



Monday 29 June – Workshop on Conservation Banking and Aggregated Biodiversity Offsets

Morning Session: Opening and Context Setting Presentations

Chair: Michael Jenkins, Forest Trends

Presenters: Kerry ten Kate, Nathaniel Carroll, Michael Crowe, George Kelly.

Michael Jenkins, President of Forest Trends, welcomed all participants and discussed the vision of BBOP, in which biodiversity offsets are applied worldwide to achieve no net loss and preferably a net gain of biodiversity relative to development impacts. He noted that today's session would focus on one of the themes central to the next phase of BBOP's work: aggregated offsets and conservation banking. He introduced the four speakers giving presentations (see the presentations here: http://bbop.forest-trends.org/ln_meetings.php) on this topic and that a panel would discuss how conservation banking and aggregated offsets might be applied in their countries.

Kerry ten Kate, BBOP Director, gave a presentation introducing biodiversity offsets, the BBOP Principles, and aggregated offsets and conservation banks as potential ways to implement offsets. Aggregated offsets were defined as “a co-ordinated set of activities undertaken in one or more locations to compensate for the combined, cumulative impacts of more than one development project in a specific geographic area” and a conservation bank was defined as “a privately or publicly owned land managed for its natural resource values. In exchange for permanently protecting the land, the bank owner is allowed to sell habitat credits to parties who need to satisfy legal requirements for compensating environmental impacts of development projects.” (California Department of Fish and Game, in Carroll *et al.*, 2009).

Kerry introduced the objectives for Monday's session to discuss:

- Could conservation banking and/or aggregated offsets work outside the USA, Australia, Germany?
- What are the elements of best practice in conservation banking?
- What are the necessary preconditions for conservation banking and/or aggregated offsets to be viable?
- What is needed to help countries and potential bankers determine what would work for them?

Nathaniel Carroll, Director of the Ecosystem Marketplace, gave an overview of the basic features of banking and aggregated offsets, their possible benefits (including their ecological, legal, institutional, economic aspects); risks (failure, climate change, ecological performance/enforcement, equity, transaction costs, additionality, and macro-level strategic planning); necessary conditions (demand, spatial concentration, supply, property rights, information & services and monitoring & enforcement); and an overview of the US market and its participants.

Michael Crowe, Department of Sustainability and Environment, Victoria Australia, presented experiences from Victoria, including their native vegetation offsets regulations and 'BushBroker', a market-based program to facilitate trading of third party offset credits. The Native Vegetation Management Framework

policy in 2002 set the basic framework and standards for offsetting, but developers had trouble finding offsets. Bush Broker acts a 'dating service' matching landowners' native vegetation to developers' offsets needs. Credits are created via a permanent agreement with the landowner, who negotiates a price with a project developer. Landowners receive payments over a ten year timeframe. A Native Vegetation Credit Register records ownership of credits and enables quality assurance and enforcement of standards. BushBroker was announced in 2006 and the first trade was in May 2007. 90 trades have taken place to date. Some credit banks have established in areas where there is sufficient market demand.

George Kelly, Environmental Banc & Exchange, LLC, presented a US private sector banking perspective on wetland and conservation banking. Wetland mitigation banking involves the restoration, enhancement or preservation of an environmental asset; the conversion of resources into marketable credits based on a credit ratio; and the sale of credits to offset impacts to similar resources within a service area. Details were given on the required approval process for a Mitigation Banking Instrument ("MBI"), a legal instrument which takes from 1-3 years to obtain, and defines: credits, credit ratios, the credit release schedule, performance standards, service area, monitoring and maintenance requirements, financial assurances, force majeure, easement placement, and endowment obligations. The limitations of credit sales were discussed as well as the different type of mitigation metrics (Acreage/Linear Feet; Best Professional Judgment; Functional Equivalency; or a combination of professional judgment with acreage scaled to some value of functionality). The conservation banking process was also outlined: in terms of its regulatory drivers; No "no net loss" requirement; three primary forms of mitigation (conservation banking; habitat conservation plans; and ad hoc mitigation); and mitigation metrics – habitat or sustainable population of species. Factors such as clear and uniform standards; uniform mitigation metrics; transfer of liability; and rigorous certification processes were noted as keys to facilitating these markets.

