

Workshop Report and Main Messages



The Second UN-REDD Regional Workshop FPIC (Free, Prior and Informed Consent) Shared Learning

**19-20 April 2012
Bogor - Indonesia**

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Definition, Abbreviations, and Acronyms

FPIC	Free, Prior, and Informed Consent FPIC by definition is a locally and culturally specific process in which the affected communities themselves determine the steps involved in developing a project that may affect their livelihood and resources
Free	refers to a process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed.
Prior	refers to a period of time in advance of an activity or process when consent should be sought, as well as the period between when consent is sought and when consent is given or withheld.
Informed	refers to the type of information that should be provided prior to seeking consent and also as part of the ongoing consent process
Consent	refers to the decision made by indigenous peoples and other forest dependent communities reached through their customary decision-making process
FPIC Scoping Review	proposed policy; rights-holders; legal framework; impacts and mitigation measures; proposed budget
FPIC Proposal	capacity needs; facilitator; location; timeline; language; decision-making process; documentation; other participants; verification; consent to what; recourse mechanism; consultation process
National Forestry Council of Indonesia has been facilitated by the UN-REDD Indonesia programme to develop some FPIC principles, including:	<ul style="list-style-type: none"> - Transparency – availability and accessibility of information related with planning, implementation, and the result of FPIC and freedom to raise opinions/issues related to the information - Accountability – processes and results of FPIC should be packaged in a dependable format to the respective stakeholders - Inclusiveness – ensures that the engagement of main stakeholders without differentiating sex, ethnical group, age, religion. - Integrity – consistency between implementation and the respective planned activities - Participatory – engagement of all community elements/members who are potentially affected by REDD+ project/programme - Freedom – free to express opinions and free from any pressure/external interests.
Social Safeguards	Another term usually utilize to refer to FPIC
PADIATAPA	FPIC - abbreviated in Indonesian language
REDD+	Reducing Emissions from forest Deforestation and Degradation +
UN-REDD	United Nations-Reducing Emissions from Deforestation and Forest Degradation
AD	Ancestral Domains
CBD	The Convention on Biological Diversity
CBO	Community Based Organization
CIFOR	Cental for International Forest Research
CSO	Civil Society Organization
CI	Conservation International
COP	Conference of the Parties
CNO	Certificate of non-overlap
CT	Carbon Trading

DA	Demonstration Activities
DKN	National Forestry Council (DKN)
FAO	Food Agriculture Organization
FGD	Focus Group Discussion
FMU	Forest Management Unit
FPP	Forest Peoples Programme
GEF-SGP	Global Environment Facility-Small Grants Programme
HRIA	Human Rights Impact Assessment
ICCs/IPs	/Indigenous People
ILGs	Integrated Land Groups
ILO	International Labor Organization
IP	Indigenous People
KPH	Indonesia Forest Management Unit
MDG	Millennium Development Goals.
MOA	Memorandum of Agreement
MRV	Reporting and Verification System
NCCC	National Climate Change Committee
NEC	National Executive Council
NFI	National Forest Inventory
NGO	Non-Government Organization
PGA	Participatory Governance Assessment
PNG	Papua New Guinea
RAN-GRK	National Budget Plan for Green House Gases
RFN	Rainforest Foundation Norway
RLF	Revolving loan fund
RPJM	Indonesia National Five Year Development Plan
RRT	Regional Review Team
SFM	Sustainable Forest Management
SNI	Indonesia National Standard
STRANAS	National Strategy
TIU	Technical Implementation Units
TF	Trust Fund
TNC	The Nature Conservancy
TFCA	Tropical Forest Conservation Act
UN	United Nations
UNDP	United Nations Development Programme
UNDP DGG	Anti-Corruption Team
UNDP DGG	Human Rights Team
UNEP	United Nations Environment Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNGA	United Nations General Assembly
WHO	World Health Organization
WG	Working Group

FOREWORD

The participating countries of UN-REDD Programmes gathered in Bogor for two days on 19 and 20 April 2012. Approximately 100 participants comprised of around 60 representatives of the concerned ministries, institutions, and organizations from Ecuador, Paraguay, Papua New Guinea, Bangladesh, Bhutan, Cambodia, Malaysia, Myanmar, Nepal, Pakistan, the Philippines, Solomon Islands, Srilanka, Vietnam, also Australia exchanged experience in implementing social safeguard for the REDD+ mechanism in their countries. Approximately 40 participants residing in Indonesia (Bogor, Jakarta and Palu, Central Sulawesi) attended the workshop representing the concerned donors, government officials, and other parties besides the UN-REDD Indonesia team members.

The workshop was organized by the UN-REDD Regional Office – Bangkok in cooperation with the UN-REDD Programme Indonesia. The First FPIC Regional Workshop was held in Bangkok in November 2010.

UN-REDD has highly prioritized to develop its capacity on the social safeguard principle for interaction with indigenous peoples and local communities. Pilot social safeguard exercises have been conducted in Indonesia (in Central Sulawesi), and in Vietnam. Other countries like the PNG has developed its guidelines and procedures, the Philippines have institutionalized its process, and Cambodia is planning early action on it.

It is therefore timely for the UN-REDD participating countries to meet and exchange lessons-learned in experiencing the process already conducted in their own country to be shared with other countries which may have not developed the social safeguard guidelines, and just about to start the process toward it. For the countries which have already at an advance stage, the need to gather with other UN-REDD participating countries is also highly required, since they may learn from another advanced country on the social safeguard implementation thus far, and how to solve any faced obstacles along the process.

1. Main Messages from the Workshop

The Second FPIC Regional Workshop held in Bogor, West Java, Indonesia, 19-20 April 2012, had its main messages which was to share each country's lessons learned in processing toward developing and implementing the social safeguards toward



The workshop aimed:

- to strengthen the participants' understanding of the social safeguard principles of REDD+ mechanism.
- to share with a greater understanding on how social safeguard is implemented by all UN-REDD Partner countries.
- to learn on how to achieve a greater capacity of UN-REDD teams to design and implement social safeguard appropriate to their national circumstances.
- to identify ways for a more rapid progress on the development of social safeguard for REDD+ implementation in each country.
- to share lessons learned and elaborate on social safeguards, particularly on the
- to help establish and widen the network of people who are actively involved in the area of FPIC practices, and serve as a platform of knowledge and lessons learned, especially for the countries who are currently preparing for FPIC.

The main messages of the Second FPIC Regional Workshop held in Bogor, Indonesia were:

The need for a national guideline

The workshop participants agreed that a National Guideline needs to be materialized based on each condition of the country, as well as reasons and recommendations. A standardized principles and procedures may minimize conflicts toward FPIC related issues. The FPIC process should be a bottom-up process, and endorsed at the sub-national level. The objectives of national guidelines need to cover the following points, but not exclusive to:

- a standardized application of FPIC.
- consider inputs of the concerned donor as to increase donor's confidence.
- national framework which can accommodate different local contexts.
- relevant requirements are part of national REDD+ strategy.
- acknowledging the rights of indigenous people within national legislation

Ways to anticipate language barriers

In order that the message of the programme could be easily digested by the targeted community, there is a need for solid communication skills which is required to be possessed by relevant facilitators.

