

ESPI International Real Estate Conference 2004

Abstract proposal for

S05 – CENTRAAL Thematic Session

Title: *The place of scientific data in biodiversity offsetting regulations and its impact on legal certainty: A comparison of approaches in France, Colombia, and Peru*

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Abstract:

Land-use change, such as urbanization and infrastructure expansion, is the primary driver of biodiversity decline because it leads to habitat degradation, loss, and fragmentation. Biodiversity offsetting policies aim to address and tackle this biodiversity loss associated with land-use change. Despite facing significant criticism, the mechanism of biodiversity offsetting has been adopted or is currently being adopted in a growing number of countries. Biodiversity offsetting constitutes the final step of the mitigation hierarchy, which is designed, at least theoretically, to prevent the net loss of biodiversity resulting from development projects. This is achieved through a hierarchical sequence of actions: 1) avoiding the impact on biodiversity, 2) minimizing it if avoidance is not possible, 3) restoring/rehabilitating the impacted area, and 4) offsetting significant residual losses. Steps 2) and 3) are sometimes considered a single step in existing legislation.

However, the design and implementation of biodiversity offsets raise a number of concerns, such as the choice of metrics and demonstrating equivalence between losses and gains, as the principle of no net loss typically underlies such policies. Through this proposal, we aim to explore and compare the approaches adopted by three countries (France, Colombia, and Peru) for the design of biodiversity offsets and the evaluation of equivalence between losses (impact site) and gains (offset site). Specifically, we aim to present the role of scientific data in the regulations, both in the stages of elaboration and implementation of norms, and the impacts and consequences it may have in terms of legal certainty.