Panel discussion on conservation banking and/or aggregated offsets experiences outside the US and Australia

This session brought together panelists from Ghana, South Africa, Peru, Brazil, and Germany to share their reflections on the current status and potential for aggregated offsets and conservation banking in their respective countries.

Nana Kofi Adunsiyah, with the Ghana Forestry Service, noted Ghana's offset experience with Newmont Mining and a public sector dam project although both are still in the early stages. Ghana sees great potential for biodiversity offsets in the oil & gas and mining sector, as well as oil palm and rubber plantations in the Southwest of Ghana and feels that offsets can be embedded within the existing EIA permitting process. Strategic land use planning, conservation priorities, strong NGO support, human resource capacity, and business interest were cited as important factors to enable biodiversity offsets to succeed in Ghana.

Jeff Manuel, from the South African National Biodiversity Institute (SANBI), explained that offsets in South Africa have been largely implemented on an *ad hoc* basis in single projects, mostly in the context of mining projects and coastal development. In response, the Western Cape and KwaZulu-Natal provinces started to draft offset guidelines, but a lack of political buy-in, questions of legal interpretation and resource constraints have hindered their implementation. There is no experience in aggregated offsets or conservation banking, although SANBI's grasslands programme is looking at a wetland mitigation banking model. South Africa has very good biodiversity information and regional planning in place. They are investigating a trust fund model in the south of the country to manage property in perpetuity, and hope to build that into a national level approach. The current need is for more pilot projects and national guidance, so SANBI is working to develop a national offsets framework.

Carlos Loret de Mola, former head of the Peruvian Environmental Management Authority, shared his country's offset experiences, also on behalf of his colleague Walter Huamani from the Peruvian Ministry of the Environment, Peru who accompanied him. Peru's biological and geological diversity make its

biodiversity incredibly important yet fragile. Instruments such as biodiversity offsets will be crucial to managing conservation and development simultaneously. Carlos described potential challenges inherent in initiating an offset system in Peru, such as establishing the most appropriate balance between a regulatory and voluntary framework and building the political will to introduce offset requirements. Inconsistent property rights and practice concerning project licensing may also be barriers to offset discussions and implementation. Carlos stressed communicating and negotiating with local stakeholders as key to success of any project. Peru would be interested in more involvement with BBOP during Phase II with appropriate attention paid to local stakeholders, voluntary vs regulatory frameworks, and property rights.

Daniela Lerda and Denise Daleva Costa, representatives from the Brazilian Biodiversity Fund and the Brazilian state of Goiás, presented two basic frameworks for offsets in Brazil: 1) a forest set aside mechanism under the Forest Code and 2) infrastructure development offsets under the SNUC Act. The forest set aside requires forest land owners to preserve 20% - 80% of their forested land depending on the state. This is highly contested by industry. The forest set aside target can be achieved through mechanisms similar to aggregated offsets and banking, in which landowners can achieve set aside compliance by purchasing surplus set asides from others, rather than undertaking them themselves. Infrastructure development offsets have been the subject of a recent Brazilian Supreme Court ruling, since Brazilian industry contested the basis for compensation, which was related to the capital investment of the project, rather than the severity of its impacts. The Supreme Court agreed that compensation should be related to the severity of the impact, but a recent regulation has now capped the compensation at 0.5% of the capital investment. These funds are directed towards national protected area system. Given the relative autonomy of Brazilian states and the consequent patchwork of laws, industry is looking for clarity and simpler guidance. FUNBIO would like to do a sector by sector analysis of the gaps in the current regulations, and determine what needs to be applied at the national and state levels. Denise introduced a project in the State of Goiás which plans to build a market based platform for multi-credit trading in both voluntary and regulatory systems. They are building a stock exchange to negotiate forestry, biodiversity, and carbon credits for industry buyers and landowner vendors.

Marianne Darbi, from the Leibniz Institute in Dresden Germany, offered a perspective on German biodiversity offset experiences. In Germany, offsets are part of an impact regulation introduced in the Federal Nature Conservation Act. For all projects there is a hierarchy to avoid, minimize, and compensate environmental impacts for an overall goal of no net loss. The biggest trend in the German biodiversity offset market is compensation pools and mitigation banks. While the laws are strong, barriers to implementing offsets in Germany include: a lack of available land for offsets, failure to integrate compensation measures into planning, time lags between impacts and offsets, and the need for common quality standards.