- Communication tools which may be easily understood (in local language) need be developed as to assist the facilitator in explaining the message in details to the community.
- Budget availability needs to be sought to further socialize the programme (through Focus Group Discussion/FGD) which costs is quite costly. Strong support should be given to the local community in socializing the programme further to the remote villagers.

The need to update each other on FPIC development and implementation in each country

Sharing experiences through face to face communication in a forum like this workshop needs to be further organized and scheduled in the future. Lessons learned from each country was very beneficial to the workshop participants, and through the forum they were able to throw questions and obtained direct answers. Especially for participating countries which have just started to initiate an FPIC, the updated information given by the countries which have already at an advance level in the process of FPIC toward implementing relevant activities in the pilot area.

- A site visit to the project location may be added to the workshop agenda as to provide participants with a better vision of field implementation with regard to community outreach for FPIC.
- Group works are encouraged to be arranged in future workshops as these sessions would dig each participant's experience, lessons-learned, and ways to anticipate obstacles faced during the approach/implementation of FPIC.

Priorities for Follow-Up

- Continued sharing information among the workshop participants through various means of communication in the near futures:
 - regular workshops and/or meetings on FPIC.
 - a mailing list of workshop participants for a regular update on FPIC.
 - utilizing other advanced countries' communication tools (pictures storied, posters, etc) to avoid starting from scratch.
 - utilizing a suitable media to disseminate information.
- Further socialize persuasive approaches to the targeted community taking into the consideration of enhancing the capacity of relevant field facilitators for outreach.

- selection of facilitators who understand local language/s as to be able to be accepted quicker by the community.
 - need to provide training on basic terminology of FPIC.
 - positive trial and error attempts toward a final acceptance.
 - make ways toward guiding toward a decision making process.
- Nurturing toward the legal process.
 - encourage the participation of all parties, including the indigenous people to participate in the planning process,.
 - Initiatives toward materializing the legal aspect needs to be initiated at an early stage and should become the objective of a pilot location.

2. Workshop Report

2.1. Introduction and Background

The First FPIC Regional Workshop was held in Bangkok-Thailand in November 2010, attended by around 75 participants. There was concern that the next Regional Workshop should be smaller in size. However, for the Second FPIC Workshop held in Bogor-Indonesia in April 2012, the participants increased to around 100. At the last minute, people kept asking to register and finally the total number rose.

On top of the agenda, the Second FPIC Regional Workshop objective was to promote a greater understanding of the FPIC process among all UN-REDD Partner countries, and a greater capacity of UN-REDD teams to design and implement FPIC processes appropriate to their national circumstances by exchanges of experiences and lessons learned. The basic idea of the workshop was exchanging ideas and lessons. There were few countries that have advanced but can still learn from the developing countries. The topic of discussions in the two-day workshop was not merely about the definition of FPIC (Free, Prior, Informed Consent), but more importantly was the practice, focusing on exchanging experiences and ideas, addressing the problem, learning how different countries handle different problems, which would be the real value of the workshop. The Workshop Agenda would be divided into 4 sessions: setting the scene and guidelines, best practice and lessons learned, next steps, and wrap-up conclusion and closing.

The FPIC terminology would also mean safeguards where social norms of local community have been accommodated. It was agreed at the COP 15 at Copenhagen that a REDD+ framework would include respect for its safeguards. In Cancun, Mexico, during COP 16 it was decided that each country should make sure that their REDD+ mitigation activities included, among others, the right to respect regarding knowledge and rights of indigenous peoples and members of local communities. By taking into account relevant international obligations, national circumstances and laws, the Cancun Agreement also requests that countries develop an information system to track how safeguards are

addressed and respected for REDD+. Furthermore at COP 17 in Durban, it was discussed how specific information should be captured, shared and how it should be and can be used.

It is important that the success of REDD+ depends on effective participation of local communities in land use decisions. FPIC is one of the key safeguards under the Cancun Agreements decision on REDD+, against potential negative effects on indigenous people, their communities and livelihoods. Without FPIC, and without participation of forest-dependent communities who have played an important role in managing forests for centuries, the benefits and long-term sustainability of REDD+ will be compromised. This is particularly important when considering REDD+ initiatives which have the potential to directly impact local and indigenous community's access to land- whether for living, livelihoods or cultural /traditional practices. Furthermore, from a practical perspective, REDD+ activities will predominantly take place in rural areas which in many cases will be adjacent or even include local/traditional community lands.

The concept of FPIC, where the consent has to be given freely, and prior to implementing activities with an understanding of issues implicated by the activity has become increasingly recognized today. There are more than a few international instruments that establish the right to FPIC, including (a) the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, (b) the 1989 Indigenous and Tribal Peoples Convention, and (c) the 2007 UN Declaration of the Rights of Indigenous Peoples. It is also an essential component to the strategies for the achievement of the Millennium Development Goals.

In Indonesia, where approximately 48 million people live in customary communities in and around the forest, the UN-REDD Programme has been focusing on stakeholder engagement and is recognized for its multi-stakeholder consensus-based approach involving civil society in developing policy recommendations. Last year, the programme supported the National Forestry Council (DKN) to develop FPIC policy recommendations. At provincial level, in Central Sulawesi, REDD+ Working Groups have developed guidelines on how to implement FPIC in the field. In March 2012, the programme obtained the results of the first FPIC pilot activity in Lembah Mukti village in Donggala District of Central Sulawesi, which is being implemented in collaboration with the Forest Management Unit of the Ministry of Forestry. In Lembah Mukti, FPIC was processed and conducted in phases: First discussions were held at sub-village level, and then they selected members to represent the village after a freeing on the issues that were raised by sub-villages. At the same time, they formed a separate committee where people can file complaints related to the programme. By and large the FPIC practice and process was received positively by the people in the village, and the village issued a number of recommendations, including the need to stop illegal logging, to the Forest Management Unit to further enhance the consultation process.

2.2. Opening Remarks and Introduction



Yuyu Rahayu, the Director General of Forestry Planning, the Ministry of Forestry, the Republic of Indonesia, opened the workshop. He welcomed all participants who have come to Bogor, the city of botanical garden. He remarked that the workshop was timely since that was the time for all to prepare necessary actions post COP17. He shared that the UN-REDD Programme Indonesia is one of the REDD+ Demonstration Activities in Indonesia. Each of these Demonstration Activities follows a different approach. The Programme has its pilot project in Central Sulawesi which has accommodated the importance of FPIC. He added that in relation with social safeguards UN-REDD Programme Indonesia has quite the challenge to develop an effective and

efficient process, which can be used to enhance the REDD+ readiness phase. FPIC Indonesia as known as PADIATAPA in Indonesian language is not a new approach because many forestry development Programmes have implemented similar mechanisms to the FPIC process.



