation of indigenous peoples.

**Efforts to protect forests through REDD+ undermined by contradictory policies of other sectors**

It is unclear how deforestation will be halted by the plans of the Ministry of Environment when at the same time other sectors of the Peruvian government are promoting colonisation of the forest, construction of roads, hydroelectric dams and the expansion of oil, gas and mining projects. Meanwhile, the forestry sector is continuing to favour large scale timber extraction and failing to empower low intensity community forest management.

**REDD+ policies overlook rights issues and prioritise carbon counting**

Indigenous peoples insist that readiness for REDD+ must ensure substantive political and legal reforms that recognise and demarcate outstanding territorial applications and safeguard their fundamental rights. Despite this, REDD+ plans and projects of government and NGO agencies tend to focus on technical issues such as deforestation baselines and monitoring, reporting and verification of emissions (MRV). In these plans, indigenous peoples tend to be viewed as one more stakeholder whose participation should be encouraged rather than as rightsholders over forests and their resources.

**Sustained efforts by IP organisations and international scrutiny needed to ensure indigenous voices are heard**

AIDSEP's experience during negotiations over the R-PP clearly illustrated MINAM's reluctance to accept key



indigenous demands on territory and rights. Despite continued reiteration of their concerns, indigenous peoples' issues were only really considered with any seriousness by MINAM when international pressure was brought to bear in spaces such as those offered by the FCPF. This eventually resulted in the adoption of some key measures by the Peruvian government to modify the R-PP including their promise to align national land legislation with international obligations, build trust by committing some funds immediately to address outstanding land applications and recognise the role of indigenous REDD+ committees within the national REDD+ coordinating body. It remains to be seen whether these commitments will be implemented and continued vigilance on the part of IPOs will be necessary to ensure these promises are kept.

### **Lack of national guidelines resulting in explosion of carbon piracy and unregulated subnational projects in indigenous territories**

Indigenous territories that have hitherto been ignored now represent potential carbon offsetting ventures and are suddenly in the spotlight as project developers descend on the jungle. Many are attempting to strike deals directly with communities based on extremely favourable terms for investors and with no clear guarantees for the respect of indigenous peoples rights to use and access customary resources. As long as there are no clear measures to regulate and control such projects including those denounced by indigenous organisations then such 'carbon piracy' will continue and Indigenous peoples' rights will continue to be trampled upon.

### **Millions of hectares of unrecognised indigenous lands could lead to potential mass land grab for REDD+ projects**

In Loreto alone there are hundreds of requests for environmental concessions by NGOs and private investors while thousands of hectares of indigenous territory applications remain unresolved<sup>57</sup>. Furthermore, many other local REDD+ projects involve protected areas that overlap with unrecognised indigenous territories and whose management has been subcontracted to NGO's. As long as millions of hectares of indigenous peoples' traditional lands remain unrecognised the likelihood of gazetting of indigenous lands as private REDD+ concessions and land grabbing for a potential carbon offset project seems inevitable<sup>58</sup>.

### **Implementation of REDD+ is leapfrogging readiness**

According to the Cancun agreements, REDD+ should be implemented in a phased approach but Peru, like many other countries, is proceeding with implementation before readiness has even begun. The money for the readiness process hasn't even been disbursed yet by the FCPF but 35 pilot projects are already underway in Peru while the FIP investment strategy is also scheduled to be completed by November 2011. It is unclear how they hope to develop a national forest investment strategy in such a short time frame and yet ensure integration with the readiness preparation let alone comply with their obligation to ensure meaningful consultation of indigenous peoples. The inevitable result of such 'learning by doing' approaches will mean that the national REDD+ strategy will be defined by adhoc policies and practices hastily adapted to the reality of local projects.

### **Failure to analyse carbon offsetting mechanisms and alternative financial mechanisms to protect forests**

As in many other countries, the starting point of debates on REDD+ finance in Peru is the supposition that it will take hundreds of billions of dollars to avoid deforestation. What follows is the argument that the public sector cannot afford such amounts and that the involvement of the private sector is required and the establishment of a market in forest carbon offsets. However, as many analysts have pointed out, these assumptions are based on an opportunity-cost model in which REDD+ is perceived to be cheap but ignores the extremely high transaction costs. It is also likely that payments would never be able to compete with the levels of commodity prices (precious metals, minerals, timber, oil and gas, soya, beef etc)<sup>59</sup>. Such models also depend on the agreement at an international level of rigorous emissions cuts in order to establish compliance markets, a development that now looks increasingly unlikely.

57 Personal communication April 2011 José Álvarez Alonso, Institute of Investigations in the Peruvian Amazon (IIAP).

58 Despite this, MINAM (prior government) have denied they must assume any responsibility for cases of 'carbon piracy'. They argue instead that these are matters for the police not for the Ministry of Environment. While it is clear that MINAM does not bear a direct responsibility for such projects it is their policies that are providing the context in which they can develop.

59 Karsenty, A., Ongolo, S., 'Can "fragile states" decide to reduce their deforestation? The inappropriate use of the theory of incentives with respect to the REDD Mechanism'. Forest Policy and Economics (2011).

Hans Gregersen, Hosny El Lakany, Alain Karsenty and Andy White, 'Does the Opportunity Cost Approach Indicate the Real Cost of REDD?: Rights and Realities of Paying for REDD', RRI 2010.

## Lessons from the ground

### Limited access to project information

Many NGO and private sector REDD+ projects have differing levels of project related information that is publically available. Nevertheless, a pattern that is evident in many of these projects is the withholding of key information that could be made available for public scrutiny. In extreme cases, such as that of the Matsés, the contract is classified as a 'trade secret' and project developers assert their rights to exclusive intellectual property rights over technical information generated by the project. In other agreements and contracts there are clauses that prevent the disclosure of all information generated by the project. Such non-disclosure only increase the level of suspicion with which communities and their organisations view REDD+ projects.

