

Improving citizen responsibility in the North and its consequences for the South:

Voluntary carbon offsets and government involvement

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The author invites comment to this draft paper. She will finalize the text just after the Climate Law Conference (Ottawa, Canada, 27-28 September 2008), taking into account comments and new developments. Moreover, the draft paper will be sent to some stakeholders, like the UK and Dutch government, and offset organisations, for hearing their comments too.

The Dutch version of the paper will be discussed at a climate law conference of the Dutch Association of Environmental Law, to be held 26 November 2008, Utrecht, The Netherlands.

Abstract

Rich consumers cause an important share of world wide carbon emissions. This paper discusses the opportunity for citizens to compensate emissions by financing the reduction of carbon emissions elsewhere. Such carbon offsets are in fact a new business opportunity and are part of the worldwide carbon market. However, from a societal point of view, in particular starting from the concept of sustainable development, the environmental effectiveness and, moreover, the effects of these offsets on the developing world need to be reviewed. The latter is particularly important because most of the offsets will take place in the South where carbon reduction is usually much cheaper. At the same time, carbon compensation investments from the North into the South might benefit the developing area and consequently the people living there.

The voluntary carbon offset market is new and fast developing. This paper considers which influence Western governments or international institutions could or should have for ensuring the credibility and integrity of the voluntary carbon market. Diverging policy approaches among two EU member states will be discussed. On the one hand, the UK is developing a Code on Best Practices for Carbon Offset Providers, while on the other hand The Netherlands emphasizes the responsibility of offset providers to ensure the credibility and integrity of the carbon offset market. The same countries have equally diverging approaches regarding offsetting carbon emissions caused by governmental services.

The paper concludes that Western governments need to take up responsibility in order to ensure the credibility and integrity of the voluntary carbon market, at least in order to check whether the agreed offsets are complied with, and, moreover, whether those offsets do not lead to detrimental effects to local people or to nature in the developing world. Moreover, the idea of compulsory offset choices or even compulsory offsetting that would benefit not only the global climate but equally the developing world could in fact become part of future western climate law policies.

The precise role the government or an international institution should play is yet to be determined, thereby taking into account the effectiveness of consumer law and the usefulness of private accreditation mechanisms. Furthermore, the benefits of multi track approaches with different levels of certainty should not be overlooked, as long as such is necessary for stimulating new options for carbon reduction. However, in any case of world-wide carbon trading, and especially in a voluntary and unregulated market, there is a threat that the concerns of the developing world will not be taken care of. If private actors indeed lack doing so, governments should use their power to ensure that private actors offering carbon offsets indeed take up that responsibility too.

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1. Introduction

Traditionally, environmental law mostly deals with industrial behaviour. Governments have established impressive packages of regulatory requirements, concerning the operation of facilities as well as product conditions, with the aim of ensuring environmental protection.

Within climate policies however, citizen behaviour is increasingly seen as one of the main sources of greenhouse gas emissions which should be targeted by policies. Transport, consumption of products and food, and heating and cooling of houses cause a substantial amount of greenhouse gas emissions, in particular in developed countries where the living standards are high and consumers can afford a lot of consumptive expenses. Consequently, regulatory approaches are being developed in order to reduce greenhouse gas emissions caused by citizen behaviour.^{1,2} At the same time, there is a remarkable fast growing development of a specific and yet unseen environmental market initiative, which is the offsetting of greenhouse gas emissions by so-called carbon credits. Citizens can buy those offsets in order to compensate their carbon emissions. For all kind of activities offsets are being offered, like air travel, credit card purchases,³ and quite specific activities like theatergoing and concerts⁴. It is even possible to give a carbon credit as a present.⁵

The compensatory emissions reductions will be mainly achieved in developing countries: as emissions reduction measures are normally much cheaper to be achieved in developing countries, it is exactly there where the Western and much wealthier citizens compensate for their carbon emitting behaviour. One of the basic questions is whether these voluntary offset mechanisms do not lead to perverse outcomes. The key concern is in fact whether citizen responsibility in the North, through the voluntary offsetting of emissions, would indeed benefit the climate and, moreover, would at least not be disadvantageous for citizens in the

¹ Following the fourth assessment report of the Intergovernmental panel on Climate Change, there is a high agreement and medium evidence that changes in lifestyle and behaviour patterns can contribute to climate change mitigation across all sectors; IPCC (2007), p. 59.

² Within for instance EU law, some specific measures have been developed focusing on citizen behaviour, like the labeling of the energy performance of buildings, and the labeling of the CO₂ emissions of cars : Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings, and Commission Directive 1999/94/EC of the European Parliament and of the Council of 13 December 1999 relating to the availability of consume information on fuel economy and CO₂ emissions in respect of the marketing of new passenger cars (see also Commission Directive 2003/73/EC of 24 July 2003 amending Annex III to Directive 1999/94/EC of the European Parliament and of the Council). The effectiveness of these measures is yet to be proven, and in this respect critical issues can already be determined.

³ For instance in The Netherlands: <https://www.visagreencard.nl>, accessed 30 August 2008.

⁴ For instance, the Montreal International Jazz Festival 2008 will be carbon neutral, see <http://planetair.ca/modules/smartsectin/item.php?itemid=28>, accessed 12 August 2008.

⁵ www.carbonneutral.com, accessed 12 August 2008.

South. Hence, the question emerges whether governmental policies are needed in order to develop sound conditions under which the private offset mechanisms can indeed be functioning as a useful contribution to climate change policies and, moreover, would ultimately contribute to the concept of sustainable development.

This exploratory paper discusses some current practices in Western Europe from the perspective of the need of governmental involvement with these offset mechanisms, in order to avoid perverse outcomes of the voluntary carbon offset market. Those perverse outcomes are also already possible with regard to the position of consumers: those who are buying carbon offsets should of course not be misled. One can think of the possibility that the agreed compensation will not be effectively executed, or that the agreed compensation, nicely achieved, is in fact is not an effective solution to greenhouse gas reduction. Negative experiences, which already have been covered by media reports, would be a disincentive for individuals and commercial organizations to buy such carbon credits.

From the perspective of the developing countries, notably the citizens living there, one can think of the possibility that the execution of the compensatory measure does not take into account sufficiently the concerns of citizens living in the area of the compensatory measure, and would even lead to unacceptable negative effects to those people. This depends both on the content of the compensatory measure, as on the procedures like spatial planning procedures along which the measure will be implemented.