Ignacio Leon, Representative of UN Resident Coordinator, Indonesia, welcomed the participants and stressed that FPIC is the right of indigenous people and local communities to participate in decision making and to give or withhold their consent to activities affecting their lands, territories and resources or rights. Proceeding REDD+ projects without the agreement of local/traditional communities would not only be violating the FPIC

principles, but also inefficient since local communities and indigenous peoples are key stakeholders in local forest management. No outsiders can enter without proper consultation and FPIC process. FPIC is therefore a critical human rights principle, which is why many countries around the world and especially donor countries like to see that global REDD+ related funding should be managed in tandem with robust safeguard systems including FPIC provisions. That is why the UN-REDD Programme has prioritized stakeholder engagement, through extensive consultations with indigenous peoples and local communities, and has made FPIC a key component under the Programme of UN-REDD.

Presentation

2.3. Update on UN-REDD Programme guidelines on FPIC

Presenter: Jennifer Laughlin, UNDP Headquarters

Presentation

UN-REDD Prioritizes Stakeholder Engagement. In this regard, the UN-REDD Programme has developed comprehensive Stakeholder Engagement Guidelines. The commitment to full and effective stakeholder participation has also led to the preparation of the FPIC Guidelines. The FPIC Guidelines Consultation Process which was started with consultation process in Vietnam in June 2010, then the process of synthesizing input into draft Guidelines, internal review by global and regional UN-REDD staff, public comment period, expert workshop to review FPIC Guidelines, and to presenting update to the UN-REDD Policy Board in March 2012. The document is being finalized now in preparation for a global external consultation which we plan to launch in the first half of November 2012.

The objective of the FPIC Guideline is to outline a normative, policy and operational framework for UN-REDD National Programmes to seek FPIC, as and when appropriate, as determined by the National Programme in consultation with relevant rights-holders. The Guidelines provide information on: 1) the normative framework underpinning the UN's obligation to support the right to FPIC, 2) Definitions of the elements of FPIC, 3) UN-REDD Programme Policy on applying FPIC, 4) Operational framework for seeking FPIC, and 4) Grievance and accountability framework.



During the process of finalizing the FPIC Guidelines, through workshop discussions, etc, it has been agreed that the Guidelines should state that FPIC is a recognized right of indigenous and tribal peoples under international law. The Guidelines should also elaborate on the rights of other stakeholders (non-indigenous and tribal peoples). The Guidelines should apply the World Bank's criteria:

- self-identification as member of a distinct indigenous cultural group and recognition of this identity by others;
- collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories
- customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- an indigenous language, often different from the official language of the country or region.

The Guidelines should introduce a means to assess and manage human rights risks and impacts associated with UN-REDD Programme activities, such as a human rights impact assessment (HRIA).

- A HRIA would support National Programmes to identify potentially affected stakeholders and their composition including who the rights-holders are and which rights they are entitled to
- As a starting point, the UN-REDD Programme could review and learn from the International Finance Corporation's (IFC) Guide to Human Rights Impact Assessment and Management, and other relevant tools supported by Norway, Denmark, Oxfam and others.

The Guidelines should adopt the definition of consultations as stated in ILO Convention 169, which states that all consultations have the objective of achieving agreement or consent (ILO 169, Art 6, Para 2). A complete presentation of this session is attached as *Annex-1*

Discussion:

Terminology of FPIC

A few participants enquired the terms of full and authentic, also stakeholder. It was further explained that authentic would mean living with it, whereas full and effective was legitimate and structure. Stakeholder was who would be impacted by the proposed activity, as they were very relevant with this activity. Further clarification was also provided toward making a decision, whether this would depend on national level. It was further explained that in term of consent of local and national level, this is highly debated. Participants were informed that should there be unclear terminology, they should refer to the Global Guidelines. However, everyone was encouraged to record relevant findings on consultation with the local community, etc, and send the document to the Regional Office in Bangkok.

Support to the national programme

It was shared with the workshop participants that the Global Programme would come up with tools to support the national programme.

Specific FPIC Guidelines

Specific guideline may be required to support the Facilitators when they come across groups which do not given consent since they were so indigenous. The problem would be taken case by case. There is a possible support to the national programme which come

up with the criteria to determine what may or may not require consent. Different approaches to those who do not give consent may be applied, including ways to combine that with traditional approach. Based on human rights which is not recognized in national laws in terms of indigenous people, it would just finding a way how to make that balance between international and national context.

Criteria of consent consensus of FPIC participatory



There were concerns about who would eligible as FPIC participants, whether and owners or simple community member with no land. People's opinion could be valued based on other things, however, if only 5% of the people agreed to implement the FPIC, and the other 95% did not agree or vice versa, it would be difficult to determine the criteria of the consent. This would refer to the community's wishes on how they decide and whether the people on the ground accept if consent is important or not. It would help in the decision making process if there were an agreement with the people and the national Programme, however, this would not be the same context with other community. We would realize when we reach a consent, if we experienced a process to obtain a consent. This has to be discussed with the people, for example in a village community, and if it is applied for maybe more than 50% agreed, the process could be continued. The process could be conducted to individuals, such as the person who has 1/3 acres of land, s/he wishes to accept and the rest do not. However, there is no fixed way to handle it. It would required a designed programme which is relevant and fits into each country's condition. This is an actual issue which need to be discussed to apply FPIC. A simple example would be, when a school is required to be built in an area, then the people who live in that particular area need to be asked whether they would agree to the idea. The proportional would be best if the person to answer that is the stakeholder, outline, and from other parties not the policy maker.

Measuring violation

Measuring violation and how to handle them from UN-REDD's point of view is being studied. Given the UN-REDD mandate, the UN of FAO, UNEP, and UNDP can be part of the programme in measuring violations. However, it should be taken into accounts other mandates, for example of those regarding the human right commission, and what are the role of human right commitment in each country. It is not necessarily clear, but it is an obligation of UN-REDD to prevent the violation of human rights. It was suggested that a suggested violation policy could be produced by UN-REDD.

2.4. PNG Experience in developing FPIC Guidelines and Procedures.

Presenter: Eunice Dus (Office of Climate Change and Development, PNG).

The Concept of FPIC is not new in PNG since FPIC principles have been practiced to some extent by extractive industries including forest industry. The PNG Constitution recognizes and respects the rights of the local communities including their traditional cultures and the different judicial system available at the local level.

In developing the FPIC Guidelines and Procedures, the PNG has gone through steps from producing a draft document for internal review, stakeholder consultations for feedback, to obtaining inputs/comments from the REDD+ Technical Working Group, and the final draft submission for NCCC endorsement to trial in pilots.



