

# MONITOR

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## CO<sub>2</sub> compensation

**Climate protection instrument, fraudulent labelling or modern indulgences?  
With insights from Latin America**

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- › In order to curb advancing climate change as effectively as possible, the hierarchy of instruments – "avoid, reduce, then compensate emissions" – must be clearly communicated and adhered to by companies and consumers. A change in production, consumption and behaviour is unavoidable in many areas.
- › The social market economy offers a suitable framework for climate protection that combines the advantages of a free market with the welfare state as a corrective and can create incentives for changes in consumption.
- › Designed effectively and transparently, CO<sub>2</sub> compensations can be part of a mix of instruments to combat climate change in the transition phase to climate neutrality. This urgently requires binding international standards and, as a result, monitoring of their compliance in an institutionalised market for compensation services to avoid *greenwashing*.
- › CO<sub>2</sub> compensation projects must benefit the people in the implementation regions. This is where development cooperation can play a part by exercising the responsibility of the industrialised countries and also embracing the opportunity to (re)build trust in dialogue with partner countries.
- › In the regions where CO<sub>2</sub> compensation mechanisms are implemented, an exchange of experiences between the countries on their different legal structures can help. This can also contribute to ensuring that violations of the rights of the indigenous population committed during the mining of raw materials are not repeated with the CO<sub>2</sub> compensation projects which are intended to promote the sustainable development of nature and people.

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### Consideration and orientation – the "be-all and end-all" of CO<sub>2</sub> compensation

Global climate regulation is increasing, whether under the Paris Climate Agreement, the EU Green Deal or national regulations. This regulation obliges countries around the globe to tighten their climate targets and implement effective measures to achieve them. The latest statement of the International Tribunal for the Law of the Sea<sup>1</sup> once again emphatically suggests this, according to which the contracting states must take all necessary measures to prevent, reduce and control the pollution of the oceans – and thus about 70 percent of the earth's surface. This includes, above all, precautions that reduce emissions, because greenhouse gas (GHG) emissions, including carbon dioxide (CO<sub>2</sub>) in particular, play a central role in achieving the climate targets. The pricing and offsetting of these emissions are important instruments for reducing them more and more on the way to climate neutrality. Nevertheless, CO<sub>2</sub> compensation in particular is not beyond dispute for various reasons that have yet to be discussed.

In this context, the so-called voluntary CO<sub>2</sub> markets are becoming increasingly relevant for companies in order to contribute to achieving the legally defined climate targets. However, the challenges for them vary depending on whether it is a matter of direct, so-called *Scope 1* emissions, for which companies are responsible themselves and which they can control – such as energy sources used at the company's site – or indirect *Scope 2* and *Scope 3* emissions generated by the production of purchased energy or otherwise in the course of the value chain, which are only partly subject to the respective company's control.

Concern about climate change is increasing among the population worldwide, as a recent survey by the United Nations Development Programme shows.<sup>2</sup> At the same time, debates are characterised by the question of personal responsibility, to what extent individuals can contribute to the reduction of their particular CO<sub>2</sub> footprint through their own behaviour, by modifying consumption and also offsetting emissions caused by their personal lifestyle.

The idea of compensation mechanisms is to finance climate protection projects that save as much CO<sub>2</sub> elsewhere in the world as one produces oneself – for example, by offering or using services such as air travel, gas and heating energy or the production of goods. Such climate protection projects can include investments in renewable energies and energy efficiency, serve to reduce or

bind greenhouse gases, for example in agriculture, forests, forestry and for the preservation of peatlands, or assist with improving waste and water management and the emission of climate-damaging gases. This will open ways to shape the transition to climate neutrality and, in the future, also create opportunities to use private capital for promoting effective climate protection abroad – in particular in the southern partner countries.