This exploration starts from the position that Western consumers are not well equipped enough to control the integrity of the carbon offset offer, especially when the compensation will be done in another part of the world. Secondly, there is the assumption that (some or even most of the) suppliers of carbon compensation have commercial interests, which means that there will be competition between the supplying organizations: this leads to the proposition that there should be guarantees against a race to the bottom regarding the credibility and integrity of the carbon offers.⁶ With *credibility*, we point at the fact that the agreed offsets will be achieved. With *integrity*, we point at the fact that the achievement of the offset would not lead to unacceptable negative effects that would run counter to the basic idea of sustainable development. It is necessary to recognize that consumers should have a solid confidence into the credibility and integrity of the carbon offers, as otherwise consumers would become reluctant in taking their responsibility to offset their emissions, which would lead to less investments into developing countries. The paper does not explore, however, to what extent and under what conditions western consumers are really interested into voluntary carbon

⁶ See for instance Öko-Institut E.V.Berlin, (author: L. Schneider) (2007) about the negative effects of competition between Designated Operational Entities in the context of CDM.

offsets, especially when the prices would increase due to provisions ensuring its integrity.⁷ We also do not explore the related question whether the opportunity to offset carbon emissions, knowing that this would lead to investments into developing countries, would lead to a decrease of personal budget expenditures to more general funds concerned with developing countries. We thus point at the need of additional research regarding consumer behaviour with voluntary carbon offsets.

This paper takes a mainly legal perspective, by discussing the question whether and, if so, how governments should intervene in order to enhance the credibility and integrity of the private carbon market, not only for ensuring consumer's confidence but also with a close eye on the concerns of the developing countries and the citizens living there. The possible positive effect of the voluntary market might be that funding will go to developing countries for innovations and low carbon technologies. We will touch upon the tension between on the one hand such reasons for stimulating voluntary investments into developing countries, and, on the other hand, ensuring the robustness, which would lead to more expensive offsets since efforts would be needed for safe-guarding procedures, inter alia validation and certification activities. The 'extra' money would thus not go to the developing world. Before being able to shed a light on this dilemma, we first need to examine what the carbon offset market entails, and how currently governments approach the issue. As a case-based approach, we will focus on the strikingly diverging policy developments within two European countries, which are the United Kingdom and The Netherlands.

The findings of this paper can also be worthwhile for discussing voluntary industrial investments into carbon offset projects, for instance for complying with Corporate Social Responsibility aims.⁸ Citizens and industries are in fact buying on the same market. We expect that industries have better capabilities in order to check and to control the integrity of the offset mechanisms. However, this specific proposition and the usefulness of carbon offsets for industries, next to primary regulatory approaches which target already their carbon emitting behaviour, deserves attention in another paper.

Finally, I want to stress upon the need to investigate how governmental policies can be developed to reduce the emissions of western citizens themselves. The case of voluntary carbon offsets is only complementary to reducing emissions at home, by lowering the energy use of buildings and by reducing emissions from transport. However, we should take into account that when carbon reducing measures would be very costly the financial investment to

⁷ There is evidence that the consumer interest is very low, see House of Commons, The Environmental Audit Committee (2007), p. 13.

⁸ See Richardson (2008) p. 500-501, and p. 507. Thereby emphasizing, in general terms, the need of regulation to encourage the business sector for taking up Corporate Social Responsibility.

developing countries could even be a better option for the time being, as long as this investment indeed complies with sound criteria and would benefit both climate policies and the citizens of developing countries. On the long run, we expect that voluntary investments are transitional until regulators have put in place meaningful policies targeting citizen behaviour, and, ultimately, until societies have achieved a low carbon economy. For the time being, given the large transitions needed in order to get the carbon emissions reduced, it is interesting to investigate how citizens, notably citizens in countries with weak or none climate change requirements, like the USA, but also citizens in European countries that want to take responsibility, and, moreover, rich citizens in developing countries that lack meaningful carbon regulations, could indeed offset their emissions.⁹ In this respect, this paper focuses on European citizens, as we need to understand the convergence or either divergence between the private voluntary market and greenhouse gas legislation. In the final section, we will moreover shed a light on the meaning of the European greenhouse gas emissions trading scheme for the voluntary offset market.

2. The Carbon Offset Market

2.1 The case for government involvement

The economic and legal literature concerning (greenhouse gas) emissions trading mainly starts from the proposition that the market will be established by regulatory frameworks. The studies examine how the government can establish an emissions trading market, and, subsequently, how the private actors can act within such a market.

The private carbon offset market is however a clear example of a bottom up development of a voluntary credit based emissions trading concept. In fact, such a private initiative already occurred within the context of the Clean Air Act in the USA, where industries sought for

⁹ In another paper, I have discussed the democratic accountability within carbon policies, where I pointed at the need to enhance citizen responsibility. The market mechanisms, used for reducing carbon emissions, known as greenhouse gas emissions trading, is in fact a very abstract tool, with no public participation in the local region. Moreover, citizens don't usually get no information about the carbon footprint of a product. The instrument of carbon labelling, which has its own difficulties, is in this respect introduced as a tool to be considered. Such carbon labelling would then enable citizens, if they wish to do so, to offset the carbon load, by voluntary investments. Such an investment might however mean a "double" compensation, as within the cap and trade emissions trading scheme the reduction of emissions is already ensured (to some extent). The compensation by the citizen would thus indeed be an extra investment. Peeters (2008). The final section will also shed a light on double compensation possibilities, in the case of the compensation of air flights.

investment options and consequently room for emissions; as a solution they explored to finance emission reduction measures of old installations, even in managed by other operators. This turned out in the possibility of buying and selling pollution credits. Hahn and Hester have discussed this phenomenon, and pointed at the fact that legal certainty about the value and lifetime of the credits is needed for the successful development of such a market.¹⁰ Such legal certainty can be provided by a public law framework facilitating the private market. Later developments show that indeed governmental policies and regulations have established legal frameworks for emissions trading.

The voluntary carbon offset market can in fact be seen as a spin-off of the international and domestic frameworks for carbon emissions reduction obligations accompanied with emissions trading. In line with the regulatory frameworks for emissions trading, the market is now offering carbon credits, to be used for voluntary compensation of emissions. Not the government, but the market is determining the basic conditions, like the content of the carbon credit, the control of the emissions reduction as being promised, and the counting of the carbon emissions to be compensated. Being indeed unregulated and uncoordinated, we already see an impressive range of carbon offers with different conditions.

