

FPIC: THE PHILIPPINE EXPERIENCE

By: Robie Halip
Researcher, NTFP

**2nd Regional UNREDD Information Exchange
Meeting: FPIC Shared Learning**

April 19-20, 2012

Bogor, Indonesia

REDD+ in the Philippines

- Philippines is now in the readiness phase
 - focused on capacity building, consultation, communication, integration and reform among others
 - implement National REDD Plus Strategies (NRPS) Readiness Strategies

* NRPS has 7 components and is included in the National Climate Change Action Plan of the Climate Change Commission approved last November 22, 2011

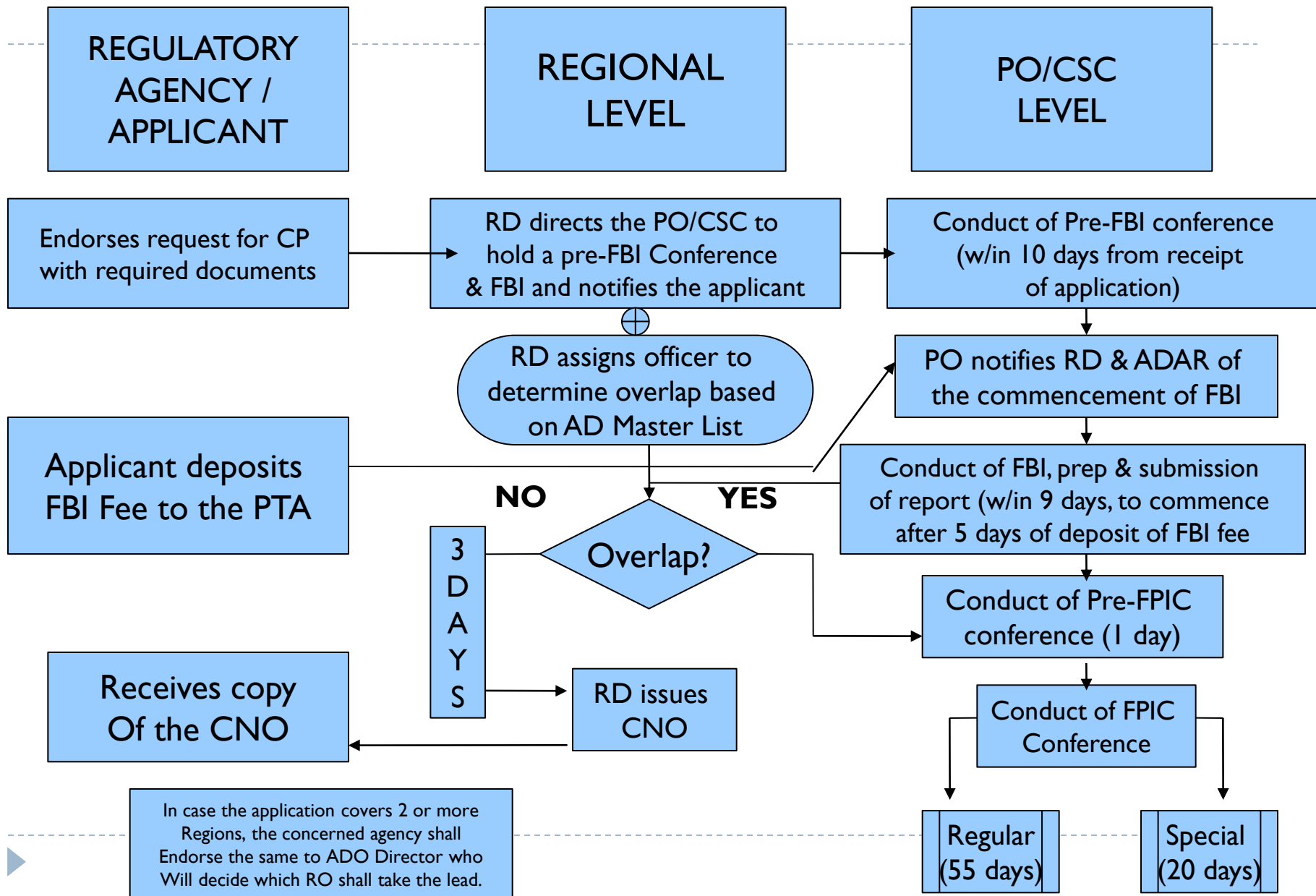
REDD+ in the Philippines

- Related initiatives from the NRPS components are currently being conducted ie policy studies of GIZ and CODE REDD/ NTFP
- Policy Study on Review of FPIC Implementation
 - How faithful is FPIC process being followed
 - Is current FPIC process an effective safeguard for indigenous peoples to assert their right to self determination?
 - Will FPIC process be an effective safeguard of indigenous rights once REDD PLUS is implemented?

