



EXPERIENCE IN DEVELOPING APPROACHES TO REDD-PLUS SAFEGUARDS **FOCUS on FPIC**

UN-REDD WORKSHOP on FPIC GUIDELINES
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OUTLINE

- A. Context (from SEPC WS presentation)
- B. What is FPIC
- C. Bodies that accepted FPIC
- D. Philippine definition of FPIC
- E. Steps in FPIC process
- F. Issued CPs
- G. Policy Study: Assessment of FPIC implementation
 - 1. Rationale
 - 2. Activities
 - 3. Methodologies
 - 4. Sites
 - 5. Completion status
 - 6. Initial findings
 - 7. Emerging policy options
 - 8. Strengthened policy regime for REDD-Plus



REDD-plus PEOPLE:
Hope. Justice. Sustainability

CoDe REDDers: as of August 8, 2011



NTFP



ULAN



KEF



AnthroWatch



PFEC



FFI



Environmental Leadership
& Training Initiative



ELAC



IDIS

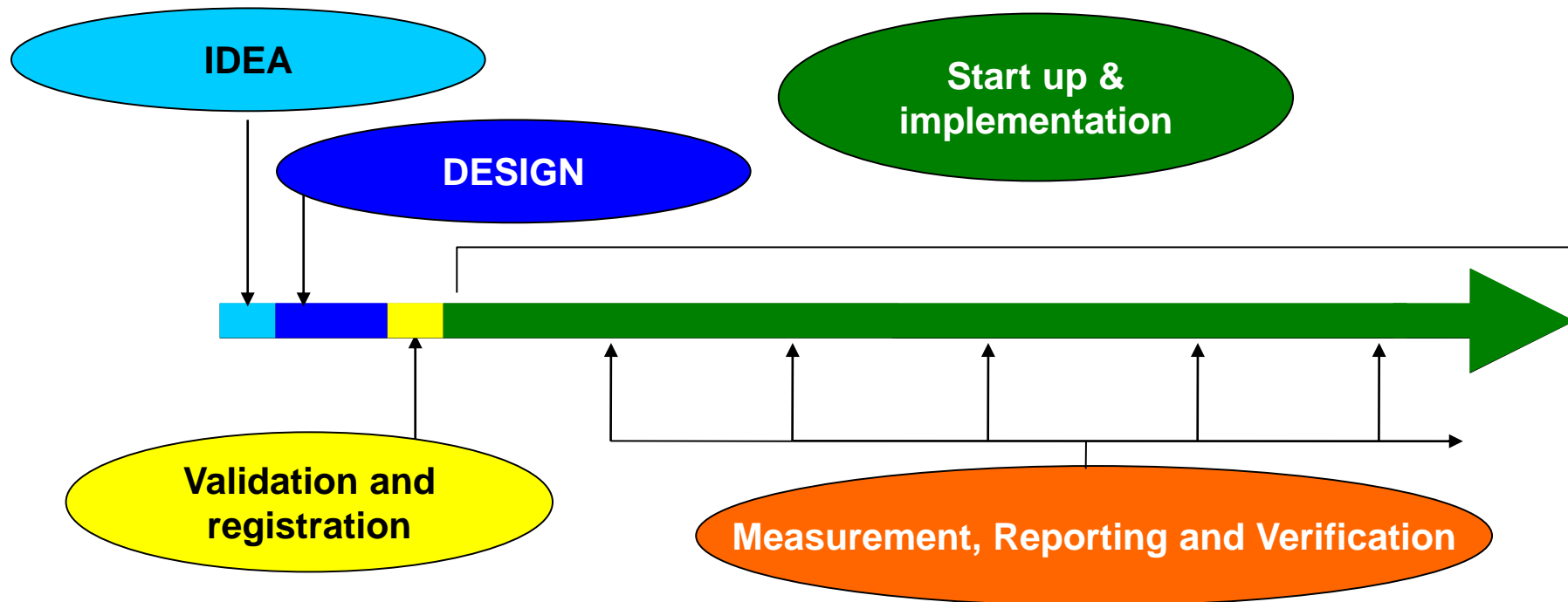


Ateneo School of Government
The Graduate School of Leadership and Public Service



CoDe REDD-Philippines is a loose coalition interested in seeing a responsible REDD-Plus mechanism. The coalition believes that any REDD-Plus project/programme should be implemented according to the principles of community empowerment, biodiversity conservation, and sustainable management of forest.

