



Submission by the Global Forest Coalition on the establishment of one or more market-based mechanisms to enhance the cost-effectiveness of, and to promote, mitigation actions

18 February 2011

In October 2008, the Global Forest Coalition published an elaborate report on the impacts of market-based conservation mechanisms on Indigenous Peoples, local communities and women. The full report can be downloaded from <http://www.globalforestcoalition.org/wp-content/uploads/2010/11/LIFE-AS-COMMERCE2008.pdf>

The report is based on 5 in-depth case studies on different market-based mechanisms in Colombia, Costa Rica, Paraguay, South Africa and India. Based on the findings of these case studies, it concludes that market mechanisms exacerbate existing inequalities; undermine alternative regulatory systems; favor those with clear land tenure; and are exceedingly difficult to participate in or benefit from for those without the necessary investment capital, expertise, education or personal contacts. Those with more power and influence, in government and industry, are the ones reaping the rewards, most especially in countries where corruption is rife. Communities and Indigenous Peoples, and the women within those communities, are losing from the overall dynamic, and that holds even for those communities that are willing or would like to participate.

The conclusions of the report are attached. We would very much appreciate it if these conclusions could be taken into account in this discussion.

**Summary of the main findings of the case studies elaborated in the report
“Life as Commerce, the Impact of Market-based Conservation on Indigenous
Peoples, Local Communities and Women”.**

Global Forest Coalition, Amsterdam, the Netherlands, October 2008.

The case studies in this publication indicate that market mechanisms can and do have a wide range of negative impacts on local communities and Indigenous Peoples, particularly on women, and even for those communities or Indigenous Peoples willing or coerced into participating in them.

All the case studies support the conclusion that market mechanisms exacerbate existing inequalities; undermine alternative regulatory systems; favor those with clear land tenure; and are exceedingly difficult to participate in or benefit from for those without the necessary investment capital, expertise, education or personal contacts. Those with more power and influence, in government and industry, are the ones reaping the rewards, most especially in countries where corruption is rife. Communities and Indigenous Peoples, and the women within those communities, are losing from the overall dynamic, and that holds even for those communities that are willing or would like to participate.

Those who own land and resources are most likely to benefit

It is often argued that market-based mechanisms, such as carbon trade, will benefit the poor since many of the most valuable ecosystems of the planet are inhabited by Indigenous Peoples and other local communities with few economic resources. However, an often insuperable legal obstacle for many of the world’s poorest people is that they do not have the legal deeds or land titles to the lands they occupy. Yet the use of market mechanisms requires clear ownership – knowing who has the right to sell.

The legal ‘ownership’ and tenure of land is a hugely controversial issue, contested over decades by Indigenous Peoples. In spite of the recently agreed United Nations Declaration on the Rights of Indigenous Peoples, which confirms that *“Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired”* (Article 26), very few Indigenous Peoples have been able to reclaim legal tenure over their ancestral territories. Although some market-based conservation systems do officially recognize the rights of Indigenous Peoples, including their land rights, and thus their right to sell the ‘environmental services’ of that land, this only applies to officially recognized territories.

Market mechanisms lead to the privatization of vast tracts of land

The increasingly widespread use of market mechanisms related to land ownership is worsening disputes over land, to the detriment of Indigenous Peoples.

In Paraguay, for example, conservation organizations that support the use of market mechanisms to conserve biodiversity have started to privatize part of the ancestral territories of the 17 first peoples of Paraguay. These lands are now declared private reserves under Paraguay’s Act 352, which stipulates that private protected areas may not be expropriated or confiscated, thus denying any Indigenous claims to the land.

In addition, private conservation areas are being established on the last remnants of natural areas, in the Mby’a Peoples territories in the East of Paraguay, for example, where there is biodiversity of tremendous cultural value for these peoples. Several nature

reserves have been established in their ancestral territories without informing the communities, let alone obtaining their free, prior, informed consent.

The relationship between communities such as the Mby'a People and the conservationists is further complicated by the role of the State and multilateral aid agencies. With respect to the Mby'a, for example, these institutions are all aggressively promoting the establishment of a protected area that restricts their ancestral rights.