Regarding the emergence of the carbon offsets offered to citizens, we see in Europe some diverging opinions about the possible role of the government. On the one hand, the idea of a Carbon Offset Code has emerged in the UK; such Code aims to provide a regulatory framework for ensuring the credibility and integrity of the carbon offsets. In the Netherlands, however, the government does not want to set up yet a public law regime for ensuring the credibility and integrity of the voluntary offsets.

Also within the USA, there is a fast development of carbon neutral provisions: a variety of products and services offer carbon neutral options, ranging from carpet, wood, yogurt and rental cars.¹¹ Importantly, the offset market is targeted not specifically to citizens only: notably industries are increasingly interested in offsetting part of their emissions.¹² It has however been questioned whether this wide array of offered carbon compensations are environmentally sound and trustworthy. Consequently, also in the US there is a call for common offset standards that would enhance transparency and would boost consumer and business confidence with the market.¹³

¹⁰ Hahn and Hester (1989).

¹¹ Kerr (2007) p. 618.

¹² Kerr (2007).

¹³ Kerr (2007) p. 619.

One of the interesting questions regarding the private offset markets is whether the suppliers of the offsets are able to establish a framework that would get enough confidence from the public to get engaged into the private market. Such a framework should at least consist of (a) transparent information regarding the content of the compensation, and (b) reliable inspection provisions in order to check of the agreed offsets will be achieved in a sound way.

A related key question is whether the private market indeed contributes to combating the climate problem, and, in a wider sense, to sustainable development. As the climate change problem is a fundamental concern of governments, we argue that the government should intervene as soon as:

- 1) the offsets are not reliable, and where consumers as such are not equipped well enough to inspect and to enforce the agreements;
- 2) the offsets would not contribute to solving climate change; one can think of leakage effects, for example the well-known problem that forestation of a certain area would in fact lead to the deforestation of another area.
- 3) the offsets would in another sense harm the concept of sustainable development or fundamental legal concerns; we can think of a case where local people are enforced to move from an area (without procedures and/or without just compensation) to be used for compensatory forestation.¹⁴

At the moment, there is no international legal framework for the control of the integrity of the private carbon offset market, besides of course the fact that the Kyoto Protocol provides for credit based emissions reduction trading in the form of Joint Implementation and the Clean Development Mechanism. Citizens can choose to purchase credits that will be achieved through such Joint Implementation and Clean Development Mechanism projects. The market is however offering also offsets opportunities which are not connected to the Kyoto framework.

The executive secretary to the UNFCCC, mr. Yvo de Boer, has proposed the idea that voluntary carbon offsets, which are not yet part of the UNFCCC, should be certified through the

¹⁴ This example has been derived from a Dutch documentary (English subtitled, boadcaste on 19 November 2007) focusing on private offsets in Uganda; in that documentary it was suggested that local people were illegally removed from the land that was needed for compensatory forestation purposes, see: [http://zembra.vara.nl/Voorpagina.1975.0.html?&tx_ttnews\[tt_news\]=5059&tx_ttnews\[backPid\]=1974&cHash=f1abee2835](http://zembra.vara.nl/Voorpagina.1975.0.html?&tx_ttnews[tt_news]=5059&tx_ttnews[backPid]=1974&cHash=f1abee2835), accessed 30 August 2008.

Climate Change Convention.¹⁵ This is as such an interesting idea, as it could lead to a transparent and well-controlled private carbon offset market. As long as such a supranational provision lacks, countries can decide whether they want to issue policies and even regulations in order to steer the voluntary carbon offset market. This market however, is already supranational by nature, as most of the compensations will be achieved abroad. This supranational character complicates the ability of national governments to check the integrity of the offsets. On the other hand, it should be investigated whether such harmonisation would discourage new developments (outside the regime) and whether the system would not become too expensive, meaning that the demand for carbon offsets would be low. It is maybe important for encouraging citizen's (and industries) involvement into the carbon market that they can choose to what kind of offsetting they want to contribute to.¹⁶ Any development towards an international regime for checking the offsets should as such thus leave room for different consumer preferences and thus different options that meet minimum criteria. There is in fact another possible advantage of the bottom up and uncoordinated development of the carbon market that should not be overlooked: project developers are more flexible to implement projects that might otherwise not be viable (e.g. projects that are too small or too disaggregated).¹⁷ A too heavy control regime could to this extent mean that less investments go to the developing world.

Moreover, now the United Nations is moving to being carbon-neutral, it will be interesting to see how this organization will indeed set of its remaining carbon emissions.¹⁸ In a general sense, the behaviour of governments themselves as being buyers of carbon offsets could set important signals and examples for citizens about which offers seem to be preferable.

2.2 Some examples from current practice

Although the idea of an international 'UNFCCC' provision for ensuring the integrity of carbon offsets (except for JI and CDM), the emergence of international private approaches contributing to the development of common criteria for ensuring the integrity of carbon offsets is already noticeable¹⁹. As just an illustration of such initiatives, two such developments will be described below.

¹⁵ De Boer (2008).

¹⁶ Some suppliers offer for instance between different kind of offsets, like planet air (<http://planetair.ca/> accessed 3 September 2008).

¹⁷ WWF Germany (Authors: Anja Kollmuss, Helge Zink, Clifford Polycarp) (2008), p. vi.

¹⁸ United Nations General Assembly (2008), p. 39. A deadline has not been mentioned.

¹⁹ See for an overview KPMG (2008), p. 15.