Key Phases in REDD-Plus and Considerations



GENDER, RIGHTS, SAFEGUARDS

Drivers of DD, Forest Governance, Land Tenure

ILCs (Indigenous peoples and Local Communities)

1. Reducing emissions from deforestation, 2. Reducing emissions from forest degradation, 3. Conservation of forest carbon stocks, 4. Sustainable management of forest, and 5. Enhancement of forest carbon stocks

ADDITIONALITY, LEAKAGE, PERMANENCE

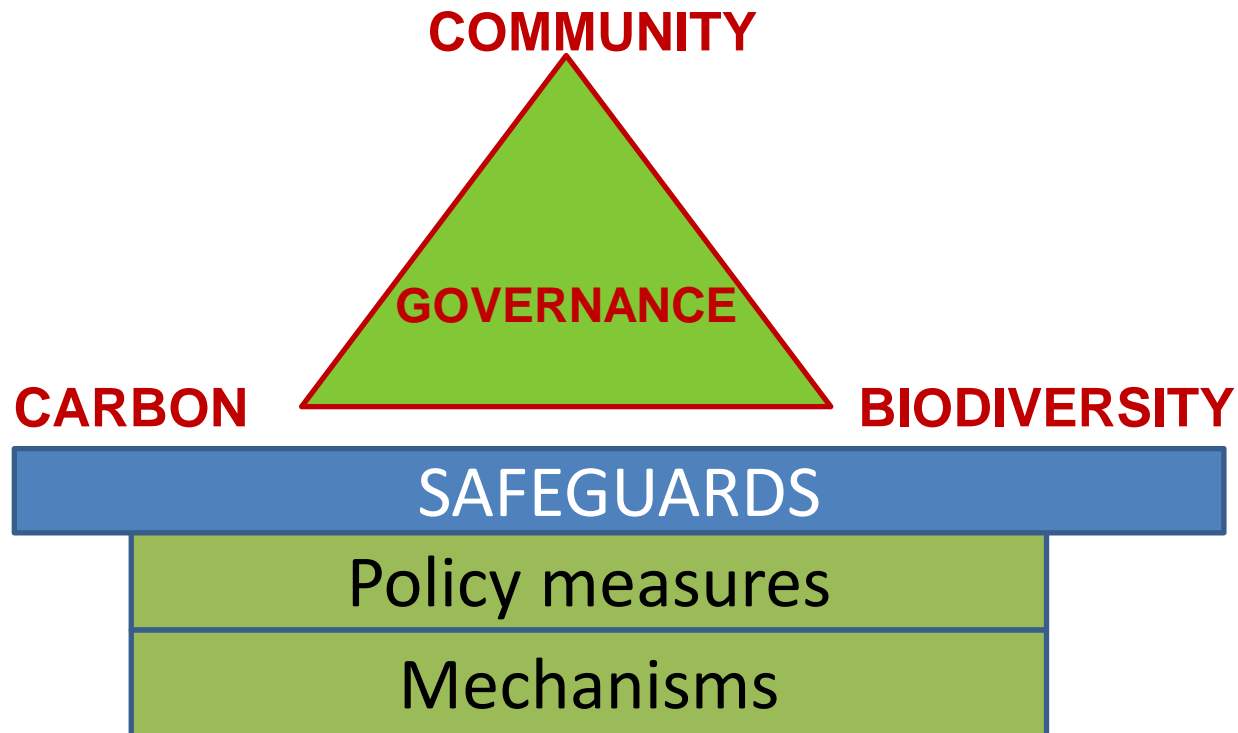
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Community **De**velopment through REDD (Community)

