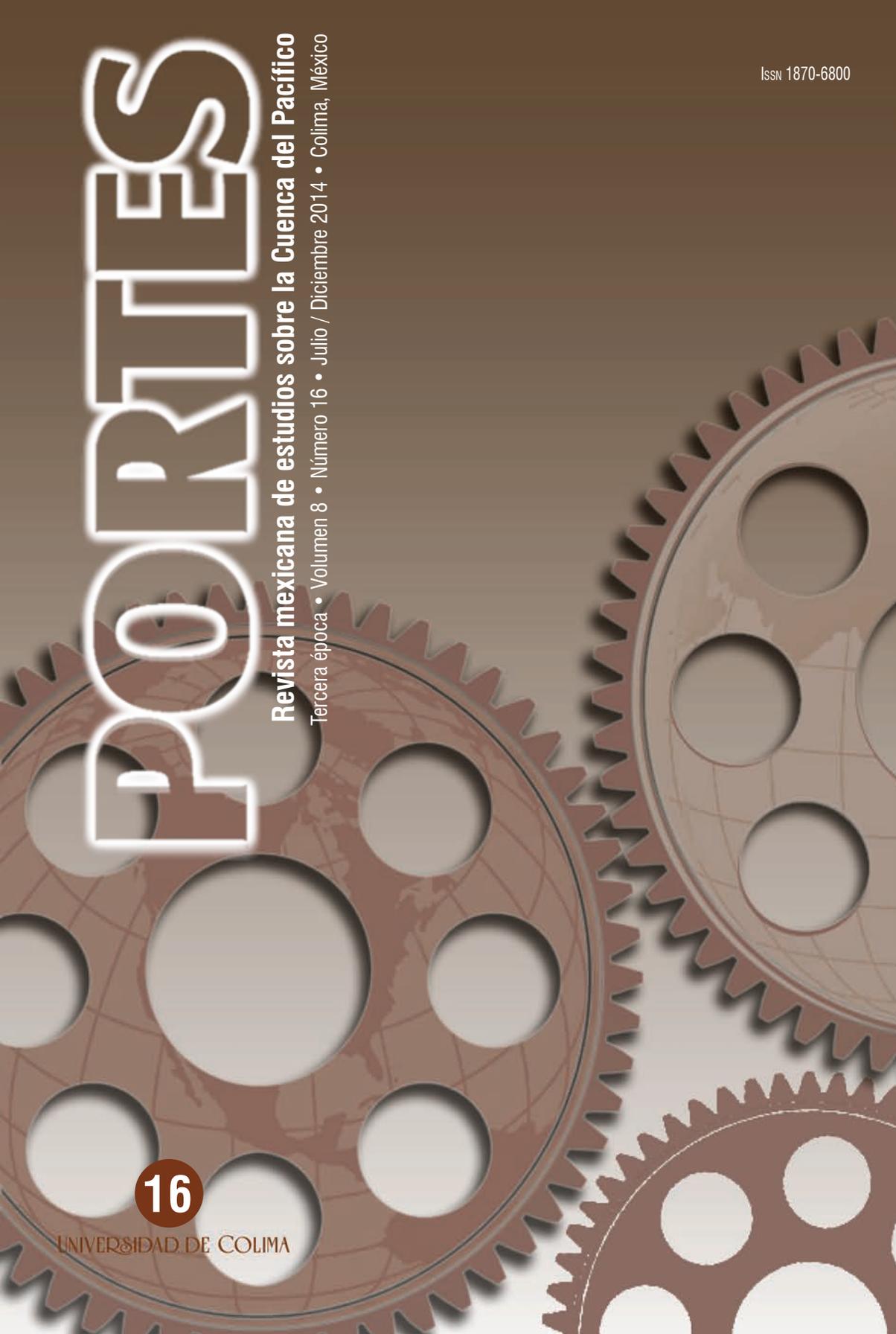


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# Carbon Cowboys in Peru and the Prospects of Local REDD Governance

Vaqueros del carbono en el Perú y perspectivas de la gobernanza local de REDD



*Wil de Jong*<sup>1</sup>  
*Dennis del Castillo Torres*<sup>2</sup>  
*Ángel Salazar*<sup>3</sup>

## Abstract

The paper demonstrates the vulnerability of natural resource governance in locations where future forest carbon emission reduction will be pursued using payment mechanisms like REDD (Reducing Emission from Deforestation and Forest Degradation). The specific case is of an Australian national, David Nilsson who arrived in 2010 in the city of Iquitos, capital of the Peruvian Amazon. Nilsson tried to sign joint venture agreements with multiple indigenous organizations to trade carbon credits on their behalf. The paper analyses in much detail Nilsson's strategy to convince various local actors to sign up for his scheme. It

<sup>1</sup> Center for Integrated Area Studies, Kyoto University. Kioto, Japón. E-mail: de-jongwil@gmail.com

<sup>2</sup> Instituto de Investigaciones de la Amazonia Peruana. Perú. E-mail: ddelcastillo@iiap.org.pe

<sup>3</sup> Instituto de Investigaciones de la Amazonia Peruana. Perú. E-mail: asalazar@iiap.org.pe

demonstrates how people with responsibilities to represent indigenous interests, including leaders of their organizations, members of local NGOs and staff of the regional government, eagerly supported these initiatives, but for ambiguous reasons. Even after Nilsson's treacherous dealings were widely exposed in the national and international news-media, this support did not stop. The case of this Peruvian carbon cowboy was specifically mentioned in "COICA's and AIDSEP's Iquitos Declaration", which is one of the early manifestations of an indigenous discourse that questions UNFCCC (United Nations Framework Convention on Climate Change) and REDD (Reducing Emission from Deforestation and Forest Degradation). The paper demonstrates the political, institutional and governance fragility of locations where future REDD projects or similar initiatives to reduce forest carbon emissions are planned.