Market mechanisms can lead to the illegal appropriation of resources

In Costa Rica, a country renowned for its involvement in bio-prospecting, the rights of ownership over genetic resources in their ancestral territories and the associated traditional knowledge of Indigenous Peoples and local communities regarding those native species seems to go entirely unrewarded, even though the final marketable 'products' are entirely dependent upon it. The literature reviewed for the Costa Rican case study found no evidence of any specific benefits to local communities, traditional fishing villages or Indigenous Peoples, and limited economic benefits in general.

Whether or not these communities or Peoples would ever have decided to produce and sell commercial products based on their traditional knowledge themselves is a moot point. However, once that knowledge has been appropriated, they no longer have such a choice.

Market mechanisms are throwing land reform programs into reverse

Market mechanisms that involve access to and the benefits that can be derived from land, forests or natural resources are driving up the price of land (in conjunction with the spiralling price of commodities). The case studies in this publication reveal that this is throwing critical land reform programs – the result of decades of campaigning by Indigenous Peoples, in some cases – into reverse.

This is very clear in Paraguay, for example, where lawsuits being brought by Indigenous communities and small farmers are rarely settled in favor of the original inhabitants, even though the National Constitution of Paraguay formally recognizes the right of Indigenous Peoples to their ancestral territories. The Mby'a Guaraní communities' land claim processes, intended to recover their territories, are frustrated by the fact that the current owners of the private reserves now anticipate increased income from the land under Paraguay's PES scheme.

Speculators are buying up land to profit from biodiversity-related market mechanisms

Foreign speculators have started to buy up biodiversity and carbon rich land, in the hope that it will generate profits in the future, through its ability to provide environmental and carbon sequestration services that can be sold, including in the carbon offset market.

This is an option that is only open to those with capital to invest, such as financial institutions and large conservation organizations. Indigenous Peoples and local communities are simply not in a position to initiate this sort of investment.

London-based Canopy Capital, for example, recently launched a project in the Iwokrama reserve in Guyana, with the intention of developing a "number of investment products in an

attempt to monetarise the services of the 371,000 ha forest, such as rainfall protection, water resource preservation and conservation of native biodiversity.”¹

Similarly, Sydney-based New Forests Pty Ltd plans to generate income by selling ‘forest conservation outcomes’ from the Malua Forest Reserve in Borneo, to palm oil developers, energy firms and others. They anticipate yields on their investment in the region of 15-25%.²

But even those communities with legal land tenure may not benefit

Some local communities and Indigenous Peoples do have established land tenure, to some if not all of their ancestral lands. This is the case in Paraguay, Colombia and South Africa, for example. But these communities find it hard to participate and benefit on an equal footing, even if they want to; they can actually find themselves worse off for participating.

In South Africa, for instance, certified logging companies are obliged to consult and engage local communities, in part because post-apartheid land tenure arrangements mean that this is the only way they can gain access to more land. The fact that most of the rural land in South Africa is held under non-private forms of tenure means that individuals cannot sell the land as they wish (assuming they would want to do so). Singisi Forest Products, officially a collaborative enterprise involving business, government and local communities, does pay lip service to engagement with communities and even provides some funding in return for their engagement. But that funding is miniscule when divided up between the communities; and fails to compensate for the timber plantations’ serious economic, social and environmental impacts. The community also points out that there have been unexpected constraints on the use of community funds (with timber-related projects being favored over local food production, for example).

South Africa also has a highly politicized and publicized program to indigenize the economy, through the government’s so-called Black Economic Empowerment (BEE) (itself a form of market mechanism). Yet this is also failing to benefit communities and local people. Parent company Hans Merensky Holdings (HMH) celebrates its links with workers, a rural women’s organisation and the Eastern Cape Development Corporation. However, what is rather surprising about these celebrated deals and partnerships is that the community in the South African case study knew nothing about this share-holding on their behalf, nor of any benefits that might have occurred because of it.

As a result of all this, there is animosity and a lack of trust between the company and the community, based on a deep suspicion that the companies’ ‘Community Development Programmes’ are little more than an attempt to manage community relations, with a view to ensuring access to the communities’ land and cheap labor.