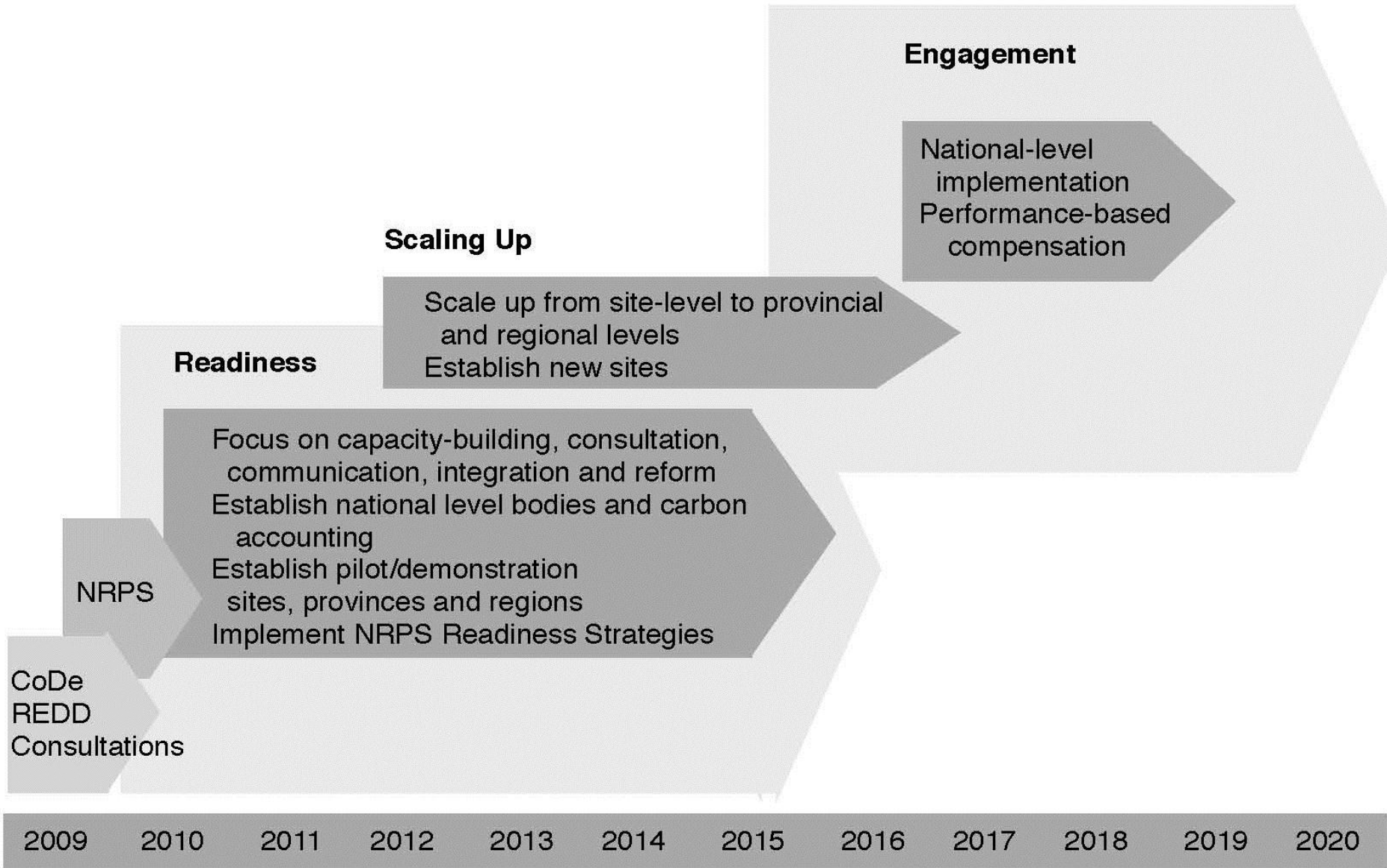
Communities **De**veloping REDD (Carbon)

Conservation and **De**velopment through REDD (Biodiversity)