Afternoon Session: Aggregated Offsets Study Presentation

Chair: Ray Victorine, Wildlife Conservation Society

Presenter: Jo Treweek, BBOP Consultant

This presentation and the discussion that followed aimed to explore how might BBOP work with government, multiple developers in given regions, and other stakeholders to combine offsets and plan them at the ecoregional and landscape scales, including, where appropriate, the use of conservation banks and the trading of biodiversity credits at national or local levels.

Jo Treweek presented the results of a scoping study on aggregated offsets. Responses from over fifteen interviews provided the foundation for the report. The study suggested that aggregated offsets are often a solution for ecoregions threatened by multiple development projects and highly constrained landscapes. Brief case studies in India and Queensland, Australia were presented. An overview of key benefits and risks was presented, both from the biodiversity and business perspective. The general consensus from

the evaluation was that in an appropriate context, aggregated offsets are an effective conservation tool and that the approach is particularly suitable when:

- Individually insignificant projects can collaboratively produce a significant impact
- Developers combine resources and knowledge to accomplish what they could not individually
- Multiple developers in one region are subject to the same performance standards
- Multi-stakeholder coalitions inform and support offsets
- Legislative frameworks include reliable biodiversity plans

A goal of the study was to help determine if it was necessary to develop a method for aggregated offsets within BBOP. During the group discussion, participants suggested that the following factors should influence a developer's decision to explore aggregated offsets:

- Level of government interest/ awareness
- Number of developers from a single sector operating in a single region
- Ability of legal and conservation frameworks to accommodate aggregated offsets
- Presence of a champion for the pilot
- Reputable organizations able to offer competent advice on biodiversity

In the discussion those present agreed that it was difficult to approach aggregated offsets with such a low level of understanding among policy makers. **Stuart Anstee** commented that in order to bring in business, aggregated offsets and banking should be an opportunity proposition rather than a risk management proposition. It was suggested that there is a commercial benefit to being a leader in aggregated offsets by setting up banks to draw from over time, capitalizing on the finite land resources, and getting an edge in the certification process. A discussion of aggregated offset pilot projects followed and participants identified the following industries as the most viable: tourism, mining, agribusiness, and oil and gas. **Arthur Eijs** observed that BBOP could potentially fill two very separate roles 1) advising governments on aggregated offsets, and 2) developing credible standards and criteria for delivering aggregated offsets. **Michael Jenkins** suggested we consider aggregated offsets through four lenses: 1) ecological – their capacity deliver improved conservation results 2) business – how aggregated offsets could contribute to business goals; 3) policy - can policy makers use aggregation as a conservation and development planning tool; and 4) community – do aggregated offsets give community stakeholders more leverage (the Amazon basin example).

Several participants commented that additional standards or principles for aggregated offsets (and conservation banking) are not necessary at this point, provided aggregated offsets and conservation banks follow the BBOP principles and any biodiversity offset standards that are developed in the future. Although aggregated offsets were seen as an opportunity to scale up the volume of offsets and better link offsets to landscape level planning, there was clear consensus that aggregated offsets are not appropriate in all cases nor is BBOP advocating for such. Business members stressed that we're still learning from the individual pilot site experiences and it would be unrealistic to think that businesses would coordinate offset efforts without clear business incentives or policy drivers. A counter point was made that in some cases governments are already requiring companies to buy into aggregated offsets, and companies are already aware of the need to coordinate their offsets due to a lack of suitable offset locations in a region, so BBOP would be missing an opportunity if we did not try to provide advice on best practices. It was suggested that if BBOP works on aggregated offsets in the next phase, the work should demonstrate their potential benefits and identify possible risks, and promote enabling policy frameworks with the input of our business partners. This may best be approached by an exploratory analysis of opportunities in key countries or regions (where there is a clear biological rationale and business motivation) as well as contributing to on the ground learning experiences if the right opportunity presents itself.