### Indigenous organisations undermined by project developers

At a local level many projects are shrouded in mystery. Information is guarded secretively by project developers especially from indigenous organisations as illustrated by the experiences of Ashaninka organisations in the central jungle. This understandably generates feelings of mistrust and suspicion and undermines the role of indigenous organisations creating divisions between themselves and their communities.

### 'Carbon pirates' convincing indigenous communities to sign away rights to carbon

As part of this research two sets of contracts were analysed. In both cases the indigenous communities and organisations concerned received no independent legal advice at the time of drafting. As soon as they did seek some independent advice they resolved to annul the negotiations. These are only two examples, but other IPOs report similar contracts in other communities. Key lessons learnt include the following:

- ▶ Long term or indefinite periods of contracts with little or no space for renegotiation of terms.
- ▶ Unfair commercial terms privileging developers over communities.
- ▶ Non binding commitments to respect fundamental rights of indigenous peoples to use and access to natural resources, traditional knowledge and Free, Prior and Informed Consent.
- ▶ Considerable control and powers granted to project developers for financial and project administration and to intellectual property.
- ▶ Unclear implications for resource use of indigenous peoples.
- ▶ Considerable efforts to regulate disclosure of information related to the project.

### Communities seen as obstacles or beneficiaries of projects but not owners or rights holders

Some REDD+ schemes in Peru such as the WWF/AFIMAD project seem to involve genuine efforts to ensure community ownership over any potential environmental services generated by the project. However, at the opposite end of the spectrum the Matsés and ECOASHÁNINKA projects involve long-term commercial contracts with communities whose terms are extremely favourable to external commercial interests and to the NGOs involved. In these cases, the communities are seen as hurdles that need to be crossed to gain access to the forest or as potential participants in the projects rather than as legal owners or project executors. Far from empowering communities these deals threaten to marginalize them further.

### Minimal awareness of REDD+ and climate policies at a community level

Several indigenous leaders in Peru have developed a sophisticated understanding of the complexities of REDD+, the state of international negotiations and the nature of the carbon market but this is not shared widely amongst community members. This is recognised by many of the indigenous participants in this research. Almost universally, those NGO or private sector personnel engaged in project development and interviewed for this report stated that almost all the communities they work with have a negligible or limited understanding of the issue and simply understand it as 'receiving money for not cutting down trees'.

### Information provided by project developers is often partial and biased

All project developers interviewed as part of this research were asked whether they had explained the concept of a carbon offset as a right to pollute elsewhere. Most explained that this was too complicated an issue for these communities to understand and that it was necessary at this early stage to explain things in more simple terms. It

was also clear that very few practitioners were presenting any of the potential risks associated with REDD+ such as market uncertainty and restrictions over use of resources and were simply painting a win-win picture.

### Community attitudes to REDD+ range from expectation to suspicion

REDD+ is a cause of great mystery for many indigenous communities. For years outsiders have been attempting to persuade them to cut down their trees and now they want to pay them to keep them standing. The offers and rumours of ‘millions of dollars’ to remote communities has triggered high expectations and uncritical enthusiasm amongst many communities. Others, such as many Asháninka on the river Ene are inherently suspicious of the real intentions behind such schemes that seem to offer ‘money for doing nothing’. As the realities of REDD+ continue to unravel it may be that the inherent scepticism of people such as the Asháninka about ‘why white people would pay them to do nothing’ is well founded.

### Understanding of REDD+ and its complexities is lacking amongst project developers

Lack of awareness about REDD+ is not only a problem for indigenous peoples. REDD+ is a new, complex and constantly evolving subject and many government officials and NGO representatives are also unaware of all of its nuances. This results in the selective and often contradictory nature of information presented to indigenous peoples in the forest and in workshops. Some examples are given in box below.

In the workshop with IP delegates from Ucayali an official from MINAM explained the rationale behind REDD+ as a climate change mitigation initiative: “all carbon is the same as other carbon – REDD+ is about fighting climate change”. Privately the official admitted that this wasn’t exactly accurate and could lead to confusion but that distinguishing between forest and fossil fuel carbon was too complex an issue at this early stage.

In a workshop with IP delegates in Madre de Dios the representative of the government protected areas agency (SERNANP) was asked whether the planned oil and gas exploitation of the Amarakaeri communal reserve was consistent with a REDD+ project planned for the same area: He responded: “There is no problem with a REDD+ project being developed in a protected area opened up for oil exploitation, oil companies don’t cut down many trees!”

Conversations with many NGO practitioners revealed that many had not questioned the central problem of forest carbon offsets but seemed to accept it uncritically. On the other hand some of the private sector investors seemed more aware of its problems but saw it as a pragmatic solution that would allow themselves and communities to make money from forest conservation. This issue has been highlighted by other studies<sup>1</sup>.

I See ‘Inclusión social en el proceso REDD+ en el Perú’, Die, GIZ, 2011 and ‘La situación de REDD+ en el Perú’, DAR, 2011.