In defining FPIC in PNG context, besides the understanding of FPIC terminology, it is important that in the event where changes are made over time regarding certain information or where new information is made available, landowners should be informed about these changes. In the event there is difficulty in communication between project developer and landowner communities, an interpreter should be used to communicate the message clearly across to the people. All parties are equal, neither having more power or strength. The National Constitution of PNG also embraces the right to FPIC process by acknowledging human rights in sec. 32-56 (Basic Rights, Qualified Rights and Special Rights of Citizens)

The FPIC has been implemented in REDD+ projects in the PNG through stages of awareness on Climate Change, REDD+ and on the different safeguards including FPIC in 11 out of 22 provinces which participated by all concerned parties: government officials including the National Climate Change Committee, NGOs, academics, and others. Various channel of communications such as radio plays, cartoon storied for comics section of national paper, etc have been utilized.

The PNG has identified six steps of how communities participate in FPIC, which involved in a REDD+ project that respects the rights of communities to FPIC (Communities – Developer – Government). The PNG also has Demonstration Projects (PNGFA which its first activities have been done within the 5 projects covering areas of borderline, the island, and on the top of a mountain. This information is available in the PNG website: www.occd.gov.pg/publication/FPIC. A complete presentation of the PNG is enclosed as **Annex-2** Discussion based on this presentation was combined with the presentation provided by Indonesia.

2.5. Indonesian experience in developing FPIC Policy Recommendation

Presenter: Agus Setyarso from National Forest Council - Jakarta

The National Forest Council mission is to maintain harmony in the multi-dimensional relations among actors in forestry, and monitor the performance and evaluate the forestry system, in partnership with the government to materialise national politics and policies in the forestry system.



The National Forest Council approaches toward FPIC being part of the national policy of REDD+, i.e. in the national REDD+ strategy. Presently the country has a REDD+ Institution through the REDD+ Task Force established by the President. However, the FPIC concept has not been officially adopted for REDD+ implementation.

It has been noted that recommended that there is no clear definition on the intersection between REDD+ initiatives within the existing livelihood system. REDD+ is perceived as “alien”. How does the alien be aligned into the system of the communities livelihoods. REDD+ safeguard has a design constraint before it takes effects.

A set of national (Indonesia) based general guidance on FPIC implementation is available. Since the launching, FPIC has been a hot topic for REDD+ in Indonesia and people are becoming aware of the importance of FPIC for any land based project. REDD+ should not be interpreted as limiting the scale of projects or activities, and is not oriented or geared towards selling the project or carbon. REDD+ should be understood as an effort to reduce emissions from degradation and deforestation, which should be reflected in sustainable forest management

There were some MRV standards being developed by the Indonesia Ministry of Forestry with the SNI system, and on the other hand there are people who also have experiences related with measurement and reporting that need to be adopted into the MRV system. When people are engaged in a continuous process on REDD+ Programmes and activities, then they are at the forefront for updating data and information, which in turn helps improve the quality of MRV. A complete presentation of Agus Setyarso is enclosed as [Annex-3.](#)

Discussion

FPIC principles

Participants have observed that FPIC principles are not a new scheme for the private sector. However, most of the private sectors have been regarded to have some preference

to consultation over consent. It was further explained about the involvement of private sector in REDD Programme. The UN-REDD PNG team has some groups that support the private sector, which the team obtained relevant consent from the latter. The PNG has already had FPIC implemented in a few phases. However, moving from consultation to consent is a new phase in FPIC involving REDD, and the PNG is looking forward to see this in FPIC. In the PNG, private sector is always behind the government, such the oil industries.

Required policy

Indonesia has processed the required policy. It has been formulated, and the final version is in the congress including other main programme decisions. Indonesia experienced difficulties to re-align SFM with the Indonesian government structure, as they only measure it from CPI which is not practicing SFM. Governments at the national level only follow CPI, and they do not necessarily go along with SFM. Similar to the Five Years Planning which is not directly the same with SFM.

Gender as prospective and gender as facilitator activities

Women participation have been included in the programme. Women are very much involved in the FPIC process.

FPIC Facilitators

The mandated decision from the PNG government is to coordinate the programme and/or implement it depending on the sector. The PNG has departments that carry out the implementation of REDD activities. The process of identifying the facilitator is conducted through working together with the government and relevant sector, which helps the UN-REDD PNG programme determines which parties to carry out FPIC, and who will facilitate its progress.

Technical aspect

The need to introduce MRV into the FPIC process has been some concern to a few of the workshop participants. However, early detection was that it would be complicated for the community in the village to absorb the idea.

Force management

There were concerns about how local community would understand a force management. How would this be measured in community resources. Since with measuring and reporting already there, and also monitoring, the force majeure is already in the system. It has been detected that there is a need on how to re-introduce FPIC in local community languages and customs. Many local communities have already developed their own FPIC from the beginning, and it is expected that the offered programme has to adjust with the

existing FPIC in the community to avoid any conflicts within the community. More consultations with the community and stakeholders should be taken place.

Incorporated FPIC into the national strategy

Since REDD+ will be in place very soon, Indonesia has suggested that FPIC needs to be included into the national strategy. However, there is still some misunderstanding at local levels on this issue. Therefore, an immediate strategy for FPIC to overcome this matter is by suggesting FPIC related work to the 42 Demonstration Activities (Das) spread out in many provinces in Indonesia presently. These DAs may become the source of FPIC, and their existence are legal.

The Social Forest Management Programme

Participants observed that the Social Forest Management Programme (SFM) in Indonesia is phasing out replaced by other activity. SFM is a process beside its principle is used by a positive programme, since activities such illegal logging, forest fire, etc are temporary issues. Therefore, it has been understood that once the problems have been solved, we may return to implementing a SFM programme. It was further explained that it is customary knowledge that the establishment of the Forest Management Unit (KPH) in Indonesia is right and can be raised into a more structured SFM efforts, which makes a Governor not happy or happier. As a sparring partner to the government, the National Council of Climate Change goes along with each other for mutual benefits. However, due the criticisms received from other concerned parties, sometimes these two do not get along very well.

FPIC in cross border

There are ways in applying FPIC in cross border community like PNG and Indonesia, Malaysia and part of Borneo. Some experience on how to contextualize the two ethnic communities were shared.

Provision of community and government land

The provision of sharing the government and community land has been applied in Indonesia. For example, from a total forest area that is managed by the government for any industrial agricultural covers approximately 10 million acres. The rest of the land forest is owned by the people.

Challenges of FPIC implementation

It has been understood that producing the FPIC guideline went through the process of many consultations of various stages, such as trial, implementation, and moving toward materializing a regulation in a country. The challenge is how best the community could understand the given information since in most Indonesia remote villages, 75% of them

are illiterate. The other challenge is Indonesia has more than 815 different languages. Thus, the communication issue is quite challenging to Indonesia since it requires to identify the right people in delivering the right programme. Another challenge is the mentality process of the community if they think money comes first, which would lead to profit of each activity. This would require extra efforts of the Facilitators to make the community aware of the programme benefit to them, re-train and manage their questions, not just raise their expectations.

The need for a National Climate Change Council

The council is certainly required for a country like Indonesia, since not all important issues can be resolved through government bureaucracy. The issues then could be addressed in two ways, from the Government and outside of government, and in this case the council is the strongest procedure. All 6 of Indonesian government policies on climate change related issues, have been applied in the country for 15 years. With regard to FPIC, it has been noticed that both the council and the government have to do more work to identify a direct relation between the sub-national policy with the national programme to include FPIC principles.