Tuesday 30 June – BBOP Phase 2 Governance

Afternoon: BBOP Governance

Session 1. Introduction and Interim Steering Group Proposed Governance Model for Phase 2

Chair: Kerry ten Kate, Forest Trends

Presenter: Mark Pizey, Solid Energy New Zealand

Session 2. Discussion and Finalization of Proposed Governance Model

Chair: Ray Victurine, WCS

The purpose of Tuesday's sessions was to review and discuss the BBOP Interim Steering Group's proposed governance model, and if approved, finalize nominations for the Executive Committee (ExComm). **Mark Pizey** presented a summary of the governance model previously circulated to Advisory Committee members.

The proposed model would be in effect until the end of BBOP phase 2, December 2011. Forest Trends would retain the financial and legal responsibility for the program. Key proposed changes to BBOP Phase 1 governance are:

- An Executive Committee elected by the Advisory Group serves as BBOP's primary decision-making body.
- The Secretariat, under the direction of the Executive Committee, coordinates and executes the work programme of BBOP.
- The Advisory Group contributes advice on the direction of the programme, and input on the development of BBOP products, including serving on technical working groups, as appropriate.
- BBOP, through its technical working groups or work undertaken or commissioned by the Secretariat, will undertake research to support Phase 2 goals.
- A memorandum of understanding between BBOP pilot project proponents and BBOP (through the Secretariat) will ensure there is sufficient technical assistance for the pilot projects, based on an agreed workplan.
- Offsets guidance will be driven by lessons learned from BBOP pilot projects and from other biodiversity offset research and experiences, research, and peer-review to ensure the feasibility, rigour, and credibility of proposed approaches.
- BBOP will play a strong convening role in Phase 2, recognizing the need to harness technical inputs from outside BBOP to draw on non-BBOP pilot experiences, academic research, lessons from related mitigation and offset policy guidance, relevant standards and certification approaches, etc.

The ExComm representatives would serve for 15 months each (half of the remaining time in phase 2). The ExComm would convene by teleconference every 6 weeks, with two meetings a year face to face. If consensus was not reached on a decision, a two thirds majority vote would be required to approve a measure.

In addition to the elements included in the proposed governance paper, Mark highlighted several additional ideas that the Advisory Group subsequently considered including adding two additional ExComm members: one to represent either the scientific community or those 'service providers' such as environmental consultants, conservation banks and registries; the other to increase the representation on the ExComm of government. The Advisory Group had a lengthy discussion on the implications of the additional scientific position on the ExComm as well as how that position would relate to the proposed chair of the Science Working Group. The phase 1 Advisory Committee members present voted and decided to keep the ExComm at seven members, but may revisit this decision later in Phase 2. The Advisory Committee also decided that there was not a need to reserve one of the civil society positions on the ExComm for a development organization or an indigenous peoples' representative.

A modified funding model was presented in which BBOP would aim to raise one third of its core funding from Advisory Group member contributions. In addition to providing needed funding, the Interim Steering Group felt that this was a means of showing commitment to BBOP. All business members (with a biodiversity footprint) would make an annual contribution of US\$2,500 to US\$25,000, depending on the number of employees. Smaller contributions were suggested for sole proprietor consultancies and NGOs. This was discussed, and the group decided to return to specific contribution levels as well as where financial institutions fit into this model on Wednesday. It was agreed that it would be important to define clearly what benefits Advisory Group members receive for such contributions.

Several other issues were discussed including:

- Approval of new pilot projects. A working group would be established to develop ideas for the ExComm regarding criteria and vetting of new pilot projects.
- To ensure efficient and adequate communications to the Advisory Group members from the ExComm, it was decided that the Secretariat would send the Advisory Group a one page summary of ExComm meetings, and post the minutes of those meetings on the BBOP website.
- Advisory Group membership will be for the Phase 2 period, then can be reconsidered.
- Advisory Group members serve as representatives of their respective institutions (except in the case of individual consultants. If an individual leaves that institution, membership rights remain with the institution, not the individual.

To conclude the day, nominations for the five ExComm constituent groups (civil society, government, business, financial institutions and the BBOP Secretariat) were finalized, and the voting process was opened.