### Community consultation occurring only after project has started

Another disturbing finding shows that consultations are not planned as prior processes but for later on in the project cycle. All REDD+ projects in Peru are being developed with the objective of generating carbon credits on the voluntary offset market with little or no consultation with communities thereby assuming that communities agree to sell forest carbon offsets from the outset. Developers freely admit that consultation is something that happens during this process rather than prior to it which they argue is because they do not want to provide information about carbon markets because this may raise undue expectations. **Such attitudes are unacceptable; the risk that fully informed consultations will lead to unrealistic expectations is no justification for not carrying out consultations but is part of the process of respecting indigenous peoples’ right to self determination.**

While many of the project developers seem well intentioned and are attempting to provide some information to communities the underlying assumption is that they know best, that communities would not understand these complex issues and a strong misguided belief that market based offsets are the only solution to the problems of deforestation. All the organisations promoting these schemes are naturally in favour of offsetting but this undermines their ability to provide independent information especially as they are investing time and money in developing the PDDs. In this sense, the ‘consultations’ that are happening are often simply about reaching an agreement to conduct technical studies of carbon stocks with a view to developing offset credits. This is

problematic because communities are entirely unaware of the nature of such markets and are being pressured into signing up to carbon offsetting projects without a full understanding of the commercial, climatic, ethical or social implications of these deals. In part this is because they are not being informed and also because the information simply doesn't exist.

### **Projects fail to recognise key principles of FPIC and lack effective FPIC procedures**

The lack of information is understandable given the complexity of the issues at stake but is made even more problematic by the fact that many project operators are already engaged in some form of consultation with affected communities and have signed various levels of agreement. Some have even attempted to sign contracts for the sale of carbon credits such as the case of Carbon Capital and the Asháninka Communal Reserve. In the case of the Tambopata Reserve REDD+ Project, AIDER state they have one formal agreement with one community (Infierno)<sup>60</sup> but this agreement turns out to be about a separate REDD+ project<sup>61</sup>. The PDD also refers to documents signed by other communities confirming their presence in meetings but such documents cannot be admissible as evidence of consent nor even of meaningful participation<sup>62</sup>.

Given the uncertainty related to REDD+ some project implementers expressed concern that community understanding of the issues was a slower and more complex issue than the technical aspects which meant that baselines and technical studies were being developed at a pace beyond the understanding of communities. A former director of the DIE- REDD+ project in Manu National Park funded by the Global Environment Facility (GEF) explained that he had resigned because he felt that the process was being rushed which was undermining the capacity of communities to make informed decisions<sup>63</sup>. Of the project implementers that were interviewed only SE Peru seemed to be adopting a more prudent 'wait and see policy' and specifically mentioned the importance of securing free, prior and informed consent (FPIC). This is an admirable intention but its credentials are difficult to evaluate as the concept of FPIC is not fully elaborated by project developers. Furthermore this project has failed to consult adequately with IPOs leading to FENAMAD demands for suspension of the project. It is further undermined by the reality; FENAMAD has demanded the suspension of the project because of SE Peru's failure to consult with indigenous organisations and for creating divisions between themselves and their communities. As the Matsés case study shows, the contract drafted by SCRL with the Matsés also referred to the importance of securing FPIC but its concept was simply a validation of an existing contract unilaterally drawn up by the investor rather than an iterative process where consent is sought at different points in the project cycle.

The question that all those who talk about FPIC in the context of REDD+ fail to mention is that given the uncertainty surrounding REDD+ it is unclear how FPIC could even be fully given at a stage when the nature of REDD+ remains unknown.

### **Subnational projects fail to recognise international obligations to respect indigenous peoples' rights.**

In those projects analysed few referred to indigenous peoples' rights that have been recognised in international instruments such as the UNDRIP or the jurisprudence of the Inter American Court of Human Rights. Where they are mentioned they are seen as something to aspire to rather than binding obligations.

### **Subnational projects fail to recognise indigenous peoples' customary land rights**

When considering the property rights at stake, all projects only recognised indigenous land rights in cases where titles had been already granted by the Peruvian government. None of the projects studied as part of this review acknowledged indigenous peoples' customary rights to ancestral territories which the Peruvian state is obliged to recognise by international law (they are currently in violation of these obligations)<sup>64</sup>. This inconsistency becomes problematic in cases such as the Tambopata REDD+ project. In this case the PDD states that property rights are not in question as it is operating in a protected area that is property of the state. Although it does acknowledge the

60 Reducción de la deforestación y degradación en la Reserva Nacional Tambopata y en el Parque Nacional Bahuaja-Sonene del ámbito de la región Madre de Dios – Perú, bajo los estándares de la Alianza para el clima, Comunidad y Biodiversidad – CCBA. Documento de Diseño del Proyecto (PDD) bajo los estándares de la Alianza para el Clima, Comunidad y Biodiversidad (CCBA) Agosto 2010, AIDER:119.

61 The agreement actually refers to a separate and specific REDD+ project being conducted by AIDER with the same community and is only signed by the community President Ibid:189

62 Ibid:118

63 DEI-MANU (Programa de Deforestación Evitada Integral). A project led by Peruvian NGO DRIS (Desarrollo Rural Sustentable) see [http://drisperu.org/tematicas\\_ambientales.html](http://drisperu.org/tematicas_ambientales.html)

64 Approximately 20 million hectares of indigenous lands have been pending recognition for many years and the Peruvian government classifies forest and sub soil resources as patrimony of the state.



ancestral occupation and possession of this area by the Ese Eja people it does not recognise the collective property rights that such traditional possession confers.

### Subnational projects do not require community validation of baseline data

Almost all the projects investigated devoted most of their resources to the measurement of carbon stocks and the development of baseline models which included present day resource use by local communities. In none of the cases where a PDD has been prepared (and is available) were indigenous peoples involved in the validation of these baselines. *If their resource use is not accurately reflected then this is likely to lead to potential restrictions on their resource use in the future.* The map published in the PDD that supposedly documents Ese Eja resource use fails to do justice to the extensive nature of their occupation and use of the area. This use has been documented by the Ese Eja themselves as part of their own territorial mapping and resource use study. This study shows that the entire margins of the Tambopata, Heath and Sonene rivers are dotted with the material remains of this occupation, including abandoned fallows, feral bananas, domesticated clones of bamboo used for arrow heads, etc. See map on page that shows part of Ese Eja territory on the Sonene for some examples<sup>65</sup>.