However, compensation projects have recently come under repeated criticism because it has turned out that they do not actually contribute effectively to compensate emissions, or to a much lesser extent than stated, or even because there are allegations of fraud regarding the certificates for compensations.<sup>3</sup> Worrying effects of some climate protection projects on the indigenous population in the rainforests, for example in Latin America, have also been reported.

In view of this mixed picture, there is need for orientation and consideration. This article therefore explores a series of questions: What are CO<sub>2</sub> compensations all about, which instruments are available and what can they really achieve? Given the current allegations of *greenwashing*, what would have to be changed to increase the transparency and credibility of CO<sub>2</sub> offsets? What role does communication play in this context? What about the effects of climate protection projects on-site: Is the protection of indigenous peoples' rights sufficiently taken into account? What economic benefits do they have if they have to change their way of life and economic activity for climate protection projects? Who should earn money with the CO<sub>2</sub> bound in the rainforests through compensation projects? And finally, what is the role of development cooperation here?

### CO<sub>2</sub> compensation – some figures, data and facts

Research<sup>4</sup> shows that the German market for greenhouse gas compensation is growing steadily, and especially since 2016 at an enormous pace. The reasons given for this include climate and environmental protection, the goal of climate neutrality and a sense of responsibility, especially *Corporate Social Responsibility (CSR)*, in the top three places. It is interesting to note that the market is divided on the question of where the compensation projects should take place. Almost half of the companies surveyed in the mentioned studies stated that they would prefer to support projects in Germany or Europe, while 51 percent would like to support projects in countries of the so-called Global South.

In 2020, providers of compensation transactions in Germany decommissioned a total of 43.6 million certificates, which consequently reduced or avoided 43.6 million tons of GHG in compensation projects.<sup>5</sup> However, it is important to note – as well as to communicate appropriately to consumers – that the compensation of GHG emissions should only be seen as the third-best solution in the target hierarchy compared to its consistent avoidance and reduction.

Against this background, claims of "climate neutrality" on products, for example, should also be read critically, because the supposed climate neutrality is actually always achieved through offsetting and not through extensive emission reductions within the value chain of a product – usually without consumers being sufficiently informed about this circumstance. Apart from that, emissions are always generated in the production chain – so genuine climate neutrality cannot be achieved with compensations. This has led to discussions and court rulings in the past few years, including a recent one by the German Federal Court of Justice in a legal dispute involving a well-known fruit gum and liquorice manufacturer.<sup>6</sup> The EU's recently enacted *Green Claims Directive*, which, compared to two previously adopted EU directives<sup>7</sup>, provides for stricter requirements for the presentation of reliable, comparable, substantiated and verifiable information on the environmental characteristics of products and companies<sup>8</sup> is also intended to serve the goal of creating more transparency.

Suspected cases of fraud such as those of so-called *Upstream Emission Reduction (UER)* projects in China, which were uncovered lately by media research, are of little help with regard to the credibility of climate protection projects as a whole, albeit concerning a different type of certificate, which aims to reduce CO<sub>2</sub> emissions from oil production by no longer flaring associated gases produced in the process, but by using them after converting the plant accordingly. However, the corresponding UER certificates for the reduction of GHG emissions at the oil production facilities have apparently been acquired on a larger scale by the oil industry for non-existent or other flawed projects<sup>9</sup> – which once again fuels the accusation of fraudulent labelling of CO<sub>2</sub> compensation projects of all kinds.

### Climate integrity – a question of standards

The quality of the compensation is also controversially discussed. For this, as well as for the credibility of the emission compensation instrument as such, it is important that certain standards for climate integrity established by recognised providers of voluntary offsets are respected. However, there are no mandatory criteria so far.

In this respect, two aspects are particularly under discussion: On the one hand, compensation certificates are only to be used by one party, double counting must be avoided. This is becoming increasingly difficult in a world where, according to the rules of the Paris Climate Agreement, global GHG emissions are to be strictly measured and reduced. Because now the countries where the compensation projects are implemented also need every single emission reduction to achieve their own climate targets. Offset projects cannot simply "export" achieved climate successes via the offset market.