Similarly, in Colombia, the PROCUENCA project does not buy land itself, but persuades landowners to allow their land to be used. Still, PROCUENCA is founded on an unequal relationship because local participants lack political and economic power and are thus unable to incorporate negative externalities into the price of the goods and services they

¹ *Forests: a carbon trader’s gold mine?* 7 May 2008, Climate News for Business, www.climatechange.org/content.asp?ContentID=5305

² *Can wildlife conservation banking generate investment returns?* Rhett A. Butler, mongabay.com, November 27, 2007, http://news.mongabay.com/2007/1127-palm_oil.html

are selling. This in turn erodes their sovereignty and local self-determination, as the negative externalities are borne by local communities and the environment.

This inequality is exacerbated by a lack of accurate and comprehensive information that might enable communities to participate meaningfully in decision-making. Very few participants understood how the project income, generated by the sale of Certified Emissions Reductions (CERs) on carbon markets, would be distributed; and many had no information about the subject. They either did not understand the issue or failed to discuss it. Some local leaders even expressed ignorance about the existence of CERs. Moreover, although individuals can participate in PROCUENCA and manage their plantations in an autonomous way, it is indisputable that this is conditional upon the constraints imposed by selling CERs on the carbon market. This drives the process, prices and approvals to the point that it creates a high degree of uncertainty, as has been voiced by the FAO (which manages the financial administration of the project). Thus participants cannot tell if the income generated will be enough to cover the loans they have taken out with the project in order to participate in it.

Furthermore, the PROCUENCA project gained access to land and began planting trees *before* it provided training to communities concerning the project's scope, functions, implications and requirements, and on technical aspects such as plantation maintenance. Overall, the role of local landowners in the management of the project is quite uncertain, even though they are the owners of both the land and the CERs.

Indigenous Peoples who want to participate in market mechanisms, and believe they may benefit from them, can find it almost impossible to do so. The bureaucratic know-how required to sell an environmental service is a significant hurdle for people who do not possess legal skills and who might not be able to properly read and write the official language of the country. The relationship between rural poverty and education is linear and most Indigenous Peoples speak a native, non-official, language putting them at a severe disadvantage in this respect. Another concern is that the vast majority of these Peoples of the forests are not familiar with the marketing skills required to sell 'environmental services' such as CO₂ sequestration, especially in complex and often turbulent markets.

These disadvantages mean that communities will almost inevitably be reliant on some external broker or consultant if they wish to participate; and that broker may well be a large conservation NGO. The intentions of these groups may often be laudable, but it would be dangerous to turn these private, often foreign organizations into formal tools for the implementation of national public policies as important as those relating to equitable forest conservation. Aside from simply not having the scope and capacity to help every local community and Indigenous People in any given country in an equitable fashion, these organizations seldom have Indigenous rights or national social development as their primary mission.

The above-mentioned linguistic and technical difficulties are even more marked for women, who constitute the overwhelming majority – 70% - of the world's poor. As they dedicate a substantial amount of their labor to activities that are not financially compensated, like childcare and household activities, and as they are still discriminated against in labor markets all over the world, they tend to have much lower formal incomes than men: women's estimated earned income in comparison to men is 57% in

industrialized countries, 40% in Latin America and South Asia and just 30% in the Middle East and North Africa.³

Women also own far less land than men, partly because they are excluded from inheritance in many traditional legal systems. Even in a country like Brazil, where they are not formally discriminated against in a religious or cultural sense, they still own only 11% of private land.⁴ In some traditional cultures in other parts of the world, married women cannot own their own land or property at all. Because of this, they have less money and fewer capital assets and are thus disadvantaged in market economies.

Yet market-based mechanisms or projects do little to address this gender discrepancy. The design and implementation of the PROCUENCA project in Colombia, for example, is entirely lacking in a gender aspect that might ensure the full and effective participation of women, a recognition of their role in social transformation and acknowledgment of their contribution to the improvement of living conditions at the family, community and regional levels. The project lacks indicators to identify any tangible benefits that women might derive from it.

According to legal experts, Paraguay's PES law is inequitable because it requires that environmental impact assessments be conducted right at the outset. The prohibitive cost of such assessments immediately excludes many small and medium property owners, who are thereby denied any of the benefits that the PES scheme might otherwise bring them.