- **The Gold Standard Label**²⁰

This standard has been co-initiated by World Wildlife Fund (WWF) and is now exploited by a Swiss-based *non-profit* organization. According to the website, 49 non-governmental organizations worldwide support the standard, among which Greenpeace International. A methodology for voluntary offset projects was launched in May 2006, which is already two years from now. The organisation (also called: 'Gold Standard Foundation') does not sell credits, but affiliated organisations do. A Technical Advisory Committee (TAC), which according to the website is independent, assesses projects to ensure the credibility of the validation and verification process. The members of the TAC work in their personal capacity (though the question can be raised how independent advice is guaranteed). The TAC meets quarterly, and main decisions will be published in the Gold Standard newsletter.²¹ Stakeholders may submit requests regarding changes or clarification of the Gold Standard methodologies. In March 2008, the Gold Standard and APX Inc have launched a registry that allows for the tracking of verified emissions reductions, in order to enable transparency in the voluntary carbon market.²²

Important to note is that the Gold Standard has more stringent requirements than CDM. For instance, sinks and sequestration projects are not eligible to the Gold Standard because the organization has the view that tackling climate change should be done through an energy transition. Offsets should be supporting green energy, and, moreover, methodologies for forestation are less solid. Moreover, sinks and sequestration projects often are relatively easy to achieve and thus result in cheap credits crowding out the more valuable credits from Renewable Energy and Energy Efficiency projects.²³

- **The Voluntary Carbon Standard (VCS)**²⁴

This standard, launched in 2006, but already replaced with a new standard in 2007, has been developed by The Climate Group, The International Emissions Trading Association (IETA) and the World Business Council for Sustainable Development. The website explains that the VCS Program is managed by an independent, non-profit VCS Association, which is still

²⁰ <http://www.cdmgoldstandard.org/>, accessed 3 September 2008.

²¹ Though not yet published on the website, at least not on 17 August 2008.

²² <http://goldstandard.apx.com/>, accessed 3 September 2008..

²³ According to the Gold Standard website.

²⁴ Website: <http://www.v-c-s.org>, accessed 18 August 2008.

being established. In the interim period, The Climate Group and the International Emissions Trading Association provide the Secretariat for the VCS Association.²⁵ According to the website, the Voluntary Carbon Standard Program has been developed to provide a rigorous, trustworthy and innovative global standard and validation and verification program for voluntary greenhouse gas offsets. They use the following main criteria: VCS offsets must be real (have happened), additional (beyond business-as-usual activities), measurable, permanent (not temporarily displace emissions), independently verified and unique (not used more than once to offset emissions). The VCS portfolio also includes agriculture, forestry and land use, including RED credits (Reducing credits from Deforestation). The program has introduced the 'Voluntary Carbon Unit' (VCU), and all Voluntary Carbon Units are issued, held and cancelled in VCS registries. The VCS Association (which needs to be established) is in the process of establishing Advisory Groups to support the VCS Board.

In addition, other initiatives exist as well.²⁶ In fact, the market for carbon offsets is quite young and not yet mature, and the many initiatives might in fact puzzle the consumer. In general, it has been concluded that the vast majority of voluntary offsets are currently not certified by any third-party standard.²⁷ A report for the WWF has noted that the lack of a standard body which approves projects exacerbates conflicts of interest, particularly where auditors are selected and paid for by the project developer. None of the voluntary standards have specific procedures in place to review the approved auditors nor to allow for sanctions against or the discrediting of an under-performing auditor.²⁸ Moreover, it is at first sight not always clear what is needed for the administrative support and what really goes to the credit.

Governmental involvement mostly lacks, but media coverage has unveiled quite negative experiences with the unregulated offsets. Such announcements, for instance done in the Dutch media, have encouraged increasing attention towards building credibility. For instance Dutch suppliers of carbon offsets have developed a specific joint project for ensuring the credibility

²⁵ <http://www.v-c-s.org/contacts.html>, accessed 12 August 2008.

²⁶ WWF Germany (Authors: Anja Kollmuss, Helge Zink, Clifford Polycarp) (2008), p. iv, lists the following other possibilities:

- VER+
- The Voluntary Offset Standard (VOS)
- Chicago Climate Exchange (CCX)
- The Climate, Community & Biodiversity Standards (CCBS)
- Plan Vivo System
- ISO 14064-2
- WRI/WBCSD GHG Protocol for Project Accounting

See also KPMG(2008) p. 15-16 and

http://www.ecobusinesslinks.com/carbon_offset_wind_credits_carbon_reduction.htm for an extensive comparison, accessed 12 August 2008..

²⁷ WWF Germany (Authors: Anja Kollmuss, Helge Zink, Clifford Polycarp) (2008).

²⁸ WWF Germany (Authors: Anja Kollmuss, Helge Zink, Clifford Polycarp) (2008), p. viii.

of the offsets.²⁹ In fact, we see that many initiatives arise, and that each provider is in fact free to choose an integrity mechanism as it wishes. Furthermore, we note that it is as such no not a disadvantage when different offset mechanisms co-exist. We see already a competition among the different standards, for being the leading standard.³⁰ It is of course to be questioned which motives will lead the buyers and how that ultimately determines the winning standard. Would that be the cheapest one, or the one mostly contributing to sustainable development? As such, the freedom to choose among different standards is not a disadvantage. However, unexplainable differences can lead to puzzled consumers, possibly discouraging them from buying.

Small investigation shows that three suppliers, offering offsets meeting the gold standard, give different calculations and offer different amounts.

Investigation for a voluntary offset of air travel Brussels Ottawa, September 2008 :

- 1): 2,5 ton CO2: 98,75 CAD
- 2) 3.9 tons CO2: 91 Euro
- 3) 3,4 ton CO2: 45,80 Euro

In sum, we formulate the following key concerns:

- the (transparency and) integrity of the offer (will the credit indeed be realised, will it not be double-counted, and is the amount of greenhouse gas emissions to be compensated rightly counted?);
- will the offer indeed lead to a carbon emission reduction, and not to harmful side effects?
- and moreover, will the execution of the offer not lead to perverse outcomes at the place where the compensation need to be realised, meaning that it in fact would contravene to the concept of sustainable development?

Such are the cases where governments can come in with policies in order to ensure the credibility and integrity of the carbon offsets.

²⁹ www.klimaatcompensatie.nl, accessed 18 August 2008.

³⁰ See the quote on the website “Our research indicates that the VCS will become the leading standard against which all voluntary offset projects are judged”: <http://www.v-c-s.org>, accessed 12 August 2008.

3 The Netherlands: no governmental involvement

The Dutch government has not yet established a regulatory program or something like a voluntary code in order to ensure the credibility of the offset offers. Meanwhile, quite some (Dutch) suppliers have entered the market, while media coverage in the years 2007 and 2008 stipulated the risks of buying such offers. Not only the, thereby pointing at both negative effects for the consumers themselves, as, moreover, pointing at negative effects in developing countries. Following this, the Dutch Parliament put forward questions to the Minister responsible for environmental policy about the task of the government in order to ensure the credibility and integrity of the voluntary offset market. It is interesting to see that the Minister is thus enforced to explain its position regarding the private carbon market. By doing so, the Minister emphasizes the responsibility of the suppliers to ensure the quality of their work.³¹ Furthermore, the Minister considers the uncertainties regarding the compliance with the agreed greenhouse gas reduction acceptable, moreover taking into account the overall positive effects of voluntary carbon offsets.³² Furthermore, the Minister supports the existence of several types of carbon offers, with differing certainties regarding the carbon offset.