**Keywords:** carbon credits trade; Indigenous lands and carbon rights; Local REDD governance; Peruvian Amazon.

## Resumen

El documento aborda la vulnerabilidad y la gobernanza sobre recursos naturales en los lugares donde se llevarán a cabo futuros esfuerzos por reducir emisiones de carbono de bosques, mediante mecanismos de pago como Reducing Emission from Deforestation and Forest Degradation (REDD). El caso concreto es de un ciudadano australiano, David Nilsson, quien llegó en 2010 a la ciudad de Iquitos, capital de la Amazonía peruana. Nilsson trató de firmar acuerdos con múltiples organizaciones indígenas para comercializar créditos de carbono a su nombre. El artículo analiza la estrategia de Nilsson de convencer a diversos actores locales para ser parte de su estafa. El artículo además demuestra cómo representantes de intereses indígenas, incluyendo líderes y organizaciones indígenas, miembros de ONGs locales y personal del gobierno regional, con entusiasmo apoyaron a Nilsson en sus iniciativas. Después de que las gestiones fraudulentas de Nilsson fueron expuestas en los medios de comunicaciones nacionales e internacionales, dicho apoyo no se detuvo. El caso del vaquero de carbono peruano se menciona específicamente en la "Declaración de Iquitos de COICA y de AIDSEP", que es una opinión amplia, pero escéptica acerca de la United Nations Framework Convention on Climate Change

(UNFCCC) y Reducing Emission from Deforestation and Forest Degradation (REDD). El caso demuestra la fragilidad política, institucional y de gobernabilidad de los lugares donde se implementarán futuros proyectos REDD e iniciativas similares para reducir la emisión de carbono forestal.

**Palabras clave:** comercio de créditos de carbono, tierras indígenas y derechos de carbono, gobernanza local de REDD, Amazonia peruana.

## Introduction

On May 3, 2011 a note appeared on the REDD-Monitor website (Lang, 2011) that reported how National Indigenous Organization in Peru (AIDSESP) denounced the activities of a person named David Nilsson. AIDSESP is the Peruvian indigenous organization whose members are the country's indigenous federations. David Nilsson, an Australian national, had been trying to sign a fraudulent joint venture agreement with the Matses indigenous people who live in the Peruvian Amazon near the border with Brazil. The agreement would have given Nilsson's company, Sustainable Carbon Resources Limited (SCRL), the exclusive right to trade carbon credits over the Matses' half million hectare large territory. The story was quickly picked up by many other online sites and even reported in newspapers and in TV programs.

The Nilsson and SCRL case is not the first one of unscrupulous entrepreneurs who try to rip off forest dweller groups (FCA, 2013). Over the last two decades or so, in many places in the world forest communities have gained legal ownership over customary held forest territories. In response, timber entrepreneurs from Peru (Chirif and Garcia-Hierro, 2007) and Bolivia (Cano, 2012), but also in countries like Papua New Guinea (Brown, 2013) have pursued deals with indigenous groups that allowed them to log valuable timber stocks at prices far below market values. The case of Nilsson and the Matses of Peru was news because it concerned a case of swindling indigenous people over the right to trade carbon credits.

Agriculture, forestry and other land use contribute a quarter to greenhouse gasses emission and forests contribute between 12-20% of global emission (van der Werf *et al.*, 2009).

It is widely held that there is significant opportunity to reduce future emission by taking appropriate measures that maintain or increase forest carbon stocks. One mechanism being developed under United Nations Framework Convention on Climate Change (Unfccc) is Reducing Emission from Deforestation and Forest Degradation (Redd),<sup>4</sup> which compensates foregone benefits from activities that imply slashing or degrading forests. The Redd mechanisms is currently being implemented by the Un Redd Program and a handful of other international agencies. The global programs coordinate with national governments who develop a Redd Readiness plans that will lead to the national Redd strategies. Civil society and private sector actors engage in parallel Redd initiatives independently. To obtain global recognition as valid and successful Redd initiatives, these civil society and private sector initiatives seek oftentimes certification from a number of independent certifiers, including the Climate, Community and Biodiversity Alliance and Voluntary Carbon Standards (Merger et al., 2011). Redd theorists and practitioners argue that tackling issues that need addressing before Redd can become successful include the untangling of rights over land and carbon (Karsenty et al., 2014; Sunderlin et al., 2014); the distribution of compensation and costs (Bluffstone et al., 2013; Evans et al., 2014;); and last but not least, the daunting challenges of arrangements that need to adequately balance global and local conditions and interests (Brown, 2013).