PNRPS: Philippine National REDD-plus Strategy

Anticipated TIMELINE



STEPS of CONFUSION AND DETERMINATION



- WHY- MRV and SAFEGUARDS are part of our PNRPS
- WHO- developers, writers, users, administrators, managers
- WHAT- **stocktaking exercise, baseline, coverage, FMUs (tenurial/title), indicators (outcome, input, pressure, condition, policy response, process, descriptors), structure, “scoring”, standards (scale, minimum, maximum)**
- WHEN, WHERE, HOW- methodology (steps and requirements: data gathering, timing, frequency, analysis), within the context of demonstration areas, iterative process, audit, report format/ structure, management of data set and information protocol, information dissemination

RELATED INITIATIVES from PNRPS Components

Capacity Building and Communication

- Basic Forest Mensuration and Intro to Carbon Accounting and Monitoring
- Communications and Media Plan
- Philippine REDD Plus community of practitioners
- Basic Forest Mensuration and Intro to Carbon Accounting,
- Training Orientation on Standards and Verification, Certification (SVC)
- Training on Remote Sensing for REDD Plus –MRV system
- Forest Carbon Financing Workshop
- Setting Biodiversity MRV-Palawan case
- REDD-Plus 101/ REDD-Plus Hour
- Color it REDD-Plus Roadshow

Policy and Governance

- Creation of Multi-stakeholder REDD-Plus Councils
- REDD-Plus related policy studies
 - FP- Assessment of Forest policy
 - DD- Analysis of Key Drivers of Deforestation and forest Degradation
 - CCR- Clarifying Carbon Rights
 - **FPIC- Assessment of Implementation of Free Prior and Informed Consent**
- MRV
 - Forest carbon (RS, FRA)
 - Social/Community
 - Biodiversity
 - Governance (plus integrity assessment)



DEMONSTRATION SITES

ONGOING

1. Forest Policy and Piloting REDD measures through DENR with support from BMU/GIZ. (Southern Leyte, Leyte Island)
2. Advancing Development of Victoria-Anepahan Communities and Ecosystems through REDD (ADVANCE REDD). The Project is funded by European Union Delegation (Southern Palawan) through NTFP-EP
3. Community Carbon Pools Programme (C2P2) through FFI, NTFP-TF, Team Energy Foundation

Challenges/ Support Needed

1. Speed of PNRPS implementation depends on capacities and other commitments of the stakeholders
2. Constant demand for information dissemination
3. Funding from regular funds of government- under proposal
4. Technical challenges of MRV – wait out the UNFCCC process
5. Carbon cowboys undermining credibility of REDD+
- 6. Safeguards and sensitivity of REDD-Plus topics (e.g. FPIC)**
7. Information deficits leading to misunderstanding and misconceptions
8. Need to understand links of CBD, SFM, forest government frameworks

- 1. SUPPORT** for national systems (1) institutional capacities in terms of governance structures, policies, research and development, technical expertise, (2) MRV conditions and safeguards, including governance and other MRV of support and (3) Funds management.
- 2. FURTHER SUPPORT** to demonstration sites and the process of informing/ integrating/ consolidating the field results to national systems. Looking at nesting mechanisms from subnational activities to national activities building on initial activities.



What is FPIC?

FPIC is mechanism and a process wherein indigenous peoples undertake their own/independent collective decision on matters that affect them, as an exercise of their right to their land, territories and resources, their right to self-determination and to cultural integrity.

CONSULTATION: process

CONSENT: decision/ result of a process



Some bodies that have accepted FPIC:

UN Committee on the Elimination of Racial Discrimination (CERD)

UN Committee on Economic, Social and Cultural Rights (CESCR)

UN Sub-Commission on Promotion and Protection of Human Rights

UN Permanent Forum on Indigenous Issues (PFII)

UN Working Group on Indigenous Populations (WGIP)

UN Development Programme (UNDP)

UN Centre for Transnational Corporations

Convention on Biodiversity (CBD)

Convention to Combat Desertification, particularly in Africa

UN Development Group (UNDG)

International Fund for Agricultural Development (IFAD)

Bilateral Funding Agencies (Norway, Spain, Danish, Germany, etc.)