The discussion regarding the credibility and effectiveness of the carbon offset offers has been expanded to the offsetting by the government it self. It appears that the offsetting policy is quite differentiated among several ministries. The Minister for the Environment has however announced to develop coordination and harmonisation of the offsetting of carbon emissions from governmental services, in particular air travel by politicians and civil servants. In June 2008, it has been promised that ultimately in February 2009 some minimum conditions regarding offsetting carbon emissions by the government will be presented.³³

In the meantime, consultations and discussions between the Minister concerned with environmental policy and a group of carbon offset providers resulted in an agreement that the carbon offset offers will be assessed by a private expert.³⁴ One of such assessments has stated

³¹ Dutch Parliament, Second Chamber, 2007-2008, file 31 209, nr. 32, p. 1 (16 June 2008) (only available in Dutch).

³² Dutch Parliament, Second Chamber, 2007-2008, file 31 209, nr. 32, p. 7 (16 June 2008) (only available in Dutch).

³³ Dutch Parliament, Second Chamber, 2007-2008, file 31 209, nr. 32, p. 7 (16 June 2008) (only available in Dutch).

³⁴ Dutch Parliament, Second Chamber, 2007-2008, file 31 209, nr. 12, p. 2 (15 February 2008) (only available in Dutch). It is stated that this assessment would be done in due time.

that the credibility of most the offers is assured though a small part of the offers had some problems.³⁵ These projects took place in developing countries (Jamaica and Nicaragua). In the meantime, the offset provider has announced to adhere in future only to broadly recognized standards, like CDM, the Gold Standard, and the VCS standard. The private assessment did not cover 35% of the portfolio, which contains forestry projects. Strikingly enough, the private offset supplier asks for stricter rules to ensure the quality of the offsets, for instance through the establishment of a quality mark.³⁶

The Minister recognizes that the CDM mechanism would ultimately be the most reliable one, and that most carbon offers on the voluntary market have a lower standard, which means that they ensure less certainty and credibility.^{37, 38} At the same time, the Minister points at the fact that the support of non-CDM offsets could be advantageous too, as the CDM process is quite elaborated and therefore expensive. The voluntary market could stimulate (small-scale) projects for which it would be too cumbersome or too expensive to pass the CDM procedure, though they nevertheless might be worthwhile.

According to the Minister, there is one important aspect that should be improved, which is the transparency of the carbon market. The carbon offset suppliers should give full openness regarding the content of the products, among which the temporality of the carbon credit, and the procedures that should ensure the credibility of the product. Such openness and information would enable further considerations regarding the value of the non-Kyoto carbon offsets compared to the CDM mechanism.³⁹ However, the government lacks a power to enforce such transparency and, moreover, there is no intent to establish such a competence.⁴⁰

Moreover, one may ask, however, whether even with such full information citizens are capable to use this information in order to choose the best offset supplier, and, moreover, whether consumers in general would be ready to spent time to such a comparative investigation in order to find the supplier that fits best to its own conditions. Perhaps a

³⁵ KPMG Sustainability (2008).

³⁶ Climate Neutral Group, press release 9 July 2008.

³⁷ Dutch Parliament, Second Chamber, 2007-2008, file 31 209, nr. 32, p. 2 (16 June 2008) (only available in Dutch).

³⁸ Dutch Parliament, Second Chamber, 2007-2008, file 31 209, nr. 32, p. 3 (16 June 2008) (only available in Dutch).

³⁹ Dutch Parliament, Second Chamber, 2007-2008, file "vra2008vrom-01", p. 2-3 (26 March 2008) (only available in Dutch).

⁴⁰ It is quite uncertain whether the general duty of care can be applied (codified in art. 1a, Dutch Environmental Management Act), or whether a civil law procedure would be possible. These possibilities have however not been discussed explicitly by the Minister.

consumer organization (the Netherlands has in fact strong private consumer organizations, which is important for controlling the integrity of products and services in general) or a governmental authority is needed to fulfill this task.⁴¹ Regarding consumer law in general, there is a general view that “A *proper mix of private and public collective enforcement will yield the best results*”.⁴² Such an approach could indeed be a guiding thought when developing a policy for ensuring the credibility and integrity of the voluntary carbon market. Moreover, it has been argued that the Dutch private organizations have an effective role in case of bonafide market participants, but is however less effective in case of malafide participants.⁴³

Strikingly enough, the formal discussion between the Minister and the Parliament did not yet include an analysis about to what extent private law, in particular consumer law, is already facilitating consumers and consumer organizations to use legal means in order to enforce non-compliance. In fact, in recent times EU law has strengthened the position of consumers and collective consumer concerns in order to balance the position between the in fact “weak” consumers against powerful suppliers of products and services. Following EU legislation, specific consumer law provisions have been established throughout the EU, with some different choices among Member States. In the Netherlands, a Consumer Authority has been introduced with specific enforcement tasks and competences, among which a ‘naming and shaming’ competence. Taking such developments into account, it needs to be investigated whether indeed (newly established) consumer law would facilitate consumers and consumer organizations, and the newly established Consumer Authority, to enforce the credibility and integrity of the carbon offers. In the meantime, additional consumer law provisions have been proposed in order to correct unfair business-to-consumer practices commercial practices. This new development, which is obligatory in order to implement EC law, ensures that businesses that do not comply with their initial offers can be more easily corrected.⁴⁴ The Dutch Consumer Authority will get some new competences, and the maximum financial penalty will be a maximum of €450.000 or a maximum of 10% of the turnover when this amount would exceed the fee of € 450.000. In view of ensuring the creditability and integrity of the

⁴¹ Van Boom, Loos (2007).

⁴² Van Boom, Loos (2007), p. 8, referring to Roger van den Bergh: Should consumer protection law be publicly enforced? An economic perspective on EC Regulation 2006/2004 and its implementation in the consumer protection law of the member States, published in the same book, p. 179-203.