Peru is an active member of the global REDD community. In 2008 multiple national actors signed the Tarapoto declaration to implement a REDD action plan (REDD Peru, 2008). The country prepared a REDD Readiness proposal in 2011, which was approved and disbursement of funds for its implementation started late 2013 (FCPS, 2013). At the UNFCCC COP 18 (Conference of Parties) Peru's then Minister of the Environment Antonio Brack declared that his country would reduce deforestation to zero by the year 2021. The country has an active *Grupo REDD Peru*, which integrates over 40 organizations and is coordinated by *Derecho, Ambiente y Recursos Naturales*. Until July 2012, Peru hosted 41 REDD pilot projects, all prepared or implemented by civil society or private actors (Piu and Menton, 2013) about

<sup>4</sup> REDD is more commonly referred to as REDD+, as it includes efforts to promote sustainable forest management, conservation of forests and enhancement of carbon sinks. We consider these aspects to be part of REDD.

half of which were certified (De la Plaza Esteban *et al.*, 2014). In December 2014, Peru will host UNFCCC COP 20.

Cases of dubious trading of carbon credits are not unusual in the global climate change mitigation project (FCA, 2013). Entrepreneurs like David Nilsson, who operate in remote tropical forest locations are now being identified in the global, REDD discourse as 'carbon cowboys'. The term carbon cowboy refers to entrepreneurs who try to make deals with indigenous or other forest dwellers, to capture benefits from carbon rights of carbon rich resources that the forest dwellers hold or are entitled to. Once the carbon cowboys have signed those deals, they will offer the carbon credits to possible investors (FCA, 2013). Since the first published accounts of the Peru 'carbon grabbing' case appeared in the published media, David Nilsson has become the global personification of carbon cowboys.

In this paper we will provide a detailed account of the dealings of David Nilsson, but also of various other actors involved in the Peruvian carbon grabbing story. The public and international condemnation of Nilsson and people like him is very justified. However, the case demonstrates more than anything else the political and institutional fragility of locations and actors who live and control public life in the major towns of the Peruvian Amazon. The success of REDD or other similar programmes will depend on initiatives to be carried out in such locations, independent of whether these are initiatives carried out by civil society and private actors, or under a national REDD strategy.

The case has relevance for global efforts to address climate change resulting from atmospheric carbon, but also for the wider debate on global environmental law, and how this affects the rights and legal position of people at the farthest fringes of societies. The emergence of global environmental legal instruments, like the Ramsar Convention on wetlands, the Convention on Biological Diversity, and also Unfccc have linked remote forest dwellers with global environmental law. This has resulted in academic debates on, for instance, communities and their role in the Cbd (e.g. Mauro and Hardison, 2000; Maggio, 1997). The international community has considered it opportune to protect the rights of a subset of indigenous communities by means of Convention 169, on Indigenous and Tribal People and the un Declaration of the Rights of Indigenous People, a resolution adopted by the un General Assembly. In the Unfccc,

the rights of indigenous peoples when it concerns the Redd+ mechanism are considered in its safeguard principle. The safeguards principle aims to minimize negative impacts of Redd projects on the socioeconomic wellbeing of forest dependent communities and guarantee their adequate consultation and participation. It demands free, prior and informed consent and to uphold human rights of the people affected (Bluffstone et. al., 2013; Brown, 2013; Visseren-Hamakers et. al., 2013).

The safeguards principle was incorporated in the decisions adopted by the Conference of Parties of December 2010, which limits its legal weight. The two mechanisms that provide some guarantee that safeguards are adequately considered in Redd+ initiatives are the obligations imposed by funding agencies or by voluntary certification agencies. The two mechanisms leave a space in which actors operate that are not bound by the two mechanisms, or by the safeguards principle. Under the Unfccc as a global legal mechanism the states are called to regulate how actors can operate within the national space. The example that we present here does demonstrate what kind of loopholes there are for private initiatives that go entirely against the spirit of global environmental law, and that are legally dubious, morally despicable, but not clearly illegal. It also demonstrates that even under the Unfccc umbrella and national Redd programmes, legality compliance cannot be taken for granted, but that this is something that needs to be crafted carefully.

The information on which this paper is based is from multiple sources. Quite a few webpages and newspaper articles reported on the case and where the paper relies on such information, those sources are duly mentioned. We also had access to a copy of the documentation related to a court case in which David Nilsson accuses Dan James Pantone, founder of the Ngo with the name Matses and Daniel Manquid Jimenez Huanan, the President of the Matses native community (Denuncia, 2011). This formal accusation, which is dated June 7, 2011, contains many documents that reveal in much detail Nilsson's actions but also those of his collaborators in Peru between October 2010 and mid-2011. An additional resource is material that we obtained from collaborators of the Instituto del Bien Comun (Ibc), a Peru based Ngo which is working in one of the regions where Nilsson undertook a second attempt to negotiate a carbon deal with indigenous people. The information from Ibc is mostly photographs, copies

of original documents, power-point presentations and recorded radio interviews.