On the other hand, every project must meet the criterion of additionality. This means that the project can only be implemented through the proceeds generated by trading the compensation certificates. Without this additional certificate revenue, the project would not be feasible. According to media research, this is also a deficit in the alleged climate protection projects in China mentioned above, whereby oil companies wanted to improve their climate balance: the plants in China that are said to have been included in the climate protection projects apparently existed already years earlier (if they existed at all).

Moreover, the project must have an additional development impact, which means to involve all affected persons and groups within the scope of the project and to make a positive contribution to the SDGs.

It is difficult to calculate how many emissions a project actually saves, as many assumptions have to be made. For example, the question arises as to how high the emissions would be without the project. Another integrity standard is therefore that at least one solid quantification is available in the calculation of emission reductions. This means that it is based on robust, transparent and scientific quantification methods and that all project documents are viewable and comprehensible. Furthermore, a permanent emission reduction or sink performance within the compensation project must be guaranteed (permanence). Finally, *leakage* must be prevented, i.e. the emission-intensive activity must not simply be shifted to a region outside the accounting framework.

In view of all the challenges mentioned, for average end consumers, offsetting is currently very difficult to understand, and it is hardly possible for them to assess the quality. At the same time, private households are not the group that has mainly caused climate change, but it is rather the result of a complex interplay of fossil-dependent and thus greenhouse gas-intensive production methods, a lack of government incentives for technological progress and the resulting innovations by companies and, only then as a result, the consumption of past and present private households.

## The need to act (climate) ethically

Given the alarming scientific findings on the state of damage to the global climate and the corresponding media communication, but also increasingly due to their own experience of the consequences of climate change, many consumers feel the need to take responsibility and make their own contribution to mitigating climate damage. Since the "Fridays for Future" movement at the latest, social discourse has also increasingly suggested that there is an obligation to take responsibility for the damage to the global climate, especially by Western industrialised nations. This should be done through a fair contribution from the private sector, which has the necessary capital, and through adapted consumption, i.e. through changes in production and behaviour that lead to a reduction in emissions. This is particularly effective, not least in view of the need to use social resources efficiently, but it requires the corresponding will to change. Where one cannot or does not want to give up emission-intensive behavior, compensation mechanisms come into view.

The idea of compensation is ultimately a fundamental ethical principle. This can already be found in the first systematic work of philosophical ethics in human history: Aristotle's *Nicomachean Ethics* in Book 5<sup>10</sup>, which deals with justice. Compensation is therefore a question of justice. Aristotle calls this compensatory justice. This means that if someone receives a service, they must provide something in return. If someone causes damage, then justice requires that they compensate for that damage.

However, in order for the paid compensation to meet the demands of justice, certain criteria must be met. Climate protection should not be elevated to an individual moral good, with the desire for self-efficacy as a priority and eluding the criteria of efficiency and effectiveness.

The most important criterion for a fair compensation for damages is equivalence, i.e. the equivalence of performance and counterperformance or of damage and compensation. Apart from the already mentioned criticisms of compensation payments for climate protection, it is also argued that equivalence is at least doubtful if one compares the price per ton of CO<sub>2</sub> equivalents in the case of a voluntary compensation payments, – which varies greatly depending on the quality and size of the climate protection projects as well as the project location,<sup>11</sup> – to the price set by the Federal Environment Agency (*Umweltbundesamt*, UBA) for the welfare loss in terms of the costs to society as a whole: This price is currently stated to be over 230 euros per ton of CO<sub>2</sub>.<sup>12</sup>

Whether it is a change in consumption or a compensation – in both cases, the willingness to change behaviour is evident. Responsibility is taken for one's own actions with regard to the ecological footprint. Responsibility, in turn, is also a necessary criterion for the exercise of freedom. Empowering people to take personal responsibility is therefore a social maxim, but does not mean a shift of responsibility, e.g. from companies to individual households. One potential consequence of taking responsibility can be renunciation.