Inter-American Commission on Human Rights (IACHR)

Inter-American Development Bank (IDB), Andean Community

Asian Development Bank (ADB)

European Council of Ministers, European Commission (EC)

Organization of African Unity (OAU)

World Commission on Dams

World Bank Extractive Industries Review

IUCN Vth World Parks Congress

World Wildlife Fund

International Petroleum Industry Environmental Conservation Association

International Association of Oil and Gas Producers

UN Collaborative Programme on REDD – Plus (UN-REDD)

Food and Agriculture Association (FAO)



FPIC Definition – 2006 Philippine Guidelines

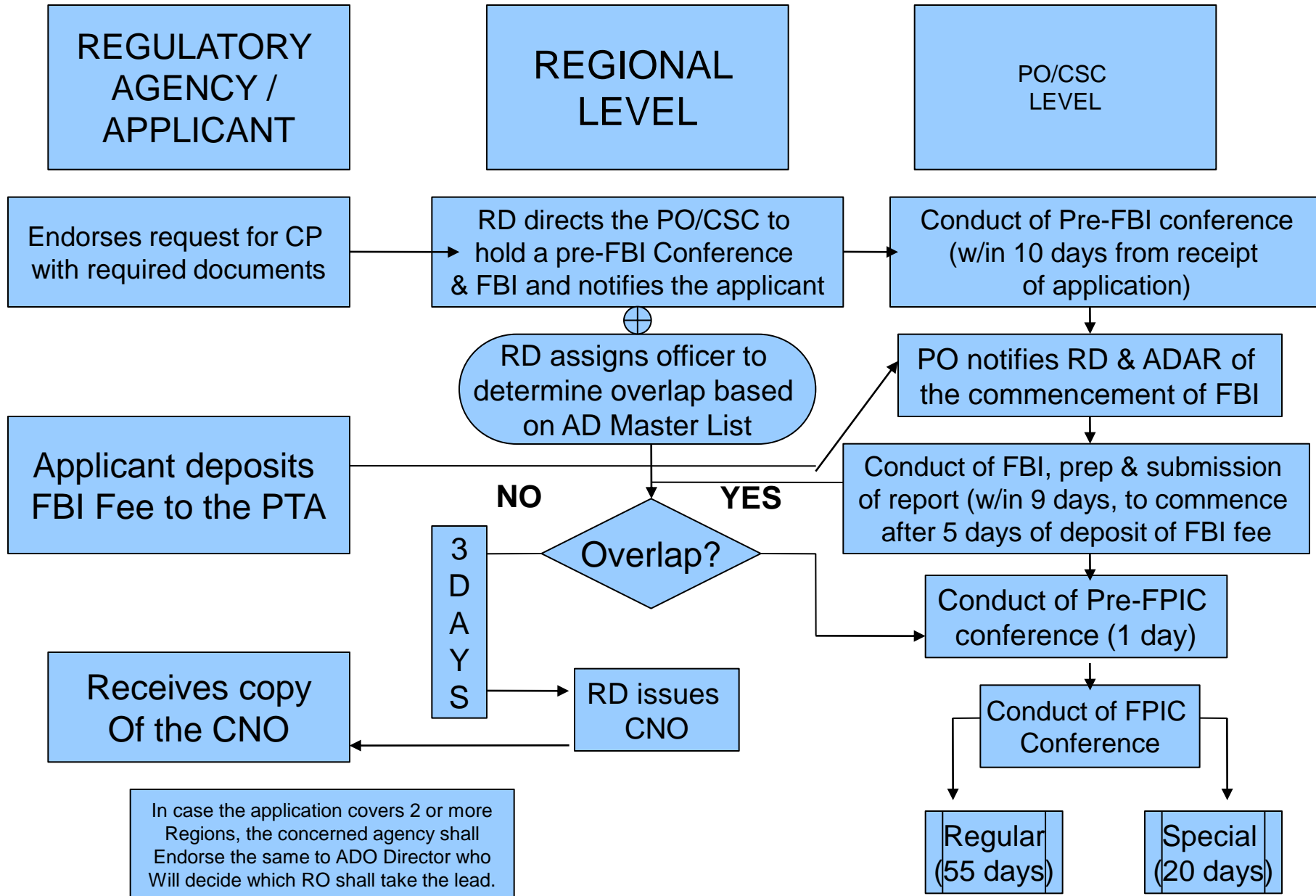
- a. Free and Prior Informed Consent (FPIC). This is the consensus of all members of the ICC/IPs which is determined in accordance with their respective customary laws and practices that is free from any external manipulation, interference and coercion and obtained after fully discussing the intent and scope of the plan/program project activity, in a language and process understandable to the community. The FPIC is given by the concerned ICCs/IPs upon the signing of the Memorandum of Agreement (MOA) containing the conditions/requirements, benefits as well as penalties of agreeing parties as basis for the consent.