### Serious shortcomings in validation process of voluntary certification standards

Given the fact that the previous government of Peru left a State that is currently not meeting its international obligations to respect customary land rights and FPIC it is unclear how the voluntary carbon certification schemes such as the CCBA (that purport to recognise such rights) can still adhere to their own standards. Only one project to date in Peru (Maderacre) has currently been awarded CCBA certification, the remainder are still at different stages of the process. Maderacre has been awarded a Gold Standard by the CCBA after being validated in 2010. To date it has sold 40,000 credits to Nature Floor Holdings Ltd, the largest manufacturer of timber floors in China. It is alarming that the key human rights issue presented by this project; operation in an area inhabited by isolated peoples does not merit a single mention in the entire validation report. Several key problems immediately emerge when reading the validation document and are highlighted in the box below<sup>66</sup>.

- **Lack of transparency:** Additional information required by the project is not made available to the public but only to the validator: These include project costs and assumptions of carbon values, documentation of community consultations and approvals and baseline studies of community resource use.
- **Lack of consultation** with any civil society or potentially critical observers which would provide validators with a more rounded opinion. In the specific case of Maderacre no consultation was made with FENAMAD, the regional indigenous peoples' organization, regarding the issue of isolated peoples who inhabit and transit one of the logging concessions. There has also been no verification that this occupation would constitute a conflicting claim over the concession.
- **Lack of rights based focus:** The omission of any mention of how the lives and rights of isolated peoples inhabiting the concession will be affected by project activities reflects the emphasis on validating technical and environmental issues over and above those of human rights.

### Subnational projects based on technical inconsistencies and arbitrary reference scenarios

Monitoring, reporting and verification (MRV) of emissions is, as expected, the main focus of almost all subnational projects. At a regional level, MRV is highly advanced in Peru especially in Madre de Dios where there is unprecedented (and extremely impressive) cooperation between NGOs, investors, the regional government and Carbon project developers. While many of the individuals are highly motivated and skilled many contradictions and flaws in the data are all too evident. These include considerable differences between measurements of carbon stocks of up to 50 tonnes/hectare with the employment of different methodologies<sup>67</sup>, multiple and diverging

<sup>65</sup> See map 2 on page 13 that shows part of Ese Eja territory on the Sonene. There are ample written historical sources, corroborated by the oral testimonies of the Ese Eja themselves, which show that prior to the colonization of the area beginning, (in the case of the Tambopata river, in the late 19th century), the Ese Eja controlled a large portion of the Tambopata drainage basin- up to a height of about 1,000m above sea level (or the río Colorado) down to the mouth, extending along the mouth of the Tambopata on both sides of the Madre de Dios river down to the confluence with the Heath river, and including the entire drainage basin of the Heath river. Full details can be found in Alexiades, M.N. Historia y territorialidad del pueblo Ese Eja. Manuscrito en preparación.

<sup>66</sup> Final CCBA project validation report, Madre de Dios Amazon REDD+ project Puerto Maldonado, Peru. SCS, December 2009.

<sup>67</sup> Asner et al reports carbon density in Madre de Dios using LiDAR as 33% less than using IPCC tier 1 estimates because of the huge local variation in carbon densities. 'High-resolution forest carbon stocks and emissions in the Amazon', PNAS, 107:38, 2010. 2010.

reference scenarios for the same region, highly questionable additionality for several projects and overlaps between projects generating the potential risk of selling the same credit twice all because of the lack of control over projects. See Annex B for a more in depth analysis.

This situation reveals the inherent (rather than technical) problems of avoided deforestation projects. By their very nature, the subjective aspect of such projects involve a great deal of scope for distortions of data at every stage of the process. The risk is that politically or commercially charged reference scenarios, questionable additionality and dubious data are likely to lead to the production of 'hot air' and the sale of non existent carbon credits. Ultimately, those who will lose out in such scenarios are those who live in the countries and ecosystems most vulnerable to climate change such as Peru and its Amazonian indigenous peoples.



# Part 5

## Indigenous alternatives to REDD+: A rights based approach

In the light of the problems associated with deforestation and destruction of tropical forests, indigenous peoples in Peru are not simply debating these issues, but have already responded with their own solutions. Throughout Peru, indigenous peoples have organised themselves into community based organisations. Many of these organisations are working actively to police their boundaries, monitor and report environmental destruction and contamination and to promote low intensity community forest management practices that generate revenue but are compatible with forest conservation.

Given the huge implications of national REDD+ policies and sub national REDD+ projects, indigenous peoples' organisations in Peru led by AIDESEP are not only highlighting their concerns but are also putting forward constructive and alternative proposals. They have identified a set of principles that are necessary if REDD+ is to respect indigenous peoples' rights and ways of life, empower indigenous peoples who have traditionally protected the forest rather than rewarding polluters and act as an effective tool for climate change mitigation. Key human rights principles include the requirement for reform to recognise land and territorial rights and align national legislation with international obligations on indigenous peoples' fundamental rights **prior** to REDD+ implementation. To assure ecological integrity they demand that REDD+ must not be financed by carbon offset mechanisms or include a narrow focus on carbon which could result in the inclusion of plantations. The result is an approach described as 'Indigenous REDD+' that includes a set of criteria for the development of national REDD+ strategies and for project level activities. These alternatives to REDD+ have evolved within a context specific to Peru, but many of its key principles could be much more broadly applicable.