The paper is divided into six sections. Following this introduction, section 2 describes in much detail, how Nilsson sought contact, and how he succeeded in establishing himself in the Peruvian Amazon and assure that his operations could proceed. Section 3 follows with an analysis of Nilsson's actions and how his company became exposed, first locally and eventually worldwide. Section 4, in turn, reveals the second, and this time successful attempt by Nilsson to sign an agreement with a different indigenous group from a different part of the Peruvian Amazon. Section 5 discusses the evidence of the sections 2, 3 and 4, and dwells on the implications that the Peru case has for the prospects of implementing Redd projects in remote regions like the Peruvian Amazon or elsewhere. Section 6 derives some governance lessons for the local implementation REDD projects.

## Carbon Cowboys in the Amazonian Wild-West

### *First contact and collaboration*

David Nilsson wrote an email message on August 27, 2010 to the email address [infor@matses.org](mailto:infor@matses.org). Nilsson found this email address on the website <http://www.matses.org/>, the website of a 'non-profit association', the "Movement in the Amazon for Tribal Subsistence and Economic Sustainability-MATSES". This association aims to: "Offer assistance to the Matsés indigenous communities so that this native Amazonian tribe can conserve their native culture and indigenous lands in a sustainable and autonomous manner" (Denuncia, 2011).

In his original message, Nilsson stated that he and his associates were guided by the UNFCCC and sought to establish a "joint venture agreement with the Indigenous Communities in developing carbon credits" (sic). The message further stated that "We provide the funding and the experts to develop the carbon credits and marketing" and that "The income that is generated by the carbon credits is far, far more than any income from logging and it is sustainable for 20-25 year" (Denuncia, 2011).

The message was read and answered by Dan James Pantone, who is the founder of the MATSES association and at the time, its vice-president. Pantone reportedly holds both a Peruvian and USA nationality and is in subsequent documentation either identified

as a Peruvian (Denuncia, 2011), but also as a USA citizen (Bartlett, 2012). Pantone responded positively to Nilsson's proposal, pointing out that the Matses indigenous people controlled about 873 thousand hectare of tropical forest (Denuncia, 2011). Supposedly, this included their actual recognized territory of about half that size, and an area that the Matses claimed as their lands. Pantone suggested that Nilsson directly contacted the Matses customary authority (chief) Angel Uaqui Dunu Maya via cellphone. In the same message Pantone referred to "Lots of politics that prevent any aid from ever reaching the Matses people" and that "The NGOs (Centro para el Desarrollo del Indígena Amazónico, CEDIA and WFF-Peru) and the national indigenous organization in Peru (AIDSESEP) are receiving millions of dollars in grants for the Matses people, but the funds always seem to be used for their own salaries and for workshops" (Denuncia, 2011).

The exchange between Nilsson and Pantone continues for a while. In a message from September 27, 2010 Pantone actually offered his assistance to Nilsson, including accompanying Nilsson to meet with the Matses chiefs. Pantone, however requests a daily fee for his services of USD \$200. On October 5, 2010, Pantone indeed received a first payment of USD \$1,900 into an account in his name in the USA, and the total amount received is AU \$10,425.36 or about USD \$9,200, paid in four installments, during October (two payments), November and December 2010 (Denuncia, 2011).

Nilsson eventually arrived in Peru on October 9, 2010 and was received at the airport in Lima by Dan Pantone. According to the court documents (Denuncia, 2011), while still in Lima, Nilsson desired to have meetings with CEDIA, WWF and AIDSESEP, but Pantone advised against these meetings. Nilsson however insisted on the meeting with AIDSESEP, which takes place in October 2010. In addition to having meetings with indigenous and conservation organizations, Nilsson also sought contact with the Regional Government of the Department of Loreto, the largest Department of Peru and in which the Matses territory is located. Once arrived in Iquitos, the capital of the Loreto Department, Pantone on behalf of Nilsson gave a presentation to the President of the Regional Government of Loreto, Yvan Vazquez Valera and his advisers, who apparently in a first instance showed much interest in Nilsson's proposal. On November 2, 2010, Nilsson actually made a business proposal to Loreto's Regional Government, but

supposedly also signed a confidentiality agreement on December 1, 2010 to not disclose any of the negotiations between Nilsson and the Regional Government of Loreto (Salazar, 2011).

Pantone organized still in October a meeting between Nilsson and Daniel Manquid Jimenez Huanan, who according to Pantone was the President of the Matses native community. Jimenez was, as informed by Pantone, also a trader in the hallucinogenic ayahuasca and frog venom (Denuncia, 2011). Eventually, on March 18 and 19, 2011 Nilsson and his entourage, together with Daniel Jimenez held two workshops with 14 Matses tribal chiefs in Iquitos. In addition to Daniel Jimenez, this reunion was also facilitated by Angel Dunu, the Matses chief. At this meeting, Nilsson informed those present about global warming, carbon trade, his company SCRL, and the joint venture proposal that he intended to sign between the Matses and his company.

### Joint venture between Sustainable Resource Limited and the Matses people

At the meeting between Nilsson and the Matses tribal chiefs, Nilsson proposed to sign a joint venture agreement, which would regulate the international trading of carbon stocks contained in the forests that were under the control of the Matses people. SCRL is a company legally registered in Hong Kong. The company has a full-fledged company registration certificate, and a Memorandum of Association, required under Hong Kong's Companies Ordinance. The company itself, however, was officially registered only on November 15, 2010, which is almost four months after Nilsson sought his first contact with Dan Pantone and one month after he arrived in Iquitos, Peru. This means that there was yet no company that could engage in a joint venture with a partner to trade carbon at the time of the first contact. SCRL had at registration had a value of Hk \$10,000 (about Us\$1300), and the same amount of shares which thus each had a value of Hk \$1.