From an economic point of view, renunciation – in the absence of poverty – is the result of a shift in needs, i.e. a change in personal preferences. This makes a considerable difference in perception, as voluntary renunciation has its origin in a self-made decision as a result of the reassessment of needs. For example, information about co-benefits (e.g. benefits for one's own health, savings potential, positive effects on the immediate living environment, animal welfare promotion, etc.) can help to lower the perceived price of the change in behaviour and make it easier to decide on such changes. The value of "setting an example" by respected people of a particular community should also not be underestimated. This includes especially the public behaviour of politicians.

The constant renegotiation of needs in the internal competition of preferences is a source of human dynamism and co-responsible for innovation and progress. Structural, external barriers that hinder such change should become the subject of political change. Hence, in the area of climate protection, a coherent framework for action is needed that enables self-efficacy, creates space and incentives for changes in needs towards climate-friendly behaviour and at the same time has as a priority to avoid emissions, including by increasing the price for climate-damaging behaviour. Ultimately, the pressure on companies to adapt their production methods increases, as they will otherwise not be able to withstand market competition.

### Social market economy as a framework

Such a framework is provided by the social market economy, which seeks to combine the advantages of a free market economy, in particular a high level of efficiency and the supply of goods, with the welfare state as a corrective. In this system, policymakers can define the framework conditions for economic activity and thus create incentives for climate-friendly production and consumption, for example through the steering effect of a CO<sub>2</sub> price or a CO<sub>2</sub> tax. The revenues could be used to compensate for social hardship. This is where Aristotle comes<sup>13</sup> into play once again, who, in addition to the aforementioned compensatory justice, also describes distributive justice, the guiding principle of which is neediness: strong shoulders can and should carry a greater burden than weaker ones. This also promotes social acceptance of climate policy measures.

Consequently, one task of politics and the social market economy is to coordinate individual actions in order to increase social welfare, in addition to preserving freedom of choice. This also requires appropriate empowerment and information for citizens so that they can make decisions for a climate-friendly life as consumers.

However, companies also bear a responsibility for (more) measurably sustainable business and can be pioneers in climate protection – especially if the framework conditions mentioned above exist. They also have a responsibility for transparent communication when they advertise their products or services with ambiguous environmental terms such as "climate neutral". According to a recent ruling by the German Federal Court of Justice, this is usually only permissible if the advertising itself explains the specific meaning of this term.<sup>14</sup>

The potential for more sustainable consumption remains great and there is a need for both clear incentives through prices and support for change. As soon as climate-friendly alternatives are affordable, they will be used. However, prescribing change through prohibitions, requirements and norms of conduct endangers individual and social freedom and thus ultimately also the power of a market economy.

### The accusation of selling indulgences

"Refrain from the sale of indulgences!"<sup>15</sup>, was the title of an interview with the economist Stephan A. Jansen published in the magazine "brandeins" at the end of 2021, which dealt with CO<sub>2</sub> compensation and the associated accusation of *greenwashing* – an accusation that appears again and again in media coverage, which is not surprising given the challenges described in the integrity standards of compensation services.

However, the question arises as to whether the accusation of "selling indulgences" does not fall short or to what extent it helps at all to clearly name the existing problems and to work out solutions. Payments in the interest of climate protection are also made in the European emissions trading system, the national fuel tax or a CO<sub>2</sub> tax. These approaches are not referred to as indulgence trading because, for example, in emissions trading, state institutions determine the number of certificates and, above all, because the monitoring and verification of emissions can be much

more precise. As a result, these instruments enjoy greater trust. However, the compensation market can also be improved in this regard.