The concept is currently in the process of undergoing further development but its main principles were launched at the FCPF PC8 meeting in Dalat in March 2011 and include the following:



**On rights and territories:** Prior to REDD+ implementation the government must<sup>68</sup>:

- ▶ *recognise* and demarcate outstanding indigenous land and territory applications in order to meet international obligations and avoid potential social conflicts.
- ▶ *align* national laws with obligations to respect international laws on the fundamental rights of indigenous peoples including the right to collective ancestral territories and to Free, Prior and Informed Consent.

**On climate integrity and social justice:** REDD+ policies must:

- ▶ *value* forests in a holistic fashion that includes its water, climate, biodiversity, soil and spiritual value and not simply focus on carbon.
- ▶ *ensure* full respect of our traditional practices including our systems of rotational farming and other customary subsistence activities.
- ▶ *exclude* biofuel production and other plantations from its programs.
- ▶ *exclude* finance from carbon offset mechanisms. Mitigating climate change requires the effective reduction of greenhouse gases from industrialised countries rather than the false solution of carbon offsetting.
- ▶ *involve* simplified measurements of forest coverage and the services it provides that are accessible to communities rather than measuring tonnes of carbon whose techniques are complex and controversial.
- ▶ *promote* a socially inclusive system in which communities are prioritised and not discriminated against in favour of loggers, plantations, protected areas and private landowners.
- ▶ *prioritise* low intensity management of forest resources
- ▶ *strengthen* indigenous territorial management and not lead to the control of forests by third parties or financiers.

**Indigenous autonomy:** National and International REDD+ programs must:

- ▶ *establish* decision making spaces for indigenous peoples rather than reducing them to the role of observers or mere beneficiaries. The participation of indigenous peoples must not be reduced to the dedicated funding mechanisms for indigenous peoples established by international funds.
- ▶ *respect* the autonomy of indigenous organisations and should be coordinated with their associated representative organisations (local, regional and national).
- ▶ *provide* information that is independent and critical and where capacity building of indigenous peoples is involved it must address the controversial aspects of REDD+
- ▶ *disseminate* and learn lessons from the conflicts caused by REDD+ in Ecuador, Papua New Guinea, Panamá and Indonesia that have included land invasions, broken contracts and internal community divisions.

### **Regulating REDD+ projects**

- ▶ No carbon contracts must be signed with communities until their fundamental rights are guaranteed and measures are in place at a national level to ensure that these rights are safeguarded.
- ▶ REDD+ projects must prioritize the direct relationship with the community in coordination with its representative organisations (local, regional and national) and reduce the role of intermediaries in their implementation.
- ▶ Potential REDD+ contracts must include clauses that specify the pre-eminence of UNDRIP to avoid any potential conflicts of interpretation.
- ▶ REDD+ contracts developed with communities must be shorter and renewable annually by communities.
- ▶ Potential REDD+ projects must ensure equality and not inequality in potential benefits and be transparent in the disclosure of the costs of REDD+ and any income received.

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68 Translations for many of these points can be found below but if there is a difference in translation then please follow the English version.





# Part 6

## Recommendations

This report has found that existing REDD+ programs in Peru not only pose a direct threat for indigenous peoples but risk undermining efforts to mitigate climate change. If REDD+ is to be effective at mitigating climate change, avoid social conflict and provide co-benefits including poverty reduction and conservation of biodiversity then existing REDD+ policies and practices must be re-examined. The following set of recommendations are directed at the Peruvian government, project developers currently operating in Peru, voluntary certification standards and international donors and agencies who are supporting REDD+.

### **Recommendations to the Peruvian Government**

It is critical that the required reforms outlined below must be carried out prior to the implementation of REDD+ programs. Some, but not all, of these measures are now referred to in the newest version of the Peru R-PP. However, it remains to be seen if and how they will be implemented and whether REDD+ will be in full swing before these measures even begin to be introduced. This report recommends that at a minimum, the Peruvian government must do the following:

- ▶ uphold their public commitments made in PC8 to modify the R-PP and ensure these commitments are implemented including the commitments to recognize and secure indigenous peoples territorial rights.
- ▶ identify, recognize and demarcate the millions of hectares of outstanding indigenous land applications in line with Peru's international obligations to respect customary land. This could begin with official recognition of community developed territorial maps and maps of land use and traditional occupation as well as other community based research and documentation techniques ('interactive maps' etc).
- ▶ Priority actions to secure indigenous territories and lands could be fast-tracked through the establishment of a special indigenous peoples task force to be controlled and manned by indigenous peoples freely chosen representatives and experts; as well as the provision of public funds for demarcation and titling. This would address the current situation in which indigenous organisations must pay for the travel expenses of government personel and sophisticated technical procedures.