The court accusation contains a copy of a well elaborated draft of the Joint Venture that Nilsson wanted to sign with the Matses people (Denuncia, 2011). The draft, explicitly referred to as for discussion purposes only, is a 27 page document mostly containing clauses that guide the collaboration between the signing parties. The intended signatories were SCRL and

“The Matses Indigenous People of the Amazon”. The document referred to the UNFCCC, and greenhouse gas reduction. It defined objectives largely related to positive environmental outcomes of the cooperation between the two signing parties, but not any trading of carbon (Denuncia, 2011).

The section Joint Venture Formation and Interests, on page 17 of the Joint Venture draft is where the intention of Nilsson and his company were being elaborated. There, the document defined that the benefits captured were to be shared 50%-50%, but after project expenses had been paid. These project expenses included fees for SCRL personnel. The agreement also gave SCRL the faculty to hire consultants and finance the expenses from the joint venture incomes. It also gave SCRL exclusive right to manage the project, and even to act on behalf of the Matses people, where it concerned the interests of the joint venture. Finally, the joint venture also stipulated that SCRL will handle all the funds that will be received for sold carbon credits. The joint venture further stipulated that signing parties would maintain the agreement confidential and that were to be governed “by the laws of England and Wales” (Denuncia, 2011).

### The making of a public villain

Already during the month of March, 2011 Nilsson’s horizon began to look bleak. First, the relation between Nilsson and Pantone turned sour. Soon after that and we hypothesize that it is related, a member of the Matses NGO accused Nilsson of fraud with the ombudswoman’s office in Iquitos (Marina Herrera, 2011). Then, by the end of April, David Nilsson and his doings were condemned in the so called AIDSESEP and COICA’s Iquitos Declaration.

Evidence of a souring relationship between Nilsson and Pantone emerge from the court accusations of Nilsson against Pantone. In that accusation it is mentioned that Pantone was unwilling to set up a meeting with the Matses community members. Instead, during November 2010, Pantone proposed to establish the Amazon Rainforest Institute Foundation. The statutes of this foundation, which were written in Spanish and which Nilsson was unable to understand, established that it will have two members, Pantone as president and Nilsson as vice-president. While at the beginning the statutes referred to the foundation as non-profit, under clause 4.4 they mentioned that

the foundation can derive rents from special projects. In addition, article 11.1 defined that the administrative board had as its function to elect a vice-president, while no reference was made to the election of a president. The statutes did not define who would be the members of the administrative board. Article 16, furthermore stipulated that Nilsson were to donate US\$ 20,000 for the foundation to initiate activities. Nilsson refused to pay this amount and the foundation was never formally established.

A subsequent quarrel occurred a few days later, when Nilsson discovered Pantone in his room in the Golden Star Hotel in Iquitos, copying information from Nilsson's computer onto a USB. As per the personal report from Nilsson, Pantone actually tried to hit him, and to accuse him of being a drug dealer, if he did not pay the Us \$3,000 that Nilsson still owed Pantone. On that same day Pantone received a payment of AU \$4,100.5 sent by Nilsson's wife from Australia and into Pantone's bank account in the USA (Denuncia, 2011).

## The Declaration of Iquitos

Nilsson and Pantone's falling out undermined Nilsson's plans. When Nilsson visited again the Regional Government of Loreto to further discuss the carbon deals, Yvan Vasquez declined further contact. Apparently, he had been telephoned by Pantone. More important, however, is the letter that Daniel Jimenez, the president of the Matses NGO, sent to the ombudswoman, Lisbeth Castro Rodrigues in Iquitos. The letter's subject was "Fraud by a foreigner of the Matses Indigenous People for their natural resources".<sup>5</sup> The letter mentioned Nilsson's name, and provided a copy of his passport, and a copy of the draft joint venture that was being negotiated with the Matses. It referred to the meeting with the 14 chiefs a week earlier, that Nilsson promised 50% of the profits of the carbon trade, and that the Matses would obtain "millions of dollars of profits" from those deals. The letter provided some details about Nilsson's previous fraud cases, some of which have been investigated by the government of Queensland, Australia. It also pointed out various parts of the draft joint venture, which according to the letter had as the main intention to mislead the Matses co-signing party.

<sup>5</sup> Original title in Spanish: Estafa del Pueblo Indígena Matsés por un Extranjero para sus Recursos Naturales.

The accusation made reference to the services that Pantone provided to Nilsson although not using Pantone's name. We hypothesize that it was Pantone himself who drafted the letter. The letter indicated that "an associate" of the Matses NGO, who collaborated with Nilsson, was bribed by Nilsson with gifts, like a computer, and offered 10% of the profits. The formal accusation against Pantone (Denuncia, 2011) stated that Pantone himself made that demand. The letter also referred to Angel Duna, the Matses tribal chief as Nilsson's employee.