The need to compensate for consumption or to buy products that have a low CO<sub>2</sub> footprint, is basically good and worth encouraging. This behavior presupposes a change in preferences, as a result of either internal reflection or external incentives. However, this should not prevent necessary changes in behaviour, meaning compensation should not be used as a permanent and inconsequential substitute. Otherwise, an abrupt and burdensome adjustment that becomes necessary later will overwhelm companies and households and lead to political distortions. Compensation buys limited time, but in the end climate-damaging consumption patterns and production methods still have to be replaced.

The market economy and the legal framework, as well as the society's willingness to support transformation, are interdependent in our democracy. In this regard, the political component of a sustainable transformation should be considered in measures. For the voluntary offsetting market three aspects have to be taken into account: compensation should only be a temporary, last resort if emissions cannot be avoided yet; environment-friendly substitutes should be promoted and behavioural change encouraged, and there should be a coherent framework for emissions reductions for companies that channels capital efficiently and makes the greenwashing motive obsolete.

In the end, it is always about the allocation of scarce social resources such as money and time as well as about the willingness to change. Voluntary offsetting can temporarily fill certain gaps, but the key lies in a comprehensive emissions cap, as already laid out in Article 7 of the 2015 Paris Agreement. One step in this direction is the establishment of so-called climate clubs, which export internal avoidance efforts via harmonized CO<sub>2</sub> tariffs and subsidy rules and incentivise changes in previously unregulated markets.

On the way there and for maintaining the transformation dynamic, an institutionalised market for compensation services plays an important role. It allows private companies and households to participate in the financing of decarbonisation in third countries, especially in developing countries. Mobilising private capital from the industrialised world is an important building block for overcoming the challenges posed by global warming.

Compensation is a way of sharing prosperity and addressing the problem of global social balance. Linking trade, development, environmental and energy policy with effective and efficient voluntary compensation by households and companies is a promising mix in order to assume responsibility.

### **Spotlight: Offsetting projects in Latin America**

The Latin American continent is also known as the "green lung of the world" due to an area of a good five million square kilometers of tropical rainforest in the Amazon basin alone. For about ten years, CO<sub>2</sub> compensation projects have been implemented here in particular for the preservation of natural forests, soil restoration and reforestation. Priority countries for offsetting projects are Brazil, Colombia, Mexico and Peru.

Indigenous communities are particularly affected by compensation projects, because untouched large areas of forest in Latin America are mostly owned by indigenous peoples (indigenous protected areas). They use the forest traditionally, sometimes also for agriculture, which does not always correspond to the basic European idea of forest protection.

### Diverse legal regulations

The legal regulations in the countries with compensation projects in place are quite diverse in their nature as well as in their scope and, again, differ from the standards in Europe. For example, Mexico has been levying a fuel tax since 2013 and has a carbon market. The tax collected flows into the state treasury and co-finances, among other things, social programs in the areas of education and health. Also, the Forest Protocol for Mexico (*Protocolo Forestal para México*, PFM) is applied to nature conservation projects. Accordingly, a project is first developed by a technical consultant. Then, technicians and developers from the local community are trained, the project is registered, and its CO<sub>2</sub> savings potential is determined. This savings potential is independently verified and finally certified.

In Peru, in turn, there is no carbon tax and no carbon market. In fact, the impact of the activities of companies and organizations on the climate is determined within the framework of a program of the national Ministry of the Environment (*Programa Huella Carbono Perú*). Economic actors are divided into four recognition levels and rated with stars – depending on whether they determine their CO<sub>2</sub> balance only internally or by consulting objective third parties and whether they offset it by purchasing certificates.

In Bolivia, by contrast, the constitution prohibits the commercialization of nature, and the government fundamentally rejects "capitalist" mechanisms for forest and climate protection. In indigenous tradition, the country recognizes the rights of "Mother Earth" and its ecosystem services, which cannot be traded. For this reason, Bolivia is committed to alternative compensation mechanisms for forest protection projects. However, as part of a regional initiative the department of Santa Cruz is working on a recognition tool similar to that of Peru, where local companies are encouraged to measure their carbon footprint.