- ▶ align existing legislation on indigenous land tenure, resource rights and fundamental indigenous rights such as FPIC and the rights to collective territories with Peru's international obligations.
- ▶ ensure that the readiness phase is completed before implementation of REDD+ programs and projects and in this way control the exploding threat of carbon piracy.
- ▶ ensure the meaningful participation of indigenous REDD+ committees in the national oversight body and implement their recommendations.
- ▶ support sustainable community forest management including provision of technical and financial support and necessary legal reforms that empower communities to manage their forest resources.
- ▶ exclude plantations, bio fuels or other agricultural activities from REDD+ strategies.
- ▶ target the underlying drivers of deforestation caused by large scale infrastructure projects, hydroelectric dams and industrial logging rather than discriminating against smallholders and indigenous peoples.
- ▶ recognize the contribution to forest conservation and biodiversity of traditional and customary use of forests by indigenous peoples.
- ▶ ensure that REDD+ in Peru is not financed by offset mechanisms that constitute a pollution right and will only exacerbate climate change rather than lead to its mitigation.
- ▶ advocacy efforts at the UN regarding the accelerated environmental destruction of Peru's Andean and Amazon ecosystems that is converting it into one of the countries most vulnerable to climate change. This vulnerability gives Peru a legitimate voice to demand the effective net reduction of GHG and the patterns of consumption and production at a global level.
- ▶ prioritise direct support for communities through direct schemes financed outside of carbon or offsetting markets.
- ▶ establish a moratorium on the signing of contracts between carbon developers and communities until the fundamental rights of indigenous peoples to customary lands, resources and FPIC and the ecological integrity of such schemes can be guaranteed by national REDD+ regulations.
- ▶ establish an official open-access registry of REDD+ projects that provides information about all aspects of existing and proposed initiatives.

### **Recommendations for projects and voluntary certification standards**

The best way of avoiding many of the complex issues related to Free, Prior and Informed Consent and the risks of 'carbon piracy' is to ensure that the right to self-determination of indigenous peoples is fully respected through recognising their rights to territories and resources. However, if REDD+ is to become an opportunity rather than a threat for indigenous peoples then priority must be given to support schemes with communities in which they receive direct payments for forest and ecosystem protection which are not funded by carbon or any other offset market.

Where indigenous peoples' right to FPIC has been respected and communities are choosing to negotiate with REDD+ project developers, the following recommendations should be followed to avoid the lessons learnt from existing failures. These recommendations should be applied by both project developers and taken into account by voluntary certification standards when designing their procedures.

### **Joint ventures between developers and communities must:**

- ▶ privilege direct relationships between communities and funding mechanisms rather than reliance on intermediaries. If intermediaries are involved they should be acting to provide technical advice and not as direct beneficiaries. If they are acting as direct beneficiaries their stakes should be minor, justifiable and phased out over time.
- ▶ treat communities as co-executors rather than as 'obstacles' and ensure parity in terms of financial management and administration.
- ▶ employ local recourse mechanisms within the countries concerned and at a minimum be held in the national language. Costs for these must be borne equally by both parties and a fund should be

automatically set aside for such mechanisms as a percentage of any income received.

- ▶ establish clear terms of reference in negotiation with communities in order to regulate project administration including defining permissible project expenses and to ensure oversight of such costs by the peoples concerned.
- ▶ ensure that all information is available on an open access registry and exclude confidentiality clauses from contracts.
- ▶ include defined termination points and be limited to short term periods considering the uncertainties and risks inherent in the process.
- ▶ renew terms of agreement annually or biannually in order to prevent locking communities into long-term contracts that are unjust and inequitable
- ▶ ensure the intellectual property rights of indigenous peoples is retained over information generated from community owned resources.
- ▶ be governed by the laws of the country concerned and written in the national language as a minimum.
- ▶ refer to the rights of indigenous peoples as endorsed in the UNDRIP and 'all other applicable international obligations' as binding obligations.
- ▶ reaffirm the binding nature of obligations to respect indigenous traditional knowledge, customary use of resources and rights to ancestral territory and make explicit that none of these rights can be compromised by the project.
- ▶ respect the right of indigenous peoples to give or withhold their Free, Prior and Informed Consent for potential REDD+ projects and understand that FPIC is a culturally appropriate and iterative processes in which consent is given or withheld at key stages of the process and whose terms of reference and procedures must be predetermined by the community concerned. This means that project developers must ensure they are fully informed by sources independent of the developers about the agreement including any commercial terms, reliability and security of markets, the credentials of the company concerned, and the interests and policies that underlie the agreement.
- ▶ Ensure that any contract signed between communities and project developers must be witnessed by an independent ombudsman who can testify that the community has received independent legal and technical advice.

### **Voluntary certification standards must:**

- ▶ adhere to their own standards particularly with respect to the recognition of indigenous customary land and the obligations to comply with international laws.
- ▶ conduct a gap analysis to review the difference between national legislation on indigenous peoples' rights and international obligations and ensure they are meeting the higher of these standards.
- ▶ require FPIC processes consistent with best practices (see above)
- ▶ require community validation of the baseline studies of their land and resource use as part of any validation process by third parties.  
require that the opinions of those critical to the project must be sought out actively during the validation process with special attention paid to the opinions of indigenous organisations.
- ▶ require that communities are provided with appropriate funding to seek their own independent legal and technical advice to evaluate the project before signing any contract or agreement.
- ▶ if credits are being offered communities must be made aware of who is purchasing any credits and for what purpose.

### **Recommendations to Donors and international agencies**

Measures to protect forests and reduce emissions require targeted funding rather than billions of dollars. International donors and agencies should:

- ▶ target forest and climate finance to address the underlying drivers of deforestation such as the control of illegal logging and promotion of reforms necessary for effective forest governance.
- ▶ encourage the incorporation of the principles established above with national REDD+ plans to be mainstreamed into all sectors of government including those principally responsible for promoting deforestation.
- ▶ target funding to secure the land rights of indigenous peoples and promote low intensity community forest management. These are cost effective and proven approaches to protecting forest that will not only reduce emissions from deforestation but will lead to poverty reduction and biodiversity conservation.
- ▶ support efforts of governments who commit to recognise the contribution of indigenous peoples and their rights and monitor the implementation of these commitments to ensure they are upheld.
- ▶ support indigenous peoples' organisations in their efforts to monitor the development of REDD+ plans, provide assistance and capacity building for their communities and for the development of their own alternatives.