The letter to the ombudswoman was soon followed by the first article in the regional newspaper: *La Región*. On April 4, this newspaper copied the accusations made in the letter, stating that an Australian national induced the Matses people to cede their territory so that its carbon credits could be sold internationally (Marina Herrera, 2011). The article repeated some excerpts of the letter. The first newspaper article was followed by two others over the next weeks, bringing the matter to the attention of the Iquitos public.

There was some communication between the Matses (either the NGO or indigenous leaders) and AIDESEP, and as a result AIDESEP sent two persons to the Matses to instruct them about the true intention of Nilsson and his company (Salazar, 2011). Soon afterwards, and unrelated, a National Workshop was held in Iquitos on "Climate crisis, REDD+ and Indigenous REDD", organized by AIDESEP and COICA (Coordinator of Indigenous Organizations of the Amazon River Basin), the coordinating body of the nine national Amazonian indigenous organizations. This workshop resulted in the Iquitos Declaration "There is no REDD+ without territory" (Friends of the Amazon 2011). This declaration is critical of the global REDD+ discourse and programs, and provides an outline of an Indigenous REDD vision. The very same Iquitos Declaration, however, signed by all participants at the workshop, dedicates an entire paragraph to denouncing explicitly SCRL and David Nilsson and their fraudulent practices.

As we can reconstruct, it is especially this Iquitos Declaration that generated the worldwide notoriety of Nilsson and his company. A prominent reporting on the case from the hands of Chris Lang was posted on 3 May 2011 on the REDDmonitor.org website (Lang, 2011). Many similar posts followed, and David Nilsson became the type case for carbon cowboys, and the epitome of the unscrupulous racketeer who approaches indigenous

groups, promising enormous future gains that can be obtained when they trade their carbon with international investors. A common practice is to invite the signing of an agreement that gives sole rights to negotiate carbon credits over the territory legally owned by the indigenous groups, but at the cost of giving up virtually all rights over the territory and the forest they contain, while emasculating them of any relevant decision rights over the carbon negotiating or any related transaction (FCA, 2013).

### Disunity between brothers

A revealing next chapter in the Matses and SCRL saga was the public declaration dated July 11, 2011 made by Carlos Fasabi Panduro, sub-chief of the Matses native community. In this declaration, Carlos Fasabi deplored the paragraph in the Iquitos Declaration, which referred to the Matses and SCRL. Fasabi argued that the meeting between Nilsson and the tribal chiefs in Iquitos was merely to inform, but that those present had made it clear that any proposal for a formal collaboration would have to be approved by a General Assembly of the Matses community. Fasabi argued that the Iquitos Declaration was prepared without presence of any Matses representative, but made it impossible for the Matses to undertake future coordination with national and international organizations that could benefit their own prospective. This Matses declaration actually requested that AIDESEP retracted the statement made in the Iquitos Declaration.

### A change of company and of strategy

Nilsson left Iquitos on December 19, 2010, and returned again on February 9, 2011. The first round of trying to set up a carbon trading joint venture agreement between SCRL/ Nilsson and the Matses Indigenous community finalized around mid-2011 but did not lead to the signing of the joint venture. The experiences so far, however, did not discourage Nilsson from pursuing his shady deals. Rather he refined his methods, sought new allies, and began a second attempt, similar to the one that he tried with the Matses. This time he went downriver from Iquitos, to communities located around the confluences of the rivers Napo and Apayacu and Ampiyacu, mostly of Yagua, Huitoto and Bora ethnicity. Nilsson also had founded a new company: Amazon Holding Limited. AHL was registered in Hong Kong on August 31,

2011, but this time as a private company. Apparently, Nilsson was aware that the name SCRL had been tainted and that it was appropriate to establish a new legal corporate identity.

Nilsson undertook several visits to the newly targeted communities as can be observed by online videos of one of those earlier meetings<sup>6</sup> and another one of Nilsson returning to Iquitos from one of those visits.<sup>7</sup> Two meetings, however, were decisive for the successful signing of an agreement between AHL and the Federation of Agrarian and Natural Resources Indigenous and Campesino Communities of the Amazon District Francisco de Orellana, Napo River (OCCNARDA) and the Yaguas Federation of the Apayacu River (FEPYRA). The first meeting took place on October 17, 2011 and the second on October 31, 2011. The meetings have been recorded through photographs and were reported on in newspaper articles (La Region, 2011a). They are also shown in the Australia's Channel 9, 60 Minutes report on Nilsson (Bartlett, 2012). The October 17 meeting was held in the village Cinco Unidos, located at the confluence between the Apayacu and Amazon rivers. The October 31 meeting took place inside the office buildings of the Regional Government of Loreto (La Region, 2011a).

The two meetings were attended not only by people directly involved with AHL or members of the communities, but also by people who were involved in forestry matters and who resided in Iquitos or just happened to be there at the time. Pictures of the meeting appeared in the newspaper article and in the Australian 60 Minutes documentary. The purpose of the presence of people not directly involved with AHL, but involved in forestry or development issues was to suggest international support for the agreements. The 60 Minutes documentary showed a speaker at the second meeting who referred to AHL as a company of the United Nations (Bartlett, 2012), and the La Region article (2011a) mentioned that the project stipulated in the agreement was supervised by both the World Bank and the United Nations.