### Challenges

Many environmental organizations in Latin America criticise the fact that industrialized nations are not primarily working on reducing their emissions in order to meet their climate protection obligations and feel it is unfair that they do so instead through compensation payments that influence and sometimes also compromise the way of life in other parts of the world.

In fact, offset projects in Latin American countries – and not only there – face numerous challenges and deficits, which have recently become known to a wider public also through media coverage in Europe.

A fundamental aspect is the lack of transparency with regard to CO<sub>2</sub> compensation projects. This starts with the fact that in some cases, the inhabitants of often remote (forest) areas where the projects are located did not even seem to know that the area they inhabited was part of a compensation project, nor what obligations this would entail for them in terms of their traditionally nature-loving way of life. Sometimes there are even expulsions. It is true that, according to Convention No. 169 of the International Labour Organization (ILO) on Indigenous and Tribal Peoples<sup>16</sup>, indigenous communities have a right to be informed and consulted in advance about projects in the areas they inhabit, especially if resettlements are planned. Efforts must be made to ensure that they can take an informed decision. However, it is still being discussed whether this agreement, which was originally created with a view to large infrastructure and mining projects, is also applicable to CO<sub>2</sub> compensation projects, given the sometimes negative effects of these projects on the lifestyles of indigenous peoples, although the basic idea of the projects is ultimately forest protection, which would ideally also benefit indigenous communities.



Further information deficits relate to the questions of whether an emission reduction can be calculated on the basis of correspondingly robust quantification methods and who the ultimate beneficiaries within the reach of offsetting projects actually are: the certification companies, which are mainly located in Europe and the United States, or the local people? The large number of different standards and certifications already mentioned does not make this any easier.

### Recommendations

Considering these challenges, but also the fact that a mix of as many methods as possible should be used to reduce greenhouse gases in view of advancing climate change, the question arises how CO<sub>2</sub> compensation as one such method could be improved, not least in terms of its impact locally.

First of all, the recent coverage in German and European media has certainly contributed to raising awareness of this issue, also with regard to existing deficits and violations of rights. This flow of information and consumer reactions also create a certain pressure on states to rethink and redirect their policies, with the aim of improving rules and standards for CO<sub>2</sub> compensation or creating them in the first place.

It should also be kept in mind that some Latin American states guarantee the protection of indigenous peoples' rights in their respective constitutions, but do not fulfil their duty to protect them or only do so insufficiently. For example, states must ensure that representatives of indigenous communities sit at the table when compensation projects are initiated, that there are transparent conditions for negotiation and that indigenous communities are better prepared for these negotiations, for example by making information on the planned projects available in indigenous languages. Currently, the handling of the projects divides the indigenous communities and many of their members refuse to speak out publicly about compensation projects, not least for fear of repression, even within their own communities. Since the UN Climate Change Conference COP16 (2010) in Cancún, a catalogue of protective measures and guarantees for the reduction of emissions from deforestation and forest degradation (REDD+) has been agreed. In particular, the consultation and participation of indigenous peoples is emphasised, as well as respect for indigenous forms of government and decision-making processes. However, adherence to and international control of these regulations are insufficient. Certification companies could possibly make an important and positive contribution to improving the projects by including these criteria into the certification.

It would likewise be important to train the developers of projects so that they can carry out the necessary measurements precisely and results become transparent for sellers and buyers of compensation services. This is also central to the credibility and success of the projects. Some voices are calling for Latin American countries to develop their own systems for *Measurement, Reporting and Verification (MRV)* of greenhouse gas emission reductions to institutionalise the market in the region. This might also help to (re)gain the support of environmental organisations, which often close their minds to compensation projects.

In any case, an economic motivation for the indigenous communities to protect nature in the context of compensation projects can basically make sense. There are already financial incentives that promote the release of indigenous protected areas for other uses, for example by corporations that are interested in the extraction of raw materials in the forest areas and do not take environmental standards into account, or at least not to the necessary extent.