# Annexes

## Annex A

Summary of community land applications by region (valid to November 2011)				
REGIONS	N° CC.NN. PENDING RECOGNITION	N° CC.NN. PENDING TITLING	N° CC.NN. PENDING EXTENSIONS	TOTAL
AMAZONAS	5	2	18	25
AYACUCHO	0	1	1	2
CUSCO	0	4	8	12
HUANUCO	1	6	6	13
JUNIN	9	15	27	51
LORETO	46	384	58	488
MADRE DE DIOS	5	5	17	27
PASCO	4	25	16	45
SAN MARTIN	13	34	4	51
UCAYALI	19	49	23	91
<b>TOTAL:</b>	<b>102</b>	<b>525</b>	<b>178</b>	<b>805</b>

Communal Reserves		
Region	Legally recognised	Pending
JUNIN	Asháninka: 184,468.38 Ha Machiguenga: 218,905.63 Ha	
PASCO	Yanesha: 38,331.34 Ha	
LORETO		Tigre Corrientes: 764,240.28 Ha Napo Curaray: 1'551,062.38 Ha Chambira: 877,940.28 Ha Airo Pai: 142,832.76 Ha Huimeki: 143,307.32 Ha
MADRE DE DIOS	Amarakaeri: 403,814.28 Ha	
UCAYALI	EL Sira: 616,413.41 Ha Purus: 202,033.21 Ha	Tamaya Caco: 132,085.45 Ha Yurua: 127,891.64 Ha Inuya-Tahuanía: 369,205.64 Ha
<b>TOTAL:</b>	<b>1'663,966.25 Ha</b>	<b>4'108,565.75 Ha</b>

Territorial reserves for isolated indigenous peoples		
Region	Legally recognised	Pending
CUZCO/ UCAYALI	Nahua – Kugapakori 456,672.73 Ha	
HUANUCO/UCAYALI/ LORETO		Cacataibo (Huánuco-Ucayali): 145,533.32 Ha Cacataibo (Huánuco-Loreto): 270,915.69 Ha
LORETO		Tapiche-Blanco-Yaquerana: 1'185,648.74 Ha Yavari Mirim: 1'378,426.06 Ha Napo Tigre: 757,417.76 Ha Sierra del Divisor Occidental: 504,543.30 Ha
MADRE DE DIOS	Madre de Dios: 829,941.0 Ha	
UCAYALI	Mashco Piro: 812,384.59 Ha Murunahua: 481,560.00 Ha Ishconahua: 275,665.00 Ha	
<b>TOTAL:</b>	<b>2'856,223.32 Ha</b>	<b>4'242,484.87 Ha</b>

## Annex B

### Dodgy data: Carbon counting in Madre de Dios

#### Carbon stocks

Two studies of carbon stocks in the region have been carried out using two different methodologies (one using laser – LiDAR- and the other with satellite images). The LiDAR methodology resulted in approximately 50 tonnes of carbon/hectare or a third less than IPCC default values that are used in current CCBA projects. The LiDAR study pointed to the huge variation in carbon stocks within forest types and the enormous differences that result from using default values of tree heights for biomass estimations<sup>i</sup>. Each project is also using different methodologies to measure carbon stocks. In some cases the same organisation uses different methodologies in different projects. For example in the case of the Tambopata REDD+ project led by AIDER, carbon in soil biomass is included along with any vegetation above 5cm in diameter<sup>ii</sup>. In the Maderacre/Maderija Project for which AIDER also conducted the technical studies, soil biomass was not included while all vegetation above 10 cm in diameter was measured<sup>iii</sup>.

#### Multiple deforestation scenarios

Further contradictions exist in the projected deforestation rates being designed. At least four separate scenarios exist in Madre de Dios, each one using different factors and variable statistics for each of these factors. The arbitrary nature of these models is summed up by the fact that while some project implementers urge for more conservative models in order to avoid the risk of discrediting the certification systems, others advocate using the most aggressive (dramatic) scenario as possible in order to ensure adequate funds for preventing deforestation. The progress being made on these technical issues in Madre de Dios was also seen as playing a potentially critical role in demonstrating best practice at an international level.

This problem was highlighted by a recent report by Forest Trends that points out that “even the best modeling exercises will produce varying outcomes, especially as project-level entities have strong incentives to maximize predictions of baseline emissions.”<sup>iv</sup> Nevertheless, all actors in Madre de Dios agreed that whichever scenario was chosen it needed to be accepted by all project implementers and be endorsed by the Regional Government. This reveals the inherent problem of all regional baseline models; ultimately all reference scenarios are political rather than technical decisions. The danger is that political endorsement will be used to disguise the inherent problems of generating a predictable scenario in an unpredictable world, an irony noted by the same Forest Trends report... “adopting regional baselines may also prove contentious and politically charged. Government endorsement of spatially explicit regional baseline models is based on the presumption that they accurately reflect the location and timing of future deforestation”<sup>v</sup>.

#### Questionable additionality

Both the Tambopata and Maderacre REDD+ projects claim to be providing additionality, the need to prove that without the actions that are undertaken then deforestation would not be avoided, a fundamental requirement of REDD+ projects hoping to earn carbon credits. The Maderacre project asserts that the high costs of implementing FSC certification acquired in 2007 justifies their claim to additionality. This is due to increased surveillance activities because of the construction of the interoceanic road that they claim would massively increase migration to the area and the consolidation of reduced impact logging (RIL) activities that would lead to sustainable forest management.