Nilsson involved two important allies in the efforts to lure OCCNARDA and FEPYRA into signing a carbon deal. One was Walter Cambero Alva, the lawyer who represented Nilsson when he pressed formal charges against Dan Pantone (Denuncia, 2011). The very same Walter Cambero was the Dean of the College

<sup>6</sup> [http://www.youtube.com/watch?v=H7G6i\\_zn1IM&feature=related](http://www.youtube.com/watch?v=H7G6i_zn1IM&feature=related)

<sup>7</sup> <http://www.youtube.com/watch?v=KNhhZjzqnwo>

of Lawyers at that time, the legal professional organization of lawyers of Loreto. This Walter Cambero represented Nilsson in his court case (Denuncia, 2011), but he was also present at the two meetings in October 2011. His name is mentioned and his photograph appears in the newspaper article that reports on the October 31 meeting, in the facilities of the Loreto Regional Government (La Region, 2011a). The 60 Minutes documentary on Nilsson shows an interview of a Cinco Unidos community member who states that the same Walter Cambero advised the indigenous communities when they were considering the proposals made by Nilsson (Bartlett, 2012). Ruiz Molleda (2012: 32), who analyzed the legality of the signed agreements, also mentioned that Cambero actually provided legal advice to the communities.

A second ally that Nilsson could count on was Edwin Floret, who at the time was Director of the Sub-secretariat of Indigenous Nationalities of Loreto's Regional Government. He was the person within the Regional Government in charge of safeguarding the interests of Loreto's indigenous people (La Region, 2011a). The very same Edwin Floret denied in an interview any involvement between the Loreto Regional Government and himself in the agreement between AHL and OCCNARDA and FEPYRA (La Region, 2011b).

From the available information, the agreement that was actually signed between AHL and OCCNARDA and FEPYRA consist of two documents. Ruiz Molleda (2012) refers to a one page and a half summary in Spanish of the full agreement, which apparently was written in English. The first document was shown in the 60 Minutes report on the Nilsson case (Bartlett, 2012) and we also obtained a photographed copy of this agreement. The Spanish summary is titled: Agreement for Sustainable Forest Management of Amazonian Communities (El Convenio de Manejo Sostenible Forestal de Comunidades Amazónicas). It stated that AHL intends to promote sustainable forest management in the communities that signed the agreement. AHL held the primary right to buy the timber that communities wanted to sell. The fourth paragraph of the summary, however, specifically stated that the ultimate goal of the agreement was to "generate carbon services to be traded in international markets".<sup>8</sup> The agreement, furthermore, specifically mentioned a period of 100 years, and allowed the

<sup>8</sup> Original in English, our translation.

option to develop oil palm plantations on the territories of the signing indigenous communities.

Ruiz Molleda (2012) observed that the other document, the full joint venture agreement, was withheld from the community members, but the 60 Minutes report showed how members present at one of the meetings actually signed a signatory page similar to the signatory page of the Matses joint venture agreement (Bartlett, 2012). This suggests that actually a signed joint venture agreement exists, but that it has not been made public.

The La Region newspaper, which only six months earlier reported on numerous occasions on the fraud of Nilsson and his company SCRL, presented a story on the second meeting with the title “Almost six million dollars for native communities” (La Region, 2011a). The agreement was presented as a great achievement as the project would invest in, among others, sustainable agriculture and forestry development.

### After the agreements

The signing of agreements and immediate publication were followed by similar events as in April 2011, when Nilsson tried to sign a joint venture with the Matses. On several occasions, stories appeared in local newspapers in which indigenous leaders denounced the agreement and requested that it be cancelled (i.e. La Region, 2011c; 2011d; 2011e). The 60 Minutes team went all the way to Iquitos and traveled to Cinco Unidos and their 14 minute report appeared on Australia TV on July 6, 2012. The 60 Minutes investigative team was guided by Pantone, who presented himself and is presented in the documentary as a victim who was fooled by Nilsson (Bartlett, 2012).

In addition to showing images and interviews from Peru, the 60 Minutes team also had one of their staff members approach Nilsson in his home in Australia as a carbon investor, and Nilsson actually offered carbon credits for sale (Bartlett, 2012). This proved that Nilsson was serious about following through his scheme and tried to negotiate deals with investors, based on the agreements that he had signed in Peru.

But similar to the case of SCRL trying to sign a joint venture with the Matses, there have been various dissenting responses to the exposure of Nilsson’s and AHL’s attempted fraud. La Region news articles appeared on August 13, 2012 (La Region, 2012a)

and on September 10, 2012 (La Region, 2012b) that reports on FEPYRA or members of specific communities who complained of the 60 Minutes team and Pantone and who demanded that the agreements signed with AHL be duly respected and executed. Nilsson and Pantone meanwhile have entered in a bitter feud that continues until today. There is a website: <http://danpantone.info/> of 45 pages with many stories dedicated solely to smearing Pantone's image and others with stories reporting on indigenous groups who support the AHL agreement. There is no mentioning of personal or institutional ownership of the website, and we hypothesize that it originates from Nilsson himself or one of his collaborators involved with the OCCNARDA and FEPYRA negotiations.