In Paraguay, the Nivaclé People of the Mistolar community explored the possibility of increasing their income by selling 'environmental services', within the framework of the PES Act. In 2007, they were fortunate to receive support from the Yvy Pora Foundation (a Paraguayan foundation which provides assistance to NGOs in the field of financial administration) to do the necessary viability studies for decision-making, which they would not have been able to afford on a purely commercial basis. But after two years of hard work calculating and documenting the environmental 'services' their land use activities would deliver, they eventually concluded that there were structural problems in the current PES law that made it virtually impossible for the community to receive compensation from it. The practicalities of conforming to PES requirements – which include presenting proposals and projects; determining the baseline; compliance with the norms on environmental impact assessments and calculating the value of socio-economic convenience of the PES mechanisms for the community - are still far too costly for communities.

Indigenous Peoples have also identified the following related challenges: geographic isolation, discrimination and social marginalization, expropriation of their ancestral territories and lack of land and natural resources.

The large tracts of land that individual landowners hold also have a considerable competitive advantage over collective territory controlled by (sometimes loosely defined) communities, since decision-making is, by definition, a much simpler and swifter process for individual owners.

³ *State of the World's Children 2007, Women and Children, the Double Dividend of Gender Equality*, UNICEF, 2006, <http://www.unicef.org/sowc07/>

⁴ UNICEF, *ibid.*

In India, for instance, community-owned ecotourism initiatives are experiencing similar difficulties in that they are still playing a marginal role compared to schemes developed by large, often global, tour operators. The communities view ecotourism as a way of supplementing their livelihoods. Yet even so it is extremely hard for them to hold their own in this fiercely competitive market. There has also been little governmental support for community-owned initiatives. Quite the opposite in fact: the authorities have tended to promote other versions of tourism as ecotourism, even if they have no semblance of conservation.

The case study in Costa Rica also demonstrates that the private appropriation of traditional knowledge or plants via intellectual property mechanisms is extremely complex, making any sort of informed community engagement very difficult. A further significant issue is the fact that resource 'ownership' is a concept alien to Indigenous cultures and this has also created confusion: how can - and indeed why should - something that has been part of a People's culture, which they have always shared amongst themselves and with others, be appropriated by outsiders?

In the villages of the Ngobe Bugle peoples in Costa Rica, biodiversity is an essential element in everyday life. From it, villagers get medicines, food, materials to develop their crafts, their legends and much of their history. This active traditional knowledge has been shared freely. Today, however, because of the threat that their knowledge is being appropriated for others outside their village, the very act of sharing is being eroded.

Local communities can find themselves saddled with unexpected liabilities

Participation in market mechanisms can also mean that local communities or Indigenous Peoples can find that they are liable for a project's risks, perhaps unwittingly so. To a great extent this depends on whether they are able to participate in initial negotiations on an equitable and informed basis.

The PES Act in Paraguay, for example, raises tricky questions. What happens to the Indigenous Peoples, small farmers and even small and medium property owners that sign contracts to enter into environmental services schemes, if they fail to deliver as specified in the contracts, or if they have to bear the risk of the project failing for external reasons (forest fires, for example)? The answer to this is unknown at present.

Similarly, the South African case study points out that whilst large timber companies can usually absorb the costs of fires and other large-scale damage to forests, individuals planting trees on private farms or communal land, with a view to selling them to timber companies, are unlikely to be able to absorb these costs, especially as the cost of insurance can be prohibitive. Local communities in South Africa have also found their bee-keeping activities are unpopular with the timber company because of the increased risk of forest fires. As 'business partners' they are encouraged to work with the company to use proper bee-smokers. But, if not, the company says that "*The other alternative is to hunt out all beehives and take them out.*" This unsympathetic attitude to communities also demonstrates how easily companies can sidestep the criteria underpinning a market mechanism such as the FSC (which supposedly indicates a company's commitment to maintaining or enhancing the long-term social and economic well being of forest workers and local communities).

The potential implementation of numerous projects to ensure 'Reduced Emissions from Deforestation in Developing Countries' (REDD), which is being discussed within the UN Framework Convention on Climate Change (UNFCCC) negotiations, could have similar impacts. It has been suggested that considerable sums of money, including for local communities and Indigenous Peoples, could be generated, possibly through the inclusion of REDD in compliance carbon markets.

