

The Voluntary Carbon Market Explained

Chapter 10



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Chapter 10: How are carbon and community rights considered in the voluntary carbon market?

Carbon rights are important in the voluntary carbon market (VCM) because they determine who can participate in and benefit from VCM activities. Carbon rights are assigned based on control of an asset or control of a mitigation activity. The recognition of carbon rights is particularly important for Indigenous Peoples and local communities (IPLCs), who are the statutory or customary owners of many landscapes where VCM activities are developed. IPLCs may exercise their rights in the VCM as project proponents or partners, through **benefit sharing arrangements**, and through consultation processes.

What are carbon rights?

Carbon rights assign to the holder the right to benefit from greenhouse gas (GHG) emission reductions or removals. Carbon rights are distinct from tradable carbon credits. **Carbon credits** represent GHG emission reductions or removals verified and issued in accordance with the rules of a particular **carbon standard**. Carbon rights define the underlying entitlement to benefit from GHG emission reductions or removals associated with an asset (e.g., land or forest) or activity (e.g., a VCM project). Those who hold carbon rights can **transact and claim** the proceeds from the sale of carbon credits. Carbon rights may also entitle holders to participate in **benefit sharing agreements**. The issue of carbon rights is particularly relevant and controversial in the context of **nature-based solutions (NbS)** and land sector carbon projects and programs. Uncertain, weak,

or absent land titles and forest tenure create uncertainty about who can benefit from carbon credits. Where carbon rights relate to land, they are often a contested and highly political matter.

How are carbon rights determined?

In general, carbon rights can either be based on the legal **control of the underlying asset** or on the **legal control of the emission reduction and removal activity**:

Control of the infrastructure or land asset requires an entity to demonstrate that they hold property rights or entitlement—e.g., ownership, management, access, and usufruct or other use rights—over the asset that underpins the GHG emission reduction or removal activity. This can relate to the land or forest where a project or program is implemented or the physical infrastructure of an activity. When mitigation activities take place in the land sector, rights over assets are generally determined by the applicable land and forest tenure regime. As such, secure and clear land and forest tenure facilitates the assignment of clear carbon rights for **NbS** projects and programs.

Control of the mitigation activity requires an entity to demonstrate that they enable and control the GHG emission reduction or removal activity. Rights may be claimed based on providing services, finance, or technology (e.g., **by project developers and financiers**), by actively participating

in the GHG emission reduction or removal activities (e.g., local communities), or by having regulatory power (e.g., national or subnational governments). In non-NbS projects or programs, most carbon rights are based on the control of the mitigation activity. In the case of NbS activities, developers or governments obtain the right to quantify, monitor, and issue GHG emission reductions and removals generated on land they do not own in return for all or a portion of the carbon rights.

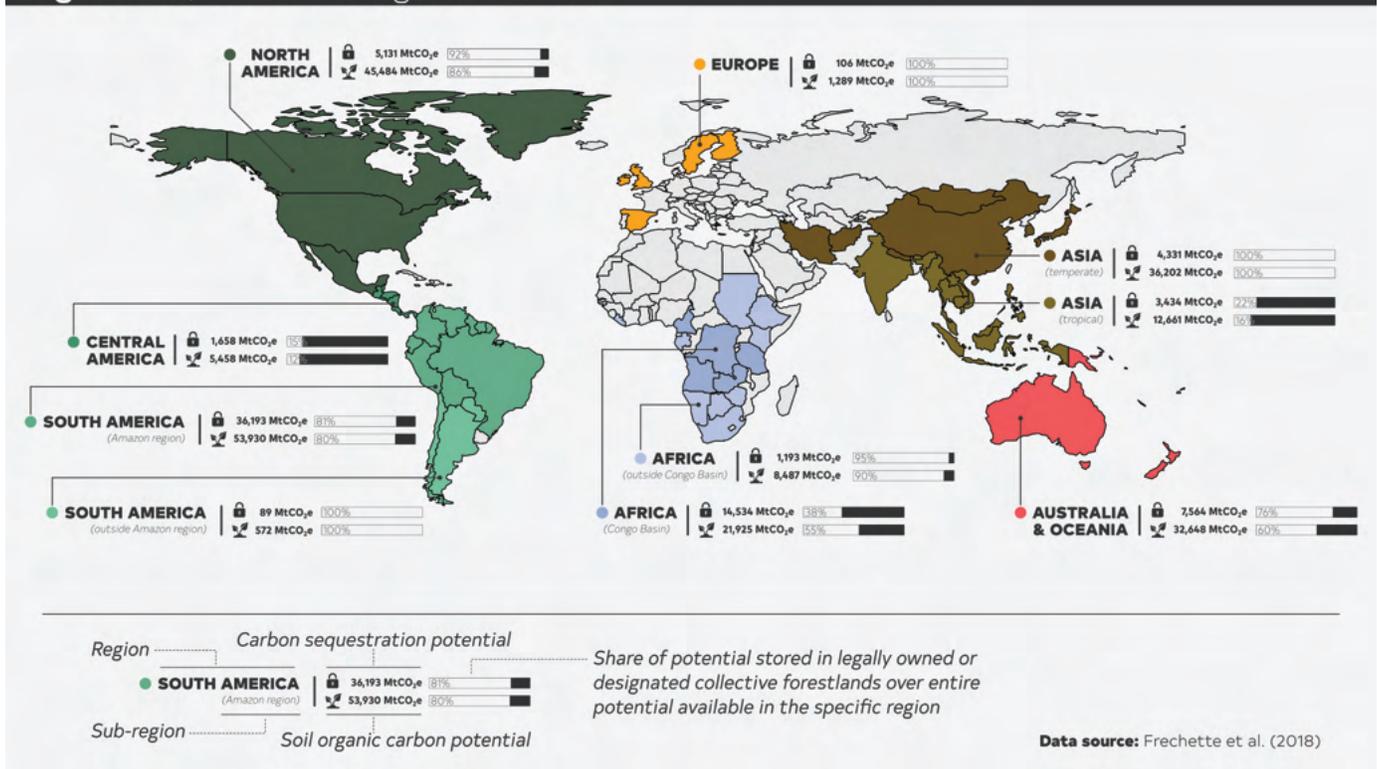
The assignment of carbon rights is not a straightforward task, especially when tenure rights are unclear or when the entity that has control over the asset is not the same entity as the one controlling the activity. This can occur, for instance, when communities hold forest property rights in a country but where governments are taking the lead in developing and implementing forestry VCM projects or programs. Clear, transparent, and participatory **benefit sharing arrangements** are crucial in these situations.