Against this background, experts suggest the exchange of experience between the countries in a region where compensation projects are already being carried out or are to be established in the future. To that end, the governments of Latin American countries would have to attend to the issue more than they do so far. In this context, development cooperation can play an important role. Lessons that have already been learned from conflicts and the violation of rights of the indigenous population through the extraction of raw materials in their territories should now help to ensure that comparable mistakes are not repeated in the context of CO<sub>2</sub> compensation projects, which are actually intended to protect the climate and the environment – and ultimately, in the sense of a broad understanding of sustainability, also the people living in this environment.

### Taking responsibility and shaping it

Warning voices from the ranks of the scientific community suggest that all appropriate instruments should be used to contain and combat the consequences of rapidly advancing climate change. The reduction of greenhouse gas emissions worldwide is one of the most urgent challenges. In the interest of effectiveness, a mix of methods that also includes CO<sub>2</sub> offsets seems to be expedient, as a bridge, insofar as emissions cannot or not yet be avoided.

However, compensation only limits damage and is not a panacea: the hierarchy – avoid CO<sub>2</sub> emissions, reduce them, and only then offset them – must not be neglected. This also has to be emphasised again and again in communication with consumers.

Although CO<sub>2</sub> compensation is currently being discussed a lot, it plays a less important role as a climate protection instrument – especially for private households – and is only one of many opportunities for companies and citizens to take responsibility for climate protection in the production of goods, the provision of services or private consumption. Experts estimate that around 80 percent of all compensation certificates in Germany are used by companies. However, private households finance them indirectly by buying supposedly climate-neutral products or services.

The carbon offset market is largely voluntary and so far, unregulated, but there is increasing overlap with international agreements and obligations. In order to convince consumers and companies in industrialised countries as well as the population in the implementation regions that these projects are trustworthy and meaningful, it is urgent to define internationally valid standards. These must be guided by the criteria set out above regarding their additionality and development effects, permanence, robust quantification and avoidance of double counting as well as emission migration to avoid *greenwashing* or at least make it significantly more difficult.

In the future, all emission sources and mitigation measures need to be correctly accounted for. It will then also be important that the aforementioned standards for CO<sub>2</sub> offsets be monitored once they are introduced and that the monitoring result be transparent. Especially in times of politically polarised debates, which consistently affect climate policy issues, and of repeated *greenwashing* scandals in the context of climate protection measures, this is particularly relevant to the social acceptance of the transformation – especially since experts are already observing greater caution on the demand side for CO<sub>2</sub> compensation projects. At the same time, the approach of these projects is now criticised in a more constructive way that goes beyond the mere accusation of "selling indulgences".

It is also essential that the projects benefit the local people in the implementation regions – not only economically, but also by respecting their human rights and especially participation rights. This is about much more than just CO<sub>2</sub> compensation as such: it is rather an opportunity to shape the future and for fulfilling the responsibility of industrialised countries to engage in dialogue and (re)build trust with partner countries, not least through the way alliances and cooperation formats are developed – or, as the late former German Federal Environment Minister and UNEP Director Prof. Dr. Klaus Töpfer put it, it is about dealing with the value structures of people in other regions of the world.<sup>17</sup>

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<sup>1</sup> International Tribunal for the Law of the Sea (2024), Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law, 21.05.2024, in: [https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory\\_Opinion/C31\\_Adv\\_Op\\_21.05.2024\\_orig.pdf](https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_orig.pdf) [last accessed: 23.05.24].

<sup>2</sup> Peoples Climate Vote (2024), Peoples' Climate Vote 2024, Results, United Nations Development Programme, [Peoples Climate Vote Report 2024.pdf \(peoplesclimate.vote\)](#) [last accessed: 09.07.24].

<sup>3</sup> For example, most recently reporting in ESG. Table, 08.05.24, regarding the sale of "phantom certificates" by Shell in Canada.