This argument has two main problems. First it appears that their economic calculations seem to be based on local prices for timber while their FSC certification permit them access to international markets<sup>vi</sup>. Second, FSC certification also means that they should be implementing these activities anyway, with or without the REDD+ project. To evade this they employ a technicality; they claim that their REDD+ project began in 2005 and therefore predates FSC certification. This fact is recognised by the validators: “However, since the project start date is prior to FSC certification, the requirements of FSC sustainable management are not applicable”<sup>vii</sup>. Such claims raise serious questions about the processes of validation and certification. In the current system, anyone who wished to create additionality could simply claim that they ‘conceived of their carbon project’ before they acquired FSC certification.

In the case of the Tambopata Project, project implementers who are responsible for the protection of the park describe the principal threats as deriving from illegal activities such as logging or informal mining. Again there are serious contradictions in the PDD. On the one hand it is claimed that they are not obliged to control emissions and thus that the reductions would not occur without this REDD+ initiative<sup>VIII</sup>. In reality, most of the threats that include illegal logging and uncontrolled mining are already illegal or are otherwise created by other state entities; there are 27 legal mining concessions within the Tambopata Reserve many of whom do not implement their obligatory environmental assessments and mitigation strategies while the Tambopata Reserve is overlapped by Petroleum Lot 111<sup>IX</sup>. While the PDD acknowledges that many of these threats are directly promoted by other state entities it also claims that they are not obliged to control these threats and that the project would not take place without this REDD+ initiative. Later, the PDD does admit that the State is supposed to be doing this work anyway but argues that they simply do not have enough funding, thereby converting what is a question of effective governance and public policy into a question of financial limitations<sup>X</sup>.

### Potential for double counting

Given the explosion of sub-national initiatives in Peru and the absence of a national framework there is huge potential for overlap of projects and the double counting of carbon credits. None of the projects reviewed address this as a potential risk. In Madre de Dios, the community of Infierno is part of the Tambopata REDD+ Project as well as being a REDD+ project in its own right. Similarly, the leakage area for the Maderacre project includes the project site for the Bélgica project. It also appears that many of AIDER's REDD+ projects in Ucayali are working with the same communities. With so many activities operating in the same area it will be even harder to distinguish the specific contribution of each project and thereby exacerbates the risk of selling the same credit twice.

I Asner et al, 'High-resolution forest carbon stocks and emissions in the Amazon', PNAS, 107:38, 2010. 2010.

II Reducción de la deforestación y degradación en la Reserva Nacional Tambopata y en el Parque Nacional Bahuaja-Sonene del ámbito de la región Madre de Dios – Perú, bajo los estándares de la Alianza para el clima, Comunidad y Biodiversidad – CCBA. Documento de Diseño del Proyecto (PDD) bajo los estándares de la Alianza para el Clima, Comunidad y Biodiversidad (CCBA) Agosto 2010, AIDER:15

III Project Design Document Madre de Dios Amazon REDD+ Project, Greenox 2009: 194

IV Nested Approaches to REDD+ An Overview of Issues and Options, Forest Trends: 21

V Ibid:22 'As high-stakes financial and commodity markets consistently demonstrate, the accuracy of predictions made by models of complex systems is frequently doubtful...Even if validated by technical experts, the use of regional baseline maps is likely to be challenged if these serve as the simple basis for allocating credits, allowing some landowners to claim benefits for emission reductions while excluding others.'

VI Project Design Document Madre de Dios Amazon REDD+ Project, Greenox 2009: 38

VII (ref)

VIII Ibid:63

IX Ibid:32

X Ibid:65-6

## ***REDD+ Peru : Threat or opportunity?***

**Alberto Pizango Chota, President of the Interethnic association for the development of the Peruvian Amazon (AIDSESP)**

We live here in the Peruvian Amazon where there is a new boom, a new fever just like for rubber and oil but this time for carbon and REDD. The companies, NGOs and brokers are breeding, desperate for that magic thing, the signature of the village chief on the piece of paper about carbon credits, something that the community doesn't understand well but in doing so the middle-man hopes to earn huge profits on the back of our forests and our ways of life but providing few benefits for communities.

At the same time the Amazon is being destroyed by climate change itself, an onslaught caused by the transnational companies and global consumption and resource extraction. This is made worse by local deforestation caused by loggers, colonists, dams, mines, oil companies and agri-businesses. Can REDD control this industrial destruction or will it only control the activities of communities and small farmers? The world does need to reduce deforestation but not in this way, without confusing nature with the accumulation of wealth, without mixing water and oil, without putting life itself onto the stock-market and without ignoring the real causes of deforestation. For thousands of years indigenous peoples have looked after a living planet and in only one hundred years industrialisation has caused it to overheat, all in the name of this confusing thing they call 'development'.



### **Forest Peoples Programme (FPP)**

1c Fossey Business Centre, Stratford Road, Moreton in Marsh, GL56 9NQ, UK  
info@forestpeoples.org  
www.forestpeoples.org



### **Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESP)**

Av. San Eugenio N° 981- Urb.  
Santa Catalina, La Victoria,  
Lima, Perú  
Telf. : (511) 471-7118 / (511) 265-5011 / Telefax: 0051-1-472-4605 aidesep@aidesep.net.pe  
http://www.aidesep.org.pe/



### **Central Asháninka del río Ene (CARE)**

Albergue Asháninka, Municipalidad Distrital del Río Tambo  
Prolongación Jirón Francisco Irazola,  
Satipo, Perú  
ashaninkarioene@yahoo.es  
TEL/FAX: +51 (064) 545670  
http://ashanincare.org/



### **Federación Nativa del Río Madre de Dios y afluentes (FENAMAD)**

Av. 26 de Diciembre 276  
Puerto Maldonado  
Perú  
fenamad@fenamad.org.pe  
+51 82572499+51082572539  
http://www.fenamad.org.pe/  
http://fenamad-indigenas.blogspot.com/