⁴³ Ogus, Faure and Philipsen (2006).

⁴⁴ See the ‘Unfair Commercial Practices Directive’, Directive 2005/29/EC, Official Journal of the European Union, L 149/22, 11.6.2005.

voluntary market, it needs to be considered to what extent such consumer legislation and the executing provisions indeed enable an effective control of the offset providers. Such a thorough analysis would be needed before the government would decide to establish new competences.

The Dutch government indeed wants to rely on the responsibility of the carbon offers and voluntary certification mechanisms, and thus far no governmental initiatives or policies have been announced. This means that only existing consumer law and other existing provisions can be used for controlling the market. The Minister mostly stresses upon the responsibility of the offset providers to develop procedures for ensuring the credibility and integrity of the market. According to the Dutch Minister for the environment, the avoidance of possible conflicts with human rights should equally be ensured through such (private) certification provisions, and specific governmental led investigations towards the ‘human rights proof’ of the carbon offset offers is not indicated.⁴⁵

4. The UK initiative for a Carbon Offset Code

Within the UK the government is developing a specific policy in order to ensure the integrity of the carbon offsets. In fact, a quite positive attitude towards the necessity of governmental involvement into the market of offsets has been expressed. This has resulted into a draft Code of Best Practice for Carbon Offset Providers, in order to ensure consumer confidence in the emerging voluntary offset market, and, moreover, to stimulate growth of that market through establishing such confidence.⁴⁶

On 19 February 2008 the ‘Draft Code of Best Practice for Carbon Offset Providers’ has been presented by the Secretary of State of the Department for Environment, Food and Rural Affairs (DEFRA). This follows in fact a former report of the Environmental Audit Committee of the House of Commons.⁴⁷ This committee emphasized the leadership role of the government:

“There are many divergent and often loud opinions about the role of the voluntary

⁴⁵Dutch Parliament, Second Chamber, 2007-2008, file 31 209, nr. 32, p. 7 (16 June 2008) (only available in Dutch) and file “vra2008vrom-01” 2007/2008, 26 March 2008, p. 6.

⁴⁶<http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/>, accessed 13 August 2008.

⁴⁷ House of Commons, Environment Committee (2007), printed on 3 July 2007.

offset market. Both individuals and businesses are very likely to be confused by the mixed messages available. They need clear guidance about the extent to which offsetting can help meet their responsibilities to reduce carbon emissions. We recommend strongly that the Government grasps the opportunity to show leadership here. It must set out its own view on the role that the voluntary offset market can play in reducing emissions and why offsetting is a positive thing. The view should be unambiguous, well-publicised and prominent in all Government communications concerning offsetting and climate change.”⁴⁸

The committee even envisions that consumers should be given a compulsory choice option for offsetting when procuring products and services. The committee supports particularly the idea to require all those selling air tickets within the UK to include in the price offered the cost of an offset, and to retail that offset along with the ticket unless the customer requests otherwise.⁴⁹

With presenting the draft Code of Best Practice for Carbon Offset Providers, it is considered that carbon offsetting can help to raise awareness, and, moreover, to reduce the carbon impact of activities. The Code should increase consumer confidence in the integrity and value for money of the offset products available to them; ultimately this Code aims to provide confidence and clarity to consumers. Importantly, the government acknowledges that voluntary offsetting is not a ‘cure’ for climate change, as the most effective way to combat climate change is to reduce emissions.

The Code will set standards for:

- Robust and verifiable emission reduction credits;
- Accurate calculation of emissions to be offset, using statistics and factors published for this purpose by the Government (this would ensure that providers must follow a uniform formula for calculating how much carbon is emitted by a particular activity)
- Clear information for consumers regarding the mechanism and/or projects supported;
- Transparent pricing, and

⁴⁸ House of Commons, The Environmental Audit Committee (2007), p. 50.

⁴⁹ House of Commons, The Environmental Audit Committee (2007), p. 54.

- Timescales for cancelling credits.⁵⁰

Voluntary offset products that meet these requirements may be accredited under the Code and will be awarded a quality mark so that individual or business consumers can easily recognise that they comply with the Code. This (draft) Code has been initiated (and funded) by the government and will be managed by the so-called Accreditation Body. This independent body will be established after a competitive tender. The selected body should assist the government in producing the Code and, moreover, to accredit offset products. The Body should develop the criteria to demonstrate compliance with the code.⁵¹

The participants who want to get assessed and accredited the quality mark need to pay a fee. In fact, the government intends the accreditation to be self-financing.⁵²

Seeking accreditation under the Code is voluntary, which means that offset providers can choose to seek accreditation for the offsets they sell. Offset providers who sell accredited offsets will not be prevented from selling offsets that may not meet the Code, but they may only use the quality mark for products that have been accredited. The Code will be reviewed annually to ensure continual improvement. For example, if the voluntary offsetting industry develops a good quality standard for Voluntary Emissions Reduction projects/credits, subject to an independent audit and subsequent Government decision, such credits may be permitted to be used as part of a voluntary offset product accredited under the Code.

The Code initially covers only certified emission reductions from the CDM mechanism. This approach allows the government to adhere to the procedure established by the Kyoto Protocol, instead of developing a complex procedure of its own. The Secretary of State however challenges the business sector to develop a standard for “Voluntary Emissions Reduction credits” (VERs) which could be included in the Code in the future, subject to the verification

⁵⁰ <http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/faqs.htm>, accessed 13 August 2008.

⁵¹ Department for Environment, Food and Rural Affairs, Summary of responses to the consultation on establishing a Code of Best Practice for selling offsetting to consumers, 18 January to 13 April 2007 July 2007 <http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/pdf/cop-summary-responses.pdf>, accessed 13 August 2008.