<sup>4</sup> For example, adelphi and sustainable carried out market analyses in 2010, 2015, 2017 and 2021 on behalf of the Federal Environment Agency, see: Machnik, D. et al. (2022), Info Paper on the Market Analysis Voluntary Compensation 2021, Partial Report, Federal Environment Agency, CLIMATE CHANGE 22/2022, [https://www.umweltbundesamt.de/sites/default/files/medien/479/publikationen/cc\\_22-2022\\_infopapier\\_zur\\_marktanalyse\\_freiwillige\\_kompensation\\_2021.pdf](https://www.umweltbundesamt.de/sites/default/files/medien/479/publikationen/cc_22-2022_infopapier_zur_marktanalyse_freiwillige_kompensation_2021.pdf) [last accessed: 27.06.24].

<sup>5</sup> To classify; Germany, for example. emits around 700 million tCO<sub>2</sub>e annually.

<sup>6</sup> Federal Court of Justice (BGH), judgment of the First Civil Senate of 27.06.24 - I ZR 98/23, press release and further information: [The Federal Court of Justice - Press : Press releases - Federal Court of Justice decides on the admissibility of advertising with the term "climate-neutral"](#) [last accessed: 26.07.24].

<sup>7</sup> Unfair Commercial Practices Directive (2005/29/EC) and Consumer Rights Directive (2011/83/EU).

<sup>8</sup> [European Union \(2024\)](#), Directive (EU) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information, 06.03.2024, [Directive \(EU\) 2024/825 of the European Parliament and of the Council of 28 February 2024 amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information \(europa.eu\)](#) [last accessed: 20.06.24].

<sup>9</sup> Research by ZDF frontal, which suggests a suspicion of fraud against climate protection projects of the oil industry in China, see Koberstein, H. / Orosz, M. / Niedermeier, N. (2024), Billion-dollar fraud in the oil industry? That's what it's all about, ZDF heute, 28.05.2024, <https://www.zdf.de/nachrichten/wirtschaft/unternehmen/oelkonzerne-klimaschutz-projekte-china-verdacht-betrug-100.html> [last accessed: 21.06.24], also FAZ of 15.06.24, p. 21.

- <sup>10</sup> Available online here: [Aristotle - Nicomachean Ethics \[Book 5\] \(gleichsatz.de\)](https://gleichsatz.de) [last accessed: 08.07.24].
- <sup>11</sup> [State of the Voluntary Carbon Markets 20240529 1.pdf \(hubspotusercontent-na1.net\)](https://hubspotusercontent-na1.net), see p. 5 for guidance on the order of magnitude: the average price for allowances in the voluntary market is given here as USD 6.53 in 2023 [last accessed: 26.07.24].
- <sup>12</sup> Federal Environment Agency (2023), [Societal costs of environmental pollution | Federal Environment Agency](https://www.umweltbundesamt.de), 10.08.2023 [last accessed: 09.07.24].
- <sup>13</sup> Aristotle, *Nikomachian Ethics*, Buch 5, s. Endnote 8.
- <sup>14</sup> Vgl. Endnote 6.
- <sup>15</sup> [Brand eins \(2021\)](https://www.brandeins.de/magazine/brand-eins-wirtschaftsmagazin/2021/oekologischer-umbau/lasst-ab-vom-ablasshandel), *Ablasst vom Ablasshandel Ablass Ab! Questions for ...* Stephan A. Jansen, <https://www.brandeins.de/magazine/brand-eins-wirtschaftsmagazin/2021/oekologischer-umbau/lasst-ab-vom-ablasshandel> [last accessed: 28.05.24].
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- <sup>17</sup> Konrad-Adenauer-Stiftung (2023), *Sustainable Development as a Task for Humanity*, Interview with Prof. Dr. Klaus Töpfer on 7 November 2023, [Sustainable Development as a Task for Humanity - Konrad-Adenauer-Stiftung \(kas.de\)](https://www.kas.de) [last accessed: 09.07.24].

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