Steps in FPIC Process (2006 Guidelines)

- Project Proponent files application with regulatory agency
- Regulatory agency refers application to NCIP (National Commission on Indigenous Peoples)
- NCIP endorses application to NCIP Regional Office
 - NCIP Refers to Master List of Ancestral Domains
 - Can result in Certificate of Non-Overlap (CNO)
- Pre-FBI (Field Based Investigation) Conference
- FBI Proper – commences after payment by project proponent of FBI Fee (to NCIP Trust Fund)
- Pre-FPIC Conference
- FPIC Proper – starts upon payment of FPIC Fee
 - Includes provision for inclusion of NGO
 - Results in Consent/MOA or Non-Consent

Basic FPIC Process



309 BY CATEGORY

REG-ION	MINING OPS / EXPLRN	HYDRO-POWER, GEO-THERMAL ETC	INDUSTRIAL SAND AND GRAVEL/ QUARRY	FORESTRY RELATED/ AGRO-INDUSTY	RESEARCH/ PROCESSING/ LIVELIHOOD/ WATER SYST/ TOURISM	TRANSMISSION LINE PROJECT/ BASE TV RELAY/ etc	PriorityRights to Natural Resources/ Community Solicited	TOTAL
CAR	10	17	0	4	0	3	4	38
I	6	2	3	1	1	2	0	15
II	5	1	0	3	0	0	0	9
III	15	1	0	13	2	4	1	35
IV	28	2	0	5	2	1	0	38
V	7	2	0	2	0	0	0	11
VI/VI I	4	1	0	1	0	1	0	7
IX	7	1	0	1	0	1	1	11
X	9	3	0	14	0	3	0	29
XI	18	4	0	6	0	4	2	33
XII	18	0	0	4	0	2	1	24
XIII	38	2	0	5	0	2	4	46
TOT	165	36	3	59	5	23	13	309
%	53%	12%	1%	20%	2%	8%	4%	100%



Policy Study on FPIC: Background and Rationale

- Lands and resources of indigenous communities have become attractive to extractive industries required with FPIC
- Concerns on the FPIC have been raised
 - Process
 - Players
 - Pressures
 - Policies
- REDD-Plus mechanism (Cancun agreements) calls for safeguards, FPIC being one





Policy Study on FPIC: Background and Rationale

- Joint Project of GIZ, CoDe REDD/ NTFP, and NCIP (National Commission on Indigenous Peoples) in pursuing reforms necessary for REDD-Plus initiatives to become grounded and successful.
- REDD-Plus initiatives aimed at utilising/managing forest resources → affects and impacts on indigenous rights over such resources
- April 2010 – the National Framework Strategy on Climate Change was adopted – having a National REDD-Plus Strategy as one of the key result areas under Mitigation
- Executive Order 881 – an indication of Philippine commitment to REDD-Plus



Policy Study on FPIC: Background and Rationale

- 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 RSD?
 - Will FPIC process be an effective safeguard of indigenous rights once REDD-Plus is implemented?