⁵² Department for Environment, Food and Rural Affairs, Summary of responses to the consultation on establishing a Code of Best Practice for selling offsetting to consumers, 18 January to 13 April 2007 July 2007 <http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/pdf/cop-summary-responses.pdf>, accessed 13 August 2008.

of their robustness. In an open letter from the Secretary of state the value of non-Kyoto projects has been emphasized, as a means of developing new and innovative offset projects.⁵³

In order to stimulate industry to develop a standard for VERS, the government inter alia announced to support a workshop to help the industry come together and to start discussion. Here, we see that the government leaves the responsibility to the market though stimulates such private developments by announcing that projects and procedures will be assessed in order to consider whether credits approved under the industry standard could be used as offsets meeting the Code.⁵⁴ In this vein, it is important not to overlook the opinion of the Environment Committee, who beliefs that only a focus to CDM-credits would leave unregulated those portions of the market where is greatest innovation and greatest environmental or sustainable development benefit. Moreover, this approach would also leave unregulated and unconstrained ‘the activities of so called carbon cowboys peddling flimsy VER’s’.⁵⁵

Members of the offsetting industry and other stakeholders are invited to set up an expert panel to discuss the operation of the Code. It is intended that there should be no involvement from Government or the Accreditation Body, but that the Government and the Accreditation Body should liaise with the panel when developing and revising the Code. This panel may consider input to the development of a standard for VERs.

The draft code of best practices introduces also an enforcement regime. If an accredited offset no longer meets the requirements against which it was accredited but the offset provider continues to use the quality mark the offset provider will be in breach of the Code. Similarly if accreditation is gained through false or misleading statements accreditation will be suspended. The requirements which the suppliers must meet regarding the accredited offsets will be part of a licence agreement.

⁵³ Open Letter from the Secretary of State, February 2008, <http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/pdf/carbon-offset-letter.pdf>, accessed 13 August 2008.

⁵⁴ Open Letter from the Secretary of State, February 2008, <http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/pdf/carbon-offset-letter.pdf>, accessed 13 August 2008.

⁵⁵ House of Commons, The Environmental Audit Committee (2007), p. 53, paragraph 77.

Where offset providers fail to comply with the requirements of the Code, they will be informed and offered the chance to correct the error within 10 working days. In the event that no corrective action is taken, the right to use the quality mark will be withdrawn by the Accreditation Body. A breach of the license agreement will be considered a breach of contract and the offset provider may be taken to court. The accreditation body will perform bimonthly reviews of the internet to check for breaches of the Code including incorrect use of the quality mark.⁵⁶ Compliance will also be checked through auditing. The selection of providers of accredited offsets to be audited may be targeted or random. Offset providers will be given four weeks notice that they will be audited. It is expected that the audit exercise will be completed within ten weeks of notice being given. To pass the audit, offset providers must be able to provide information to prove that they meet the requirements of the Code by providing data on offsets sold and how they met the other requirements of the Code.

If a consumer or stakeholder has a complaint against an accredited product, for example the offset provider is not using the quality mark correctly, they can provide details to the accreditation body. The accreditation body will then assess the issue and take any required action. Organisations deemed to be in breach of the Code, but persisting in using the quality mark and any organisation using the quality mark without having applied for accreditation will be named on both the accreditation body's and Defra's website.

For offsetting providers there is the possibility to send to the Accreditation Body a complaint with regard to the application or audit process. The complaint will be considered independently of the application and audit process. A response will be sent within a further fifteen working days. If the complaint is not resolved satisfactorily it may be presented to the government.

However, the government is already taking into account that offsetting is only an interim measure, until other regulatory measures have been adopted for instance concerning air travel.⁵⁷

⁵⁶ Draft code p. 17.

⁵⁷ Offsetting is a complimentary interim measure for tackling the climate change impacts from aviation, which could be promoted to the wider travelling public to be taken up on a voluntary basis'.
<http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/faqs.htm>, accessed 13 August 2008.

5. Concluding remarks

The voluntary carbon offset market facilitates citizens (and businesses) to offset their carbon emissions. The world-wide voluntary carbon offset market is fragmented, with a variety of quality standards. Within the EU, but equally in Australia and the United States a variety of mechanisms intends to assure customers the quality of the offsets they are purchasing.⁵⁸ Most of these compensatory measures will take place in developing countries, since the offsets are much cheaper there. As far as those offsets will be done outside the Clean Development Mechanism of the Kyoto regime, one can wonder what guarantees exist that such offsets are reliable and effective, and, moreover, are not against the interest of the local people living there. Indeed, the credibility and integrity of the carbon offset offers should not be overlooked, and procedures should be applicable ensuring these values. Of course, the CDM as such is not without criticism, but this is at least a procedure that intends to ensure a real greenhouse gas reduction and, moreover, compliance with sustainable development. Based on experiences with the CDM mechanism, there is of course always the option to improve this mechanism where needed. The voluntary carbon offsets that fall outside this scheme are in fact unregulated, unless private law and / or public law initiatives are taken on the national or international level to ensure the credibility and integrity of the offsets.

This paper has showed that there is a remarkable difference between the questions if and how the (national) government should get engaged into ensuring the credibility and integrity of the voluntary offset market. The EU has thus far not provided a specific approach towards regulating voluntary offsets, and the EU Member States are still competent to issue regulations regarding those offsets.

Within the UK we see the development of a Code of Best Practice for Carbon Offset Providers, while in the Netherlands the government mostly relies on the responsibility to be taken by the offset providers themselves. The latter approach facilitates the development of a variety of offset mechanisms as being alternatives to the Kyoto credits. But here the problem is whether such alternative mechanisms are credible and sustainable, and whether consumer law is strong enough to control the offset suppliers. The former approach is expectedly more expensive, but has a better chance of being credible and sustainable. Moreover, the UK government still encourages the development of alternative offset mechanisms, as long as

⁵⁸ Ribón and Scott (2007).

basic criteria will be met. In conclusion, we see that the UK government is much more emphasizing that private carbon offsets need to comply with criteria that ensure the credibility and integrity of the scheme, and, moreover, has taken an initiative to develop an elaborated mechanism for the voluntary offsets.

In the meantime, we have equally seen that the executive secretary of the UNFCCC has proposed the intriguing idea that the UNFCCC could provide a framework for awarding accreditations. In fact, we see that a supranational approach seems very much fit, as the consumers could choose to buy offsets wherever they want all over the world, and a national government would only be able to check the providers vested in their own country. The advantage of an international mechanism would also be that developing countries, being a party to the UNFCCC would be able to express their opinion and their vote regarding the content of such mechanism. With further international harmonization of the voluntary carbon offset market, however, the idea of developing a variety of offset offers should not be overlooked, in order to keep some room for new and innovative, but by nature more risky approaches. Such new developments need full transparency and, moreover, timely assessments in order to decide whether support should be prolonged.