Wednesday 1 July – BBOP Phase 2 Work Priorities

Morning Session 1: Verification and Auditing (Assurance)

Chair: Arthur Eijs

Presenter: Louise Johnson, Wave Action (BBOP Consultant)

Arthur Eijs led the opening sessions of Wednesday's meeting, which as he explained would focus on reviewing and discussing the BBOP Phase 2 work priorities laid out in the "BBOP7 Discussion Document" circulated to all participants.

Louise Johnson began the day with a presentation of the background paper she had prepared on verification and auditing. Her presentation offered: a background on why this study was undertaken; the purposes of verification and auditing; definitions; different approaches; potential benefits; how verification and auditing is used in conjunction with internationally agreed standards or internal standards; some key themes emerging from the study; and options on how to proceed with this (from an informal, internal self-assessment up to working with an external standards body that develops formal auditing protocols for us).

In the discussion that followed, the business partners felt the group was getting too far ahead of itself discussing verification and auditing protocols at this stage, and that more pilot learning and standards needed to emerge before establishing auditing protocols. There was general consensus that at this time BBOP should develop an internal 'assurance' process that gathers experiences from pilots and provides constructive feedback back to the pilots, enabling them to improve performance. At the same time, there was agreement that BBOP cannot abdicate its role of building on the established Principles, and in Phase 2 should develop criteria and indicators that eventually lead to verifiable and auditable standards, or others would do this in our place. The Assurances Working Group was tasked with developing a work plan for consideration by the ExComm on how this stream will move forward with the near term pilot level assurance work as well as the long term goal of standards. The work plan should also identify risks (such as other groups developing standards without BBOP), opportunities (such as linkages to the carbon market), and key enablers that would help us achieve our goals.

Session 2. Demonstrating how Biodiversity Offsets can Work: Development of Experiences
Chair: Theo Stevens, Department of Conservation, Government of New Zealand

The second session of the morning aimed to examine what kind of pilot projects BBOP should seek in Phase 2, how we should recruit them, and how we can learn from experiences outside BBOP. Participants suggested specific pilot projects (Rio Tinto's Bunda Diamond mine in India, Malua Biobank in Malaysia), as well as sectors (marine renewable energy, agriculture, tourism and forestry) that should be a priority in phase 2. Mongolia was noted as an interesting candidate country for several reasons including recent mapping work that overlays protected areas with mining concessions, and significant rail and road projects. Participants suggested criteria that could serve as a course filter to help select new pilots. Criteria included: motivated business partners; significance and scope of biodiversity impact; timeframe to get going; broader strategic implications such as end of value chain manufacturers; and greater sector, ecosystem and geographic diversity. A working group was tasked with developing these criteria and reporting back to the ExComm. The Secretariat said that there was capacity to support a program with perhaps 8-10 pilots (total) and more '2nd tier' projects that required less intensive input, if supporting working groups as originally envisaged for Phase 1 can be put in place. The group was encouraged to keep working towards 'proof of concept', keep the end goal of the program in mind when selecting pilots and reminded that each new pilot exposes us to risk. There was a call to develop a system to gather and compile information from other non-BBOP offsetting efforts in order to better inform our work.

Afternoon Sessions 1 and 2:
Improving BBOP Guidelines on How to Design and Implement Biodiversity Offsets
National Level Strategies
Chair: Ray Victorine, WCS

Following lunch, the Advisory Group identified the topics and tasks for the Working Groups that were to convene on Thursday morning. The working group topics were defined as:

- Science
- Policy / aggregated offsets / banking
- Assurance / standards/ existing pilots
- New pilot criteria / strategy
- Communications / marketing / capacity building

It was broadly agreed that the task of each working group is to gather initial ideas for a work plan around these topics (preferably ranking top priorities) and feed that to the ExComm. The ExComm, which will decide the strategic direction of the program, will pull together the various elements of the working group input and form a coherent work plan, ensuring linkages between the various elements and working groups, and eliminating redundancies. The Thursday morning groups are a starting point, but longer term groups will carry on this work after BBOP7. Advisory Group members signed up to join the Thursday morning sessions, and/or the longer term Working Groups.