Outline of Activities

1. Survey of laws, regulations related to FPIC
2. Survey of all FPIC cases filed in administrative tribunals and/or the courts, if any
3. Survey of actual FPIC cases (Activities: profiling, FGDs, key informant interviews)
4. Compilation, summary of findings of case studies
5. Team leaders review analyse and form conclusions with the help of advisers
6. Peer review
7. Final report writing

Methodologies

- Legal survey of laws, regulations and cases
- Survey of legal cases
- Field research through profiling, focus group discussions and key informant interviews





Distribution of sites

The agreed sample size is 10% of 309 + 6 “special sites” resulting in 37 sites.

The distribution of 37 sites (from the sample sites of those communities that gave their FPIC to proponents) among the three teams must retain each cluster’s relative proportion to the total number of sites. The results are as follows:

- 33 % of 31 sites is 10 from cluster 1
- 22 % of 31 sites is 7 from cluster 2; and
- 44 % of 31 sites is 14 from cluster 3.

For the 6 “special sites” – each cluster will have 1 “no site”, or IP communities that did not give their consent to the project, and 1 “CNO site”, or IP Communities for which CNO's (Certificates of Non-Overlap) were issued



COMPLETION STATUS

- Completed – 27 sites
 - CAR, R 1, 2, 3, 4 – 11 out of 12 sites
 - South Luzon, Island groups – 6 out of 7 sites
 - Mindanao cluster - 10 out of 14 sites
- National Workshop on March 13, 2012 with other policy studies (forest policy, drivers of deforestation and forest degradation, clarifying carbon rights)



INITIAL FINDINGS: Common experiences in the implementation of FPIC requirement

- **Communities in terms of**
 - Economic benefits
 - Monitoring mechanisms
 - Information, Education and Communication communities
 - Negotiation skills (community and NCIP)
 - Signing of Memoranda of Agreement
 - Grievance mechanisms for communities



INITIAL FINDINGS: Common experiences in the implementation of FPIC requirement

- **NCIP in terms of**
 - Interpretations of FPIC
 - Content of MOA
 - Role as facilitator/s
 - Documents provided by the regulating agency/proponent
 - Technical know how
 - Capacity to implement



INITIAL FINDINGS: Common experiences in the implementation of FPIC requirement

- **NCIP in terms of**
 - Interagency coordination
 - LGU (Local Government Unit) involvement
 - Consistency in issuance of CPs
 - Involvement of CSOs
 - Trust and confidence in the process
 - Time frames
 - Political pressures/influence



Emerging Policy Options

- Need for multi-disciplinary capacity, hence inter-agency multi-stakeholder processes
- Need to look further: time-bound decision making vs. customary decision making system of the community
- Need to revisit role of NCIP in the implementation of the FPIC process
- Need to expand IEC on FPIC not only among indigenous communities but other government agencies as well
- Need for progress and compliance monitoring of MOAs
- Need to look at concern on implementation of one FPIC for one process / phase of the project



Strengthened Policy Regime for REDD-Plus in the Philippines

- The Philippine Climate Change Commission (CCC) has approved the National Climate Change Action Plan (NCCAP) last November 22, 2011
 - 7 Strategic Priorities under the NCCAP –
 - Food Security
 - Water Sufficiency
 - Ecosystem and Environmental Stability –
 - **Activity 1.1.3 Implement the National REDD Plus Strategy (NRPS)**
 - Human Security
 - Climate-Smart Industries and Services
 - Sustainable Energy and
 - Knowledge and Capacity Development
- Revised Guidelines on FPIC is about to be issued by the NCIP (drafting to have been informed of the subject study)



BIG QUESTIONS

- WHO gives consent?
- WHEN is FPIC required?
- HOW is FPIC carried out?

Demonstration sites in Palawan and Quezon may be able to share their actual experiences before the year ends.

Thank you!



In Partnership with:

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Agency for Development
and Cooperation SDC



Federal Ministry for the
Environment, Nature Conservation
and Nuclear Safety



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