Besides a regulatory framework for accrediting the offsets, there is another important role the government could play within the voluntary offset market. In fact, the government it selves is a very large carbon emitter. In the UK, the government has developed a Government Carbon Offsetting Fund (GCOF) to meet the commitment to offset emissions arising from official and ministerial air travel from April 2006.⁵⁹ All central government official and ministerial air travel is offset by purchasing credits ‘that meet strict international standards in terms of the certification and monitoring of emission reductions’. The projects used are all located in developing countries.⁶⁰ The British Government is also looking at the role carbon offsetting might play in the commitment for the Government office estate to go carbon neutral by 2012.⁶¹ Provided that the carbon offset projects indeed meet the standards, such projects might contribute to the well-being too of the local people. However, this specific effect to the developing world, local people and nature should in fact be assessed and reported

⁵⁹ <http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/>, accessed 13 August 2008.

⁶⁰ <http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/>, accessed 13 August 2008.

⁶¹ <http://www.defra.gov.uk/environment/climatechange/uk/carbonoffset/>, accessed 13 August 2008.

consequently, as we still need to gain further experience with the effects of world-wide carbon trading to developing countries.

In the Netherlands, however, the coordination of the offset practice of the government has just begun. Following some discussion with the Second Chamber of Parliament, the Minister for the environment started to coordinate the offsetting of air travels and other carbon emissions. Also here, the question can be raised whether a multi track approach would be beneficial, as adhering to a very credible and integer but costly and bureaucratic approach would maybe mean that the development of the market will be hindered, which after all could not be beneficial for the developing world.

The future of the voluntary emissions trading market will furthermore depend on how other regulatory regimes might evolve. As the primary attention is to decrease the carbon footprint of the western world, the voluntary market is to be seen as an interim measure. It can for instance be imagined that the decision to include air transport within the EU emissions trading scheme means that citizens will decide not to pay twice for carbon: once for the price increase of the ticket as a consequence of the EU ETS, and, second, for the voluntary offset of the real emissions caused.

Indeed, the usefulness of the voluntary market will decrease as soon as other policy tools or other effects (like for instance rising energy prices) will stimulate wealthy citizens to reduce their carbon footprint. Within the EU, already some (not for sure effective) policy approaches target emissions from for instance buildings and cars.⁶² Also the European Parliament recently showed to be keen on unveiling carbon information, which would enable citizens to offset their carbon emissions.⁶³ At the national level, governmental initiatives are increasingly being considered, like the proposal of the French minister for the Environment to widen the "bonus-malus" tax and subsidy scheme for encouraging low-carbon emission cars to products

⁶² See for a overview: Peeters (2007).

⁶³ The European Parliament has called for airline reservation systems to provide environmental information about flights such as carbon dioxide emissions per passenger: ENDS *Europe DAILY* 2608, 'MEPs demand green EU airline booking rules' 05/09/08, and: European Parliament legislative resolution of 4 September 2008 on the proposal for a regulation of the European Parliament and of the Council on a Code of Conduct for computerised reservation systems (COM(2007)0709 – C6-0418/2007 – 2007/0243(COD)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0402+0+DOC+XML+V0//EN&language=EN#BKMD-1>, accessed 9 September 2008.

such as televisions, computers, tyres and light bulbs. This proposal though doesn't seem to get wide support because of severe budgetary disadvantages.⁶⁴

Moreover, the content of the offset measure compared to the national regulations matters too: it seems quite odd when offsetting would lead to cases in which a citizen is paying for replacement of fluorescent bulbs,⁶⁵ without any obligation of having replaced them in the Western world. It could also be that citizens are paying for a wind farm, to be established in a developing country, without being ready to accept such wind farms in its own neighborhood. These are policy questions that should not be overlooked by governments when further developing the voluntary offset market.

Another interesting thought would be that the EU citizen can choose buying greenhouse gas allowances as being provided by the EU greenhouse gas emissions trading scheme. The investment would then go to an industry that has reduced its emissions, provided that no free allocation *with over-allocation* has occurred. Such free allocation has happened in the first period of the scheme in 2005-2007. Also the second period (2008-2012) has predominantly a free allocation, and the EU citizen would maybe feel reluctant buying rights that were given for free to the industries, even if this would lead to the reduction of greenhouse gases. The European Commission has however proposed that auctioning of greenhouse gas allowances will be the default approach starting from 2013 onwards, which would mean that a citizen buying an EU greenhouse gas allowance directly from the government (provided that the regulatory framework allow this). In such a way the citizens would be able to contribute to less industrial emissions within the EU ETS scheme, using the allowances in order to compensate their own carbon emissions.⁶⁶ Of course, the price of the allowances compared to the prices of the voluntary offset mechanisms will influence this decision-making.

⁶⁴ Perhaps a gradual approach will be adopted. Le Monde, "M. Bolrloo veut generaliser le "bonus-malus" écologique", 19.08.2008, http://www.lemonde.fr/web/imprimer_element/0,40-0@2-823448,50-1085391,0.html, accessed 29 August 2008.

⁶⁵ KPMG (2008) p. 19.

⁶⁶ Through this, the citizen would even get JI or CDM credits, as those mechanisms have been linked to the EU ETS, and as the European Commission has proposed to go ahead with such mechanisms even if no new agreement will be reached on the international level for new Kyoto commitments. Moreover, the European Commission has proposed to provide a mechanism for voluntary *domestic* offsets. This would mean that voluntary greenhouse gas reductions within the EU will get awarded tradable allowances, which of course could be equally bought by citizens.

As long as the voluntary carbon market is developing, the credibility and integrity of the scheme pose governments for the interesting question whether and how they should get involved. The strength of consumer law and the additional role of governmental policies, including international policies, are however yet to be determined. In fact, the voluntary market has important benefits, since it facilitates citizens who want to take up their responsibility to do. Moreover, if rightly managed and controlled, this market leads to beneficial investments in the developing world. The idea of including *compulsory choice options* for Western consumers seems furthermore an interesting thought that could stimulate the market. Even the option of *compulsory offsetting* could be considered by western governments, for instance for some carbon consuming services or products. However, in particular the fact that citizens can hardly check the integrity of the offset offer and the behaviour of the offset providers including the execution of the offsets, the government needs to take up responsibility. The government should do so at least in order to check whether the agreed offsets are complied with, in particular if consumer law appears to be not effective enough. Moreover, an even more appealing responsibility is to set up a policy in order to avoid that such offsets bought by western consumers do lead to detrimental effects to local people or to nature in the developing world.

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