But here again, whatever the sums of money available in the end, it is likely that project owners will have to shoulder the liability for failed projects. Most payments will either be 'ex-post payments' (paid after the delivery of credits, because of the methodological uncertainties associated with REDD), or will have stringent risk assessments and contractual liability arrangements attached to them. Both scenarios would be particularly onerous for smaller projects, meaning that they have to find start up capital, sell cheap 'temporary' carbon credits or finance expensive insurance policies in case the project fails. Again, there are all difficulties that large companies can deal with much more easily. It has also been suggested that this entire process will marginalize smaller operators into illegality.⁵

The losses experienced by communities may outweigh any losses

Any local communities, Indigenous Peoples and women who opt to participate in market mechanism negotiations or agreements generally start off in a weak negotiating position, because of a lack of linguistic, technical and legal skills and because of an overriding need or desire to improve their financial position. They may also be unaware of the full consequences of any agreements that may be made.

In the South Africa case study, for example, the US\$4-500,000 so far earmarked for community development is to be shared by all the communities in all areas where Singisi Forest Products does business. Based on a conservative estimate, there are 300 communities of the case study community's size, so this works out to approximately US\$1,500 per community. Thus, even if the money were to be well and fully spent, there is little likelihood that it would in any way compensate for the negative impacts that the timber plantations have on employment and economic and social well-being in the communities, or make up for the land they have lost the use of.

Even though they are FSC-certified, HMH and Singisi Forest Products are failing to make their activities socially sustainable; and the formal involvement of communities does not seem to be stemming the tide of negative economic and social consequences being experienced by local people. Rather, their involvement and the constant hope of financial gain prevents them from speaking out about current woes.

Market mechanisms undermine legislation on local self-determination

Critically, because market mechanisms generate significant levels of profit, both for private companies and national governments, existing and nascent legislation intended to promote local self-determination, especially by Indigenous Peoples, is being sidestepped.

⁵ *Can forest carbon finance stop deforestation?: a critical review of proposed REDD mechanisms*, Ronnie Hall for Friends of the Earth International, to be published in 2008, www.foei.org

In India, for example, the Constitution provides protection to the Indigenous People living in 'Scheduled Areas' and gives them the right to self rule, reinforcing their rights to territorial integrity and to decide their own path of development. It forbids the transfer of tribal lands to non-tribals and corporate entities.

It also paved the way for a separate and progressive legal and administrative regime for tribal areas to ensure genuine tribal self-rule, in relation to, for example, the acquisition of land for development projects, the regulation of land use and the construction of buildings. Similarly, *panchayats* have the right to license tourism projects, buildings and activity areas, and to reject a license to the tourism industry if it refuses to cooperate. They are also enabled to monitor tourism businesses in relation to the exploitation of labor and natural resources; and to initiate criminal procedures regarding the exploitation of women and children, including through child labor, by the tourism industry.

However, in practice, local self-government is constrained by the lack of adequate transfer of powers and resources, their inability to generate sufficient resources, and the non-representation of women and weaker sections of the community in elected bodies.

Furthermore, there are several instances across India where ecotourism ventures and activities are promoted without the consent of local self government institutions. Often the *panchayats* only become aware of plans at the implementation stage, when developers seek a token 'No Objection Certificate' to go ahead with construction. At this stage, the *panchayats* feel they cannot refuse, because clearances have already been given by other departments. The tourism industry and higher authorities such as the Tourism and Forest Departments have usurped their functions, bypassed due processes and overruled decisions of local self government institutions.

A further example of unilateral decision making by state governments in India is in the matter of allocating land for ecotourism purposes. Whilst diversion of forest land for ecotourism purposes is done only by the Forest Departments, when they themselves undertake ecotourism development activities, non-forest land such as farm or grazing land is leased out to private developers by the governments either by acquiring it from local authorities or simply by leasing it in their name. This even happens in Scheduled Areas, even though it is not permissible under the Indian Constitution.

Similarly, in Costa Rica, the private Institute for National Biodiversity (INBio) has been bioprospecting in conservation areas. However, according to information given by the executive director of the National Commission for the Management of Biodiversity (CONAGEBIO), a public organ entrusted to deal with requests for access, no authorization has ever been granted to INBio or other organizations or individuals to operate in indigenous territories. Still, some indigenous people have said that at times, people have wandered into their communities in search of plants or asking them about traditional medicines. In other words, there is at least anecdotal evidence to suggest that illegal bioprospecting activities have been undertaken. As NGOs stated many years ago, bioprospecting is like searching for a needle in a hay-stack, yet many Indigenous People know exactly where to find the needle.