Breakout Groups: Preparation of Guideline

Participants were formed into four breakout groups based on their language skills. For example, Group 4 was a Spanish speaking group. Each group had 40 minutes to further discuss the following issues:

Preparing and Using FPIC Guidelines

- 1) Developing and applying national FPIC Guidelines
 - Are national guidelines always necessary?
 - What is the objective of national guidelines?
 - How will national guidelines be applied or tested?
 - Is further work on national guidelines required before they are ready for application? If so, what needs to be done?

- 2) Relationship between guidelines – UN-REDD, National and sub-National
 - What should be the relationship between the UN-REDD Guidelines and national guidelines?
 - How can the UN-REDD Guidelines support the development of national level guidelines?
 - What issues/topics are best covered in national guidelines versus UN-REDD Guidelines and vice versa?

Working Group Conclusions.

National Guideline

All groups agreed that a National Guideline is necessary, but with some conditions, reasons, recommendations. It is required as to standardize principles and procedures across a country (and local contexts), as well as minimize conflicts on right or wrong forms of FPIC. The National Guidelines would be a source of legitimacy and validation of FPIC processes. Most importantly, the REDD+ Strategies requires FPIC Guidelines for implementation.

It was recommended that the process to develop the guidelines needs to be led, adopted or recognized by the government. At the same time, the process should be bottom up and endorsed at the sub-national level. The time to have the guidelines officially endorsed or accepted will vary from country to country. Piloting the guidelines could occur at the same time as seeking official endorsement.

Legitimacy of the guideline

The group responded differently on the topic of whether the guidelines need to be legally binding. Some was in the opinion that it is not legally binding, people will not follow the guidelines. However, others predicted that if it is legally binding, the guidelines need to be broad to allow for the flexibility of applications at a local level. Some others were quite happy if it is not officially legalized, but the government needs to recognize it (e.g. through a decree) – which could have the same effect

Objective of national guidelines

The national guidelines should cover the following objectives: a) standardize the application of FPIC throughout the country and minimize conflict; b) raise donor's confidence with credible guidelines; c) national framework that can be used in different local contexts; need to have minimum standards to claim validity of a process; means to interpret global guidelines at national level; requirements should be part of national REDD+ strategy, made into a policy or law; should embody principles of international human rights instruments like ILO, CBD; serve as a reference for sub-national levels; provide the basis of implementing FPIC and the need to conduct FPIC; means of communication; encourage FPIC for activities other than REDD+; provide a set of principles to follow; acknowledgement and uphold indigenous people rights within national legislation.

The national guideline could be applied or tested through stages such as:

- ▶ It should be available in national and selected local language(s).
- It should be legislated and endorsed through a legal platform

as to strengthen the guidelines.

- It should be tested through demonstration and pilot activities.
- The lessons learned should be documented and communicated.
- The need to address who has a right to FPIC – IPs and other stakeholders?
- The determination is different in every country, and it should not base application upon terminology but rather, criteria/characteristics of peoples.

The Working Groups have also identified further work on national guidelines before application such as, awareness raising, and the needs to have a two-way process where local community can continue to give feedback to improve the process. An FPIC process for REDD+ could be extended to other areas, such as logging, mining and petroleum development. Sharing information, for the Philippines, an administrative order needs to be made more specific to be more operational. Further, for the LAC, as a basis for the preparation of national guidelines, the national authority should design the consultation process.



Relationship between guidelines – UN-REDD, national and sub-national

The national guidelines should be based on international guidelines, and then amended for the country context. Whereas the UN REDD Guidelines should set out the international principles and criteria, besides the basis for national guidelines, e.g. “think globally, act locally”. There is a need to ensure an appropriate feedback cycle between sub-national, national and global guidelines – development and application

Discussion

Inputs from the World Bank that they have a slightly different points of views about UN-REDD to FPIC and the World Bank to FPIC with regard to sub-national and national guidelines. The issues have been noticed by the World Bank. Whichever country adopts FPIC with a specific interpretation in mind, the World Bank will recognized it as something significant. That country can use FPIC in the scene of national legislation, not to contradict to each other. Presently, the World Bank is undergoing discussions about the key issues that can be seen. Whereas inputs from the National Council of Climate Changes, that the workshop objectives need to consider the interests of the people and community. Since FPIC should be delivering the maximum benefit for local people, but the present guideline only geared towards the government’s objectives as part of the REDD initiative project office. Thus, there should be some additional objective that reflects the importance of this guideline for the community itself. It was suggested that the guideline should be written and evaluated immediately, and whether or not this guideline ends up being an additional constraint for the REDD+ project or an instrument, it provides a win-win situation between the initiator and the community.

2.6. Best Practice and lessons learned from Vietnam in piloting FPIC.

Presenter: Nguyen Thi Thu Huyen, UN-REDD Vietnam and Nguyen Quang Tan, RECOFTC, Vietnam

Vietnam conducted the pilot project two years ago. It started in the 4th month of the Programme and spread throughout five and a half months, from January to June of 2010. The pilot study was conducted in three places, and this all spread out to about three months in the field. In early Jan 2010 without any guidance and rather than using a six page Information Proposal as an approach to ensure Free, Prior, Informed Consent from Ethnic Minorities in Lam Ha and Di Linh Districts, the Lam Dong province for UN-REDD Programme activities in those districts, a two-page report was prepared that helped in deciding on the course of action for the UN-REDD project.

With no guidelines, and only a piece of paper from the government, there were eight steps commencing the activities: local awareness raising, recruitment and training of the introduction (2/3 carried out simultaneously), recruitment and training of the introduction, preparation of village meeting, village meeting, recording decision, documentation and rapport, and verification and evaluation. Lessons learned was from documentation since there was no previous experience.

The consent was sought from households: local ethnic minority people, migrant ethnic minority people, and migrant Kinh people who lived in the village at the time of FPIC. The lessons learned were found from the eight steps which among others: lack of community/village socio-economic data and usable communication materials, besides limited local Government readiness. The concept of climate change and REDD+ mechanism was not familiar to the targeted community. Obstacles in recruiting and training the right candidates for Field Facilitators, etc.

Today, Vietnam has set up team of 21 village facilitators (district FPD, village head), and conducted 4 village meetings to gain feedback on E&V, adjusted process including a setup of the recourse mechanism. Relevant workshops were held to inform 78 villages of the FPIC results. The feedback received covered the community needs of more time for discussion, not holding too many meetings, individual vote preferable not through representative, local facilitator to be part of recourse mechanism, and add more on recourse mechanism: check phase 2 proposal.