Steps in FPIC Process (2006 Guidelines)

- I. Project Proponent files application with regulatory agency
- II. Regulatory agency refers application to NCIP
- III. NCIP endorses application to NCIP Regional Office
 - NCIP Refers to Master List of Ancestral Domains
 - Can result in Certificate of Non-Overlap (CNO)
- IV. Pre-FBI (Field Based Investigation) Conference
- V. FBI Proper – commences after payment by project proponent of FBI Fee (to NCIP Trust Fund)
- VI. Pre-FPIC Conference
- VII. FPIC Proper – starts upon payment of FPIC Fee
 - Includes provision for inclusion of NGO
 - Results in Consent/MOA or Non-Consent and issuance of CP

Basic FPIC Process (NCIP AO 1 s. 2006)



Rationale of the Policy Study on the FPIC Implementation

- There have been reports of complaints ranging from creation of fictitious tribal associations and tribal leaders, collusion with the proponents, to outright corruption.
- Some communities have started questioning the wisdom and legitimacy of the existing FPIC process because of these allegations
- The NCIP has deemed it urgent for an assessment and evaluation of FPIC processes in view of several issues
- The FPIC safeguard has to be strengthened to be able to respond to existing and emerging pressures from development projects in ancestral domains
- REDD PLUS initiatives aimed at utilising/managing forest resources → affects and impacts on indigenous rights over such resources

Policy Study on the assessment of the implementation of FPIC

OBJECTIVES

- To assess the faithful implementation of the Free and Prior Informed Consent (FPIC) provisions as **effective safeguard for IPs to assert their right to self-determination**
- Develop a policy agenda and recommendations for **enhancing FPIC process** in the Philippines, particular in the context of REDD-plus implementation

Common experiences in the implementation of FPIC requirement

Communities

- Consent were given mainly because of the economic benefits
- Phasing of the acquisition of consent
- No monitoring mechanisms on violations committed during the conduct of the FPIC and implementation of the MOA
- Insufficient IEC to the communities on the FPIC process and available grievance mechanisms
- Lack of capacity building on negotiation skills (community and NCIP)

Common experiences in the implementation of FPIC requirement

- Signing of MOA were done outside the communities leading to mistrust of community members to their leaders/designated signatories
- Insufficient IEC on available grievance mechanisms for affected indigenous communities
- Phasing of the acquisition of consent
- Information provided to the communities were insufficient for them to come up with an informed decision

Common experiences in the implementation of FPIC requirement

NCIP

- Different interpretations of FPIC teams ie affected area and impact area
- MOA content not scrutinized well by RRT (Regional Review Team)
- NCIP role as facilitator is contradictory to their mandate to protect the rights of IPS
- Limited to the documents provided by the regulating agency/proponent
- Limited technical expertise
- Budgetary constraints in the NCIP
- Insufficient interagency coordination in the implementation of the FPIC requirement

Emerging Policy Options

- Time-bound decision making vs. customary decision making system of the community
- Role of NCIP in the implementation of the FPIC process – neutral?
- Strengthen the role of the RRT especially in ensuring that the FPIC process was implemented accordingly and the MOA reflects the sentiments of the people
- Implementation of one FPIC for one process / phase of the project

Emerging Policy Options

- Strengthen feedbacking system with the affected communities and local NCIP offices
- Invite independent technical experts especially during FPIC process
- Ensure the full participation of indigenous peoples
- Encourage IPs to adhere to their cultural system of consent
- Fixed FBI and FPIC fees – the higher the impact, the higher the fee (eg. Small scale vs large scale – should be centralized at the NCIP Central Office)
- Each AD / community should have own MOA and CP
- One CP for one application and process of the project

Joint Initiatives to Assess/Review the 2006 FPIC Guidelines

- I. Filing of House Resolution 887 in the Lower House of the 15th Congress calling for the review of the 2006 FPIC Guidelines that led to the formation of a technical working group on the review of the 2006 FPIC guidelines composed of NCC Committee members, representatives from NCIP and members of various civil society organizations
- II. Creation of a Technical Working Group on the Review of FPIC of NCIP

THANK YOU... HAGGIYO!