Ray Victorine then led a discussion to identify and brainstorm on potential national level interventions or country partnerships in BBOP Phase 2. Discussion began with a review of the opportunities in Brazil to advance environmental markets and conservation incentives. The strategic benefits of country-level interventions in Uganda, Australia, and Mongolia were also presented and considered. A description of Peru's promise and suitability for a national BBOP partnership followed, including mention of upcoming mining conventions and workshops to showcase current pilots. In addition, participants were informed of Indonesia's current push to draft a compensatory mitigation regulation, South Africa's initiative to create a biodiversity offset framework, and Japan's desire for offset education. Participants reminded the BBOP Secretariat not to overlook the interest and capacity of European partners. It was suggested that emerging national policy opportunities and trends should be captured and shared with businesses.

Overall, the consensus was that country partnerships will likely be unique and case by case. Participants agreed that while more detail and thought was necessary, national interventions are a powerful way to scale up BBOP Phase 2 pilot projects and influence offset policy on a larger level.

Afternoon Session 3. Aggregated Offsets and Banking

Chair: Juan Jose Dada, International Finance Corporation

The next session focused on how aggregated offsets and conservation banking should fit into BBOP's Phase 2 work plan. Conclusions from the previous meeting were:

- The need for one offset standard for individual offsets, aggregated offsets and conservation banks, based on BBOP principles
- BBOP to consider publishing a set of best practices for aggregation
- Landscape level conservation planning should be included with aggregated offsets; possibly as a precondition
- An awareness of the finite availability of offsets
- Demand for a business argument in respect to aggregation and banking
- Agreement to look for one or two pilot projects that could sensibly be implemented through aggregation or banking

Juan Jose Dada summarized that aggregation is not always the most beneficial option for biodiversity conservation or business, but that it is an area to research and position BBOP for future decisions and activity. Participants agreed that aligning aggregated offsets with Strategic Environmental Assessments on the global policy level would be a valuable approach. The need to incorporate ecosystem management tools to offset implementation was noted, and the group also returned to the discussion on standards without conclusion. Another issue presented was the option of achieving aggregated offsets through market mechanisms rather than setting up legal frameworks first. Participants agreed that BBOP scientists should look into thresholds and like-for-like challenges in implementing aggregated offsets. To conclude the session, those present agreed that BBOP would scope the necessary enabling conditions for success with an aggregated approach, keeping in mind science and standards.

Afternoon Session 4

Training and Capacity Building

Chair: Bruce McKenney, The Nature Conservancy

Bruce McKenney led the final work priority session on training and capacity building needs and communications. Kerry ten Kate described the current bottleneck that exists with a shortage of consultants able to apply the interim guidance in the handbooks. The Interim Steering Group identified several training options, such as training of trainer workshops and web-based programs, but the Advisory Group's input is needed. Daniel Skambracks suggested to also develop a training module for the banking sector. Given the time and effort needed to build a training program it was suggested that BBOP look to partner with organizations already aiming to train people in this area, perhaps IAIA. It was also recommended to look at the significant amount of training material in the wetland and conservation banking world. Communications were discussed briefly, including the need to define rules for communicating between the various BBOP governance structures, and whether the communications needs could be managed by the Secretariat and associated Working Group, or whether an outside professional should be sought.

The final session of the day revisited the discussion from Tuesday regarding the development of a more sustainable financing model for BBOP and associated recommended levels of financial contributions from Advisory Group members (in relation to number of staff). Equity issues were identified with the recommended levels for several groups, including service providers and financial institutions vis-à-vis business partners with a biodiversity footprint. Other issues discussed included how grants and in-kind contributions would be accounted for within this model, whether the member categories were

comprehensive, and whether we needed to re-think how to include governments and intergovernmental organizations. It was agreed that the ExComm would discuss this further.

At the close of the meeting, the results of the ExComm elections were announced. The following representatives will serve as the ExComm for the next 15 months:

- Civil Society: Preston Hardison, Tulalip Tribes and Daniela Lerda, FUNBIO (Brazilian Biodiversity Fund)
- Government: Theo Stephens, Department of Conservation, New Zealand
- Business: Stuart Anstee, Rio Tinto and Sachin Kapila, Shell
- Financial Institutions: Juan Jose Dada, International Finance Corporation
- Secretariat: Michael Jenkins and Kerry ten Kate, Forest Trends (One vote for the Secretariat to be cast by Michael as Forest Trends' President or Kerry as Programme Director.)

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