In designing the FPIC process, the team has prepared the availability of reliable socio-economic data, adequate discussion on local (governance) contexts, various media for awareness raising, adequate time for intra-community discussions, the limitations of the process and measures to address these limitations, proper guidance on the implementation, and very simple guidelines, few pages. Facilitators play an important role and use sufficient efforts to recruit and train (there are 34 qualified facilitators today). In raising awareness and communication, the use of multiple channels/media (e.g. radio, videos, TV, posters, briefs, leaflets) were utilized, and monitor their uses.

The decision making counted the needs of some some adequate time for discussion and decision making, collectively as a group or individually as independent actors/households. Involved community members from the beginning of the process to improve ownership. Capacity building for the local community to make their own decision. Proper documentation of the whole process, not just at the final decision. The final decision is important but the process is also needed to justify the process.

The outcome of the FPIC process required to be properly documented and shared publicly (in the local language) with all community members after the process, particularly with those members who were not able to participate. The intention was to seek consent for the implementation of the UN-REDD pilot in the respective villages. Most villagers, however, expressed after the FPIC process that they had given their consent for “*protection of the local forests and benefits from it*”.

The principles of a grievance mechanism needs to be established t include a single mechanism covering benefit distribution and FPIC, accessible to all; maintains anonymity (if desired), has legitimacy and is equitable and transparent in operation, respects performance standards, address grievance at local level first. A complete presentation of *Nguyen Thi Thu Huyen and Nguyen Quang Tan* is attached as [Annex-4](#)

2.7. Best Practices and lessons learned from Indonesia in piloting FPIC

Presenter: Mrs. Rukmini Paata Toheke, Working Group IV, Central Sulawesi

Central Sulawesi was officially chosen as the pilot project location for UN-REDD Programme Indonesia since February 2011. This was based on the facts that the local government of Central Sulawes is committed to reducing the greenhouse gas emissions. The provincial government also appointed a Provincial Forestry Service as the focal point of the effort and establishing a REDD+ Working Group. Four Working Groups of Central Sulawesi REDD+ were established, covering Policies, Methodologies, Demonstration Activities, and FPIC – Capacity Building and Community Empowerment.



The FPIC Guidelines went through the process from forming a common perception to becoming the first draft to the final draft through FGD, consultation with relevant experts, trials, lessons learned, verification, and legal process.

The FPIC Guidelines developed comprising information on FPIC, global warming, REDD+ and FPIC, the importance of FPIC in REDD+ related activities in Central Sulawesi, phases to implement FPIC: preconditions. Implementation, and post implementation.

Based on the developed FPIC Guidelines, 30 facilitators from 6 villages (5 persons from each village considering gender

balance) were trained. Initially Talaga village was plot to be a pilot village, however the people rejected the proposed activity due to some misinformation regarding the REDD+ mechanism, which indicated that there would not be any benefits towards the community and that REDD+ will take away the people's rights. Other village, Lembah Mukti then was selected as a pilot village.

The trial of the Preconditions/Information Dissemination stage included preconditions for activities where facilitators informed the multi-stakeholders in the villages and sub-villages about the planned programme of the Forest Management Unit (FMU) in the village of Lembah Mukti to plant rubber trees in their area. During the pre-conditions stage, among others, selection of locations of trial phases 1 and 2, developing of communication materials to support the FPIC trial, recruiting facilitators for FPIC trial, conducting training of facilitators, scoping the selected locations, and disseminating REDD+ related activities by facilitators on behalf of the Provincial Government to the indigenous peoples and/or local community. In the implementation stage, data collection was conducted on the targeted indigenous peoples and/or local community. Design on implementation (of decision making) and consultation with head of village were also performed, besides relevant dissemination at the concerned level/parties. In the post implementation stage covered review on the implementation's weaknesses, review on the decision making results, revision on the FPIC Guidelines based on the results of the trial.

In reaching the targetted audience, certain types of communication materials were identified, developed and tested for their effectiveness in the field prior to reproduction and distribution. The FPIC training then was provided to the Sabang village, subdistrict of Damsol, district of Donggala for five days with resource persons/trainers from the Provincial Forestry Office, communication practitioners, etc. The selected facilitators made sure that the villagers (living in the sub-villages) understood the programme, and they were also facilitated in the decision making process.

During the implementation of FPIC trial activities in the village of Lembah Mukti, a 3-day process was held. Day-1 covered information dissemination regarding the REDD+ scheme, FPIC Guidelines, FPIC Process and the planned Programme of the Forest Management Unit that aims to reduce the effect of climate change (*at this stage the facilitators were accompanied by the Forest Management Unit and Forestry Service officials*). Day-2 covered information dissemination at the sub-village level consisting of five sub-villages and discussions at the sub-village level. Whereas day-3 covered decision making discussion session conducted at the village level which was attended by representatives from five sub-villages (*five people represented different community components for each sub-village*).

The result of the above trial: the villagers of Lembah Mukti "AGREED" to implement the forest rehabilitation Programme by the Forest Management Unit, the agreement was written and signed (as per the Letter of Agreement) by the village's negotiators, the trial results not only states the villagers' consent to the rehabilitation of the forest, but also

indicates their continued commitment, problems and needs, and a platform was established to manage complaints and feedbacks.

Lessons learned from the approached to the two villages: the Villagers of Talaga were aware of REDD+ before facilitators from the Working Group entered the village (regardless of the accuracy of information received) and they rejected REDD+. Whereas the vilagers of Lembah Mukti were not aware of REDD+, but already know of the benefits of forests for the environment. The villagers of Lembah Mukti gave their consent for REDD+ activities. During the trial implementation, it was realized that it is necessary to add one phase into the FPIC Guidelines: coordination with the District Forestry Service, sub-district authority and local police, and to involve any forest related Technical Implementation Units in the process of information dissemination and raising awareness. A complete presentation of Rukmini Paata Toheke is enclosed as **Annex-5**

Discussion

Decision making process

The unit of decision in the village of the pilot province in Indonesia was the household. This means that the process involved the household, but the final decision was made by the village as they would come to an agreement about the decision which they wish to make. Whereas in Vietnam, a village meeting is represented by each household with the final decision making process being held at the village level and then later documented. Each representative who joins this process is nominated by the families who participate in that event. Indeed, the decision making process conducted at the “village” level is regarded as an abbreviation of the household plus the citizen that connects them. Thus, it now becomes a collective level and does not present only the village community per se.



Gender issue

The criteria utilized in place to ensure the equal participation of men and women varies. In Vietnam, as stated in their Programme Document, gender participation should be more than 40%. For FPIC participation at the village level amounts to 58% of the women in the project.

Language barrier

There are many languages utilized by village communities. Thus, Facilitator should learn the language to enable them to speak with the local people. But since there were communication materials, there will only be two spoken languages rather several, and it should be decided on utilizing only 1 or 2 languages.