Engaging in market mechanisms can alter community governance and create conflict

The decision to engage in an external, monetary mechanism can have significant impacts on communities' internal systems of governance, and can cause conflict both within and between communities.

In Paraguay, for instance, the sale of 'environmental services' could result in grave governance problems for Indigenous Peoples, since it is not always clear if the chief of a community has the mandate to be a legal representative for such contractual arrangements.

Similarly, in Costa Rica, conflicts have flared up in some indigenous villages because some people in the community have chosen to sell medicinal plants or share their knowledge in exchange for financial gain even though this is frowned upon by the rest of the community. It is important to bear in mind that these conflicts are driven by people's need to generate income – and that there are non-indigenous people who are aware of and ready to exploit this situation to acquire the knowledge they seek. These internal decision-making difficulties can be even more pronounced amongst Costa Rican peasants and fishing communities.

Even where there is no conflict, community governance, including over biodiversity, can be impacted. In Colombia, for example, the PROCUENCA project reduces people's autonomy over their own lands, both in terms of which species are planted and how plantations are managed.

The position of women within communities is also likely to be affected, as their interests are more likely to be over-looked in commercial transactions, which are normally closed by men (even if the women previously had the main responsibility for managing the community's forests and biodiversity). Women also have a disadvantageous position in monetary economies in general, as they spend a significant part of their time on activities such as childcare and household management, that are not rewarded in monetary terms. Moreover, they are generally underpaid in the formal labor market, as well as being responsible for providing clean water and other non-monetary goods for the family.

In general, it is worth noting that transforming the current non-monetary economy of the Indigenous communities into a monetary one tends to have profound impacts on cultural and environmental values and traditions.

Market mechanisms have a significant impact on food sovereignty and water security

It is hard to envisage net benefits for communities if market mechanisms are simultaneously destroying their ability to feed themselves and access clean water.

In South Africa, the push to plant more and more timber trees on communal land is a major threat to food sovereignty in the region. The poor soils and low levels of rainfall already pose problems. The extension of timber woodlots of alien tree species into the communities' land means that significant areas of land are being diverted away from food production. These sometimes invasive tree species can also lead to reduced surface water, loss of the biodiversity resources used in traditional medicine and an increased risk

of fire. Meetings with the Youth Forum and some community members also revealed their belief that non-timber community projects are not welcomed by the company.

In the same way, in India, resorts, lodges and hotels have grown up on the peripheries of Protected Areas; and governments acquiring and leasing land to private corporations and entrepreneurs has led to the privatization of common property resources. This has resulted in communities' losing the benefits of forest produce and, in some cases, pastureland.

An increased commercial presence can create additional burdens for local government and rate payers

The appearance of sizeable commercial operations in a neighborhood can also place heavy burdens on local authorities and tax payers.

In the South African case study, for example, meetings with local government officials revealed a deep-seated concern about the demands that the timber company in question places on local ratepayers and local government. Singisi Forest Products is building a giant new US\$176 million timber factory cluster at nearby Kokstad, which will replace the older Singisi Mill. The establishment of the larger mill is problematic, however, because it has implications for the municipality's ability to meet both the needs of the people and the company's service requirements.

Kokstad is a poor, rural municipality with a very low tax base. It also lacks basic infrastructure, making service delivery extremely difficult, both logistically and financially. Kokstad also has a poor water supply; and has already had to spend precious finances upgrading its electricity supply capacity to cater for the mill.

Local officials doubted whether the limited benefits of this planned expansion could possibly outweigh the costs, in terms of water and energy demand, that poor, local ratepayers would have to subsidise.

Local communities in India have had exactly the same experience with ecotourism initiatives, with *panchayats* being forced to go beyond their mandate of providing essential public services to local people, without any extra funds being provided from the state government. Thus, for example, the *panchayats* find themselves obliged to cater to the needs of tourists by dealing with the waste (and especially solid waste) left by tourists; and by extending the basic amenities that exist for local people, such as public toilets.

Economically powerful actors dominating conservation policies and priority-setting

Market mechanisms are generally based on negotiation between various participants and are thus influenced by power structures. As such, they are highly attractive to large, influential private companies, who are in an advantageous negotiating position right from the outset.