How are the rights of Indigenous Peoples and local communities claimed and recognized in the VCM?

Globally, IPLCs are the formal, customary, or ancestral managers of large landscape and forest areas. Where IPLCs are able to **determine ecosystem management**, their territories exhibit high rates of **carbon storage**, **biodiversity**, and **other ecosystem services**, and **reduced deforestation and degradation**. Indigenous Peoples' lands are estimated to include **at least 36%** of intact forest ecosystems globally.

Figure 10.1 shows carbon storage in IPLC lands by continents and forest regions. IPLCs were estimated to manage **at least 17%**—or nearly 300 metric tons—of the total carbon stored in 64 countries globally, including in all of the major rainforest regions. Globally, the carbon stored in forest lands to which IPLCs have legal rights may be as much as **37.7 billion tonnes** of carbon. Depending on how tenure rights are allocated,

Figure 10.1 | Carbon storage in IPLC lands



IPLC lands have potential to sequester **8.69 to 12.93 million tonnes of CO₂** between 2020 and 2050.

The full and equitable participation of IPLCs is required for the successful implementation of VCM projects and programs in their territories. Where IPLCs hold rights over forests and assets, they can claim carbon rights. However, most countries fail to fully recognize or formalize the carbon rights of IPLCs by attributing to them control over natural resources or recognizing their services as stewards of these natural resources. Lack of rights can result in insufficient engagement with, weak **benefit sharing** for, and disenfranchisement or displacement of IPLCs.

How do Indigenous Peoples and local communities participate in the VCM?

IPLCs can directly engage in the development of projects on their territories or enter into **benefit sharing agreements** with governments or project developers. IPLCs—often in cooperation with expert advisors from non-governmental organizations or the private sector—can determine project or program design, implementation, and terms. Depending on capacity, IPLCs may partner with other organizations for technical support and to facilitate credit trading. In the case of **ART/TREES** (Architecture for REDD+ [Reducing Emissions from Deforestation and Degradation Plus] Transactions, The REDD+ Environmental Excellence Standard), version 2.0 of the standard will allow the registration of subnational scale programs, including one or multiple Indigenous territories, until the end of 2030. In this case, Indigenous communities could be the proponents of VCM activities.

Alternatively, IPLCs can decide to enter into **benefit sharing agreements** with those proposing and designing GHG mitigation activities. **High-quality projects** include transparent benefit sharing agreements with IPLCs and other local stakeholders. **Jurisdictional REDD+ programs** and **NbS** sector projects often include benefit sharing agreements that ensure that IPLCs receive a share of **REDD+** payments. VCM project and program developers need to follow benefit sharing requirements set by governments in host countries. Inclusion in benefit sharing plans set by governments does not confer carbon rights to IPLCs.

IPLCs' land, resource and carbon rights must be considered from the beginning of project or program development.

Activity proponents working with IPLCs must budget and invest sufficient time and financial resources to build trust with local communities. When engagement is done effectively, VCM projects and programs can strengthen the position of IPLCs in negotiating, securing, and maintaining land and resource rights. When IPLCs have recognized land and forest rights, they are able to counter ecosystem conversion and degradation, which benefits both communities and climate change mitigation goals.

For any project or program that engages or impacts IPLCs, **carbon standards** require that communities be consulted in all stages of activity development. Project and program developers must demonstrate compliance with Indigenous Peoples' right to Free, Prior and Informed Consent (FPIC) as required by the United Nations Declaration on the Rights of Indigenous Peoples. FPIC gives Indigenous Peoples the right to grant or withhold consent to projects that will impact them or take place on their territories.

Further Reading

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