In the Koho area, Vietnam, Facilitator has been working utilizing a minority language of which 90% of the villagers use with the remainder speaking Vietnamese and other minor ethnic minority languages. If there are different languages in one village, a survey showed that some people preferred using a particular language over another, and that some issues with the Koho language for instance was that some villagers had difficulties in understanding written documents, as they mainly used the language orally. In this regard, a local facilitator is needed to help in interpreting the provided information on REDD. Another way to communicate to local people is through the use of posters and other communication materials, and through the pilot campsite, villagers receive the benefits. The common language issues faced by the villagers is the written language. Thus, the concerned Facilitators needs to be able to speak the local, ethnic language and it would be a bonus if they could also speak as much of the different languages as possible. The written language can be used to leverage the local people's interest, since if they see something written in their own language, it would increase their sense of ownership. This aspect is different when dealing with the spoken language. In Vietnam, unlike other participating country which have 100-200 different languages, has a national language. Although Vietnam people has other languages, but it is only about ten languages.

Media involvement

Some media has been observed, is pushing the challenges toward socializing REDD+, however, following the government's control. This could be effective – utilizing media as a communication tool because of the government control. There have been studies about the control of the media in Vietnam, with the government taking over in the central highland. The Vietnam Programme has been approved by the government, and the local government is also aware about the involvement in the area, and they have agreed to all the processes, and have apparently appointed a local representative to be in-charge at the field level. They have also asked for the media to be involved in the region at the provincial level to eliminate any problems. In fact the Vietnam programme received great support from the media.

As for Indonesia, the communication platform which has been built to reach the targeted communities covered various communication media as a communication tool. Radio programmes have been conducted besides relevant information given through showing documentary films, as well as posters, pictures storied, and others. The preparation of these communication materials takes some time, however they could also be beneficial to other parties or future REDD+ implementing countries.

Outreach cost

There are certain points regarding the cost. More consultations and meetings will result in increased costs. In the case of Vietnam, as stated in the report, the total amount is more than US\$115,000 spent for 78 villages of 5,000 villagers within a six-month period. The

same with Indonesia, preparing meetings and discussions on REDD+ with the concerned parties needs funding. The cost of conducting a Focus Group Discussion (FGD) for one Working Group may absorb approximately Rp. 40,000,000 (US\$ 4,000) excluding a series of additional small meetings before and post a FGD. It is quite an expensive cost to the local community, especially as a beginner toward the process of starting an FPIC. FPIC development is a lengthy process. In order to cover the required cost to complete the FPIC process, availability of funds need to be secured before the implementation process.

The workshop participants appreciated both Vietnam and Indonesia explanation about the cost. However, they wish to know how much it might cost after the final evaluation of the FPIC trial, not just considering the guideline and trial implementation phase. This would assist participants to review, evaluate and potentially improve the guideline itself. The aim is not to reduce costs, but how participants could follow FPIC with an effective and efficient cost scheme. This is what UNREDD in Indonesia would like to take action on, soon after the trial implementation and to also evaluate the cost of the trial itself.

Further explanation given for Vietnam in this regard. The US\$115,000 spent for 78 villages, would amount to a fixed cost, rather than returned costs. This also includes the total cost for developing communication materials such as posters, field tools, etc. Therefore, some of these costs are not refundable. However, if the village is ten times bigger, the total amount cannot be multiplied by ten. It has been shared that Bhutan has already have an effective mechanism on the cost, which may be different for the area. Thus, it is very difficult to compare the cost of one country to another. In Vietnam, the cost for evaluation and verification purposes are split into two parts, which means that close to US\$10,000 was used solely for evaluation, and this is the result from a sample of only 10% of the total participants interviewed.

The need for an FPIC Guidelines

Vietnam experienced difficulties to determine the next step as they did not have any guidelines at the time, it would have been easier if they had a guideline to follow. It was felt that they needed to have principles to guide the process. The current FPIC manual would help pilot provinces to better conduct their FPIC process. Unfortunately Vietnam did not have any guidelines to refer to at that time.

Benefit sharing

In promoting FPIC, there must be some form of communicating with the community that is particularly beneficial. An appropriate kind of benefit sharing needs to be passed on to the community.

Trial and error in implementing FPIC in a village community

Indonesia experienced a village which refused an FPIC approach at Talaga Village in Central Sulawesi. Apparently there were some issues with respect to a local NGO in Talaga Village who provided some contradicting knowledge and understanding regarding REDD+ before the programme was socialized in the area. Before understanding REDD+ mechanism, the Talaga villagers have already judged that the scheme was going to focus on carbon trading. It was also wrongly communicated by the local NGOs that indigenous people would not be recognized, but only those who have been known and legitimate in the area. This message was delivered to the villagers by the local NGO. As a result, the people then chose not to get involved with the scheme as they believed that they would not receive any compensation. It was a misleading information by the concerned local NGOs which has led the community to further misunderstanding.

The Indonesian Facilitators considered Talaga village as a failure because they had not socialized the programme to the community, and yet the latter were already defending themselves. Any proposed approaches were already being considered and judged as incorrect or unnecessary information. There were some villagers who brought big knives to protect themselves, and relevant Facilitators had to explain to them that FPIC is a safety framework and that it is hoped that the guideline could be applied with respecting the rights of indigenous people. But, with the approach to the second village, the community of Lembah Mukti village, the Indonesian Facilitators are very optimistic. The optimism encourages the Indonesian Facilitators to further attempt in visiting the Sigi municipality which has two villages.

In the case of Talaga village community, the positive message of REDD+ as a mechanism that aims to help the community resolve a treatment for forest preservation, reducing deforestation and degradation which requires direct responsibility of the community as they would be the beneficiaries, did not reach the community. Therefore, there was a need to develop methods to convey the correct information about REDD+ that it is a scheme which will help the community and that many parties need to be involved in order to prepare the REDD+ framework. Although there is still some debate, but it has now been socialized to many parties within the community in Central Sulawesi, Indonesia.

Participants observed that what has happened to Indonesia toward attempting two trial locations with the exception of Talaga community rejected the FPIC approach, is very interesting, and it should not be called a failure. As on the other hand, the second place with Lembah Mukti community was a success. Trials need to be continued, and more villages should be approached for the trial. Since increasing the scope to one or two more villages would provide some comfort in creating a guideline, as if there were no negative feedback or criticisms received from four villages, drafting a guideline would be timely.

Legal process

Indonesia experienced that the legal process was an additional bonus to the local community. The UN-REDD programme involvement and assistance in helping build the basic framework has enabled the indigenous people to participate in the planning process, negotiation and decision making on whether to accept or decline FPIC for the REDD+ scheme. On the other hand, the Forest Management Unit programme is one of many aspects that have been implemented, but in the near future the issue that will be the primary concern to the local community is the mining programmes which may take the palm oil plantations. Thus, it requires further socialization and the local community's extra push toward obtaining the attention of the Governor who may issue new rules in recognizing the scheme. Since if the scheme was legalized, it would be applicable to all community programmes. Presently, early stages of negotiation toward materializing the legal aspect have been achieved, which will form the basis of a guideline. It is still a work in progress as the regional strategy has yet been incorporated into the guideline. This has become the main objective now for all REDD+ Working Groups in Central Sulawesi.