Additionally, powerful actors are more likely to attempt to influence (or even ignore) the rules of market-based mechanisms, because of the very significant financial returns that might be generated as a result; and some market mechanisms have even been designed so that companies can now buy their way out of infringements of environmental laws. All offer significant financial rewards, attracting all kinds of investors, ethical or not, private and public. Market mechanisms are also particularly attractive to corrupt governments,

since they are both profitable and complex, meaning that new sources of finance can easily be diverted to corrupt officials and their allies.

In Costa Rica, the private Institute for National Biodiversity (INBio) has enjoyed a very close relationship with successive Costa Rican governments, who have worked (effectively on INBio's behalf) to legitimize bio-prospecting at a global level. This close relationship has undoubtedly been beneficial to both sides: the government began to appoint INBio as the country's representative in international relations and INBio's business deals continue to fuel the image of Costa Rica as a country dedicated to conservation.

However, INBio was not the only beneficiary. A communiqué emanating from the Convention on Biological Diversity (CBD) in 2002 used the relationship between INBio and Diversa, then a US-based industrial biotechnology company (now merged and focusing on biofuels), as an example of access and benefit sharing, saying:

“Under the terms of the agreement, Inbio collects specimens using their own techniques and ones provided by Diversa as well. InBio guarantees that this technology will not be used to collect and process specimens for other companies. The entire DNA sequence that InBio isolates for Diversa will become the property of Diversa. All material isolated from these sites remain under the ownership of Costa Rica. Diversa pay the wages and other extras of at least one InBio staff member. It also pays profits to Inbio in the event that Diversa license a product to a customer from samples obtained from InBio. InBio receives access to technology, equipment and the creation of capacity ...”

The benefits to Diversa are clear. But the benefits accruing to INBio are uncertain, especially in relation to benefits that might or might not be generated if products are developed in the future. In terms of immediate benefits, all that is on offer is a staff member, technology, equipment and capacity, all to be used for the provision of genetic materials to Diversa.

South Africa provides a clear example of how easy it is for companies to sidestep market mechanism rules without penalty. Timber workers are becoming poorer and poorer as work is being sub-contracted out. Even though the FSC's Principle 4 requires that companies ensure that *“Forest management operations shall maintain or enhance the long-term social and economic well being of forest workers and local communities”* timber workers in the case study were unequivocal about the fact that remuneration for their efforts was going *down*, and they were seeking better wages, protection against injury on the shop and plantation floor, a pension and health scheme, security of employment and other labor-related guarantees.

Similarly, in Colombia, the case study recorded bitter complaints from the community about forests that were regenerating being classified as 'stubble' so that they could be logged and replaced with plantations as part of the PROCUENCA project. Because of these concerns, and because of attempts to establish plantations in protected areas as part of the PROCUENCA project, the local government of Villamaría eventually decided not to participate in any more direct reforestation activities involving PROCUENCA (although it does sometimes participate in other project activities).

Finally, Paraguay exemplifies the way in which a corrupt government and oligarchy and its business allies can benefit from a market mechanism. Paraguay's Payment for Environment Services scheme is mainly funded with biodiversity 'offset' payments, which

are financed by businesses whose activities have negative environmental impacts elsewhere in the country. An offset margin of up to 10% of the budget of a project is required if an infrastructure project causes significant environmental impacts. In other words, the Paraguayan PES scheme legalizes a broad range of environmental offences.

The Act also absolves landowners that have broken the forestry law (Forestry Act No 422/73), which stipulates that at least 25% of a landowner's holdings must conserve forest cover. According to the law, landowners can also compensate for this violation by buying biodiversity offset certificates. At the same time, those landowners who *have* complied with the deforestation ban and conserved 25% of their land with forest cover are compensated and could receive payment for what were supposed to be obligatory actions to maintain 'environmental services'.

In countries like Paraguay, corruption has been a widely-recognized problem (although Paraguay itself now has a newly installed government with a reputation for honesty and probity). Nevertheless, in countries where corruption is rife it is likely that politically influential groups will enjoy greater access to funding than politically marginalized groups such as Indigenous Peoples and small farmers. Bad governance and market-based conservation mechanisms are a dangerous combination.

In conclusion, the five case studies demonstrate that market mechanisms can have wide-ranging negative impacts on community governance, even for those communities wishing to participate.