### Sharing the blame

The analysis of the case of carbon cowboy Nilsson and his landing in Iquitos, in our view, has much relevance for judging the prospects of REDD or other avoided deforestation efforts being implemented in remote regions like the Peruvian Department of Loreto. The evidence that others have presented elsewhere, and that we summarize here, adequately demonstrates that Nilsson is a crook, skilled in devising schemes that have from a distance all the appearance to be genuine, and that allow him to offer opportunities to invest in carbon credits to interested parties that do not immediately see through his screen of misinformation and deceit. The analysis here, however, also makes clear that operators like Nilsson seek out locations to operate where they can find at least temporarily equally opportunistic allies, where the rule of law is ambiguous or functions poorly, where the institutional infrastructure is poorly developed, and where many are poorly informed.

While the international REDD community made much fuss about Nilsson and his companies, it is obvious that SCRL nor AHL would not obtain any CCBA, VCS nor any other certification that would proof his company to be a genuine and honest carbon broker or trader. Only inexperienced investors would conceivably put their money into his schemes. It is also quite unlikely that the agreements signed with AHL would be considered valid if it would come to the point that the indigenous parties would default on the terms and Nilsson would want to denounce them in a Peruvian court.

The conditions and the multiple actors, however, who interacted with Nilsson will still be there if and when those genuine and legitimate REDD projects arrive in Iquitos. In addition to Nilsson, Dan Pantone's involvement in the SCRL dealings is very dubious. His statements in the initial email exchange with Nilsson and several of his actions described in the court case against him (Denuncia, 2011) do strongly indicate that Pantone had a personal agenda. This is also the case with the Loreto Regional Government that first tried to negotiate a deal with Nilsson without opening the issue up for a wider debate or inviting indigenous groups like AIDSESEP or the multiple indigenous federations to meetings where the SCRL proposal could openly be discussed. The role that the Regional Government and a person like Edwin Floret, the person in charge of indigenous interests within the regional government, played in Nilsson's second effort to sign carbon deals with indigenous groups is even more of a concern. Floret's facilitation of an important meeting in the installations of the Regional Government of Loreto gave much credibility to that meeting. This happened only one year after the Regional Government of Loreto had broken off negotiations with Nilsson, and six months after AIDSESEP and COICA had made their Iquitos Declaration, publicly denouncing Nilsson and SCRL.

The positions of AIDSESEP, the Matses indigenous community and the FEPYRA are also somewhat puzzling. The Iquitos Declaration made a strong statement on the matter, but this was soon followed by a public dissenting statement of the Matses, as explained above. The very same has happened in the case of the OCCNARDA and FEPYRA agreement. That agreement was publicly denounced soon after it was signed by indigenous leaders and this in turn led to the wider outcry in public media. But soon afterwards again dissenting statements were made by the members of the affected indigenous groups in defense of the AHL and OCCNARDA and FEPYRA agreement. It is likely that this relates to factionalism and power struggles of competing sections within indigenous communities or their representative organizations, a reality that is still quite common in remote regions like the Peruvian Amazon (e.g. Barclay Rey de Castro, 2012). Unfortunately, even the nationwide representative organization AIDSESEP is not without fault as their unilateral declaration on the SCRL-Matses matter apparently did not involve the Matses victims of SCRL themselves.

## Lessons for REDD and global environmental governance

The experience of the Peruvian carbon cowboy case does provide important insights into the challenges ahead when trying to implement REDD or other similar initiatives in locations like the Peruvian Amazon. The Nilsson case drew much attention which would likely not have been the case if a more reputable carbon entrepreneur would have gone to Iquitos to negotiate carbon deals. It can conceivably be assumed that such a reputable carbon negotiator would have approached the various actors in Iquitos under different terms and that in itself would have made a tremendous difference. However, it remains a remarkable outcome how eagerly various actors who are supposed to care for particular groups or care for wider social interests, were tempted by the prospects of richness that would drop down from global carbon funds, as Nilsson promised, and were eager to engage in deals that would otherwise not survive public scrutiny.

While Peru has prepared a REDD Readiness proposal (FCPS, 2013), there are still no clear and coherent national REDD policies or regulations. The issue of who actually holds rights over carbon contained in forest vegetation or other kind of carbon deposits is not yet adequately clarified. While Peru will join a UNFCCC supported REDD program that has as its primary interlocutor national governments who will establish agreements with UNFCCC, Peru intends to allow private carbon investors to operate in the country, but until date no adequate regulations have been enacted for that purpose. And even if such regulations will be prepared, in regions like Loreto, where corruption and non-compliance with the rule of law is common rather than rare (Romero, 2014), various actors will comply with such regulations as they see fit. The sad reality is that especially in early days of carbon negotiations, there is likely to be little if any sanctioning of non-compliance.

It is clear from the analysis of this paper, that it will take quite some efforts until the multiple actors in Loreto will have adopted good governance practices that are required for successful implementation of REDD and other similar projects. It will be the role of the national government, the global climate change mitigation community and of all the responsible actors in Iquitos, Peru and elsewhere to gradually construct good governance of REDD projects, while it will always be necessary to carefully watch against future carbon cowboys, who most likely

will arrive again in places like Iquitos, but also against possible carbon jockeys from the region itself.

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