Participants also observed that national level guidelines can be adopted. However, others also observed that it should have been executed through legislative measures. A sample given from the Philippines which mentioned that they have indigenous peoples and that an FPIC process was used.

Complaint management

Indonesia shared a formation of a complaint management team which intrigued the workshop participants to know what would be their roles in FPIC. It was explained that since there was no community council in the Lembah Mukti Village, a group of 13 local Facilitators were formed. One of their duties is to guide the village community debates, ballots consensus, voting toward reaching a majority decision. This has been successfully avoiding conflicts amongst the villagers. If there were any violations found toward the Forest Management Unit programme, these thirteen people in the management complaint team would take the case and present it before the community. The facilitators are divided with tasks, which nine people are designated as the negotiators.

Participants observed that the process experienced and followed in Indonesia is embedded at the community level and not just the national level. Support is crucial, especially from the provincial and national government.

2.8. An Institutionalized FPIC process in the Philippines

Presenters: Robeliza Halip, Researcher, Non-Timber Forest Products Exchange Programme & Jonathan D. Adaci.

REDD+ in the Philippines: Philippines is now in the readiness phase, focus on capacity building, consultation, communication, integration and reform among others, and implement National REDD+ 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*).

The FPIC process (2006 Guidelines) steps included: application of project proponent files with the regulatory agency, regulatory agency refers application to NCIP, endorses of NCIP of the application to NCIP Regional Office, pre-FBI (Field Based Investigation) Conference, FBI Proper – commences after payment by project proponent of FBI Fee (to NCIP Trust Fund), Pre-FPIC Conference, and FPIC Proper – starts upon payment of FPIC Fee which includes provision for inclusion of NGO and results in Consent/MOA or Non-Consent and issuance of CP.

The activities which have been conducted thus far included a Policy Study on the FPIC Implementation covering the issues of complaints ranging from the creation of fictitious tribal associations and tribal leaders, collusion with the proponents to outright corruption, etc. A policy study on the assessment of the FPIC implementation has also been conducted with the objectives of assessing the implementation of the Free Prior and Informed Consent (FPIC) provisions as an effective safeguard for IPs to assert their right to self-determination, and develop a policy agenda and recommendations for enhancing the FPIC process in the Philippines, particular in the context of REDD+ implementation

With regard to policy options, the Philippines gone through, among others, identifying the time-bound vs. customary system of decision making within the community, and implementation of FPIC for one process/phase of the project. The Philippines has conducted joint initiatives to assess/review the 2006 FPIC Guidelines through filing of House Resolution 887 in the Lower House of the 15th Congress which called for the review of the 2006 FPIC Guidelines, and 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. Also the creation of a Technical Working Group on the Review of FPIC of NCIP

The indigenous peoples of the Philippines refer to Filipinos who have continuously lived as organized communities in defined territories (ancestral domains) since time immemorial, and who have retained some or all of their own social, economic, cultural and political institutions. This include those who may have been displaced from their domains or may have resettled outside their ancestral domains

Areas that don't have indigenous peoples, as they don't have their ancestor lands, don't need FPIC. The Philippines have signed the law on the Indigenous Peoples Rights Act

besides the State Policy of the Philippines acknowledged from pacification, assimilation, integration to recognition. However, it took the Philippines 14 years to come up with the FPIC guideline to have a currently third/fourth FPIC version. The FPIC Guidelines went through the process of consultations on legal bases, overview of the FPIC process, and on-extractive, small-scale activities, and other processes such as community solicited/initiated project and local or foreign funded projects in cooperation with NCIP, etc.

With regard to a salient provisions, the Philippines have the terminology which means that the areas are excluded areas from any activity except for the exclusive purpose for which they are identified, covering sacred grounds burial sites of indigenous communities, identified international and local cultural heritage site, critical areas identified or reserved by the ICCs/IPs for special purposes, and other areas specifically identified by the IPs in their master plan. The salient provisions also consider the Memorandum of Agreement toward the payment of royalties to the indigenous people, simultaneous application, applicability of customary law as, use of royalty, other benefits, and the decision making is not time bound. A complete presentation of Robeliza Halip, Researcher and Jonathan D. Adaci is attached as **Annex-6.**

2.9. Planning for FPIC in Cambodia

Presenter: Sopa Sokun Narong- Wildlife Conservation Society, Cambodia

The site location of Seima is one of Cambodia's official REDD+ demonstration projects, and it has been chosen as the REDD+ project. The government is the project proponent and carbon owner and any additional input will come from increased budget/staffing, new legal status, new enforcement strategies and new incentive systems.

Seima has been the site of a joint conservation program between the Forestry Administration and WCS since 2001. It was declared a Protected Forest in 2009 and sustainable financing is required for long term site management. The key communities in the area are ethnic Bunong (Phnong), with some areas located within protected zones. The livelihood value of the reserve for these communities are very high – farmland, forest resources and cultural values.

In formalising land tenure for communities is central to the project, all indigenous communities around the reserve are being assisted to obtain Commercial Land Titles. Andoung Kraloeng village received its title in March 2012, and it is only the 3rd village in the country to reach this stage. Core REDD+ activities include a strong focus on alternative livelihoods Community aspects aim to provide increased incentives for conservation.

The carried out activities which have strengthen the links to the National REDD+ Roadmap, includes: encouraging involvement of indigenous groups/FPIC/safeguards, raising awareness of and support for REDD, urging the communities/LNGOs to bring

their experience to the national level, demonstrating the value of resolving tenure, linking REDD to Protected Forests management (3 m ha), producing hard data on deforestation, drivers and carbon stocks, testing interventions for avoiding deforestation, conducting management of revenues, benefit-share/incentives, monitoring biodiversity and social co-benefits, and scoping for scaling up to province/sub-national.

Cambodia has gone through the studies on community aspects based on CCBA project standards, consultation process of 3 stages from awareness to finalization and signing of the document. The consent needs to be obtained from 20 villages who use the REDD area within the Seima Protected Forest need, and in most villages the existing community groups have already chosen and proposed their representatives. It took Cambodia about 40 months from the consultation process until signing the draft agreement and awaiting the decision from FA on final text with some positive outcome as a result of positive response received from the community. A complete presentation of Sopha Sokun Narong is attached as [*Annex-7*](#).

Discussion

Obtaining consent



The experience shared from the Philippines, in dealing with the local community, consent could also be obtained from the miners. An evaluation process was set up to help the community with the scenario of obtaining consent from policy makers for the programme. This consent is different from obtaining consent for a naturally evolving project. It was further discussed that a consent might be withdrawn, and in the case of Talaga-Indonesia community who refused the programme, there should be a way to re-approach them again to change their mind. There is a need of a mechanism to accommodate an initial NO to a YES at a latter date (e.g. after they see that there is a benefit for them). In the practice, the withdrawal needs to be removed from the proponent applications. However, this could only be applied in the area where the community gives their consent. Bukht there was never been a case where a community has said no but then they reconsider and agree, unless they have been bribed or forced by their proponent especially with cases involving mining projects.

A consent should be incorporated into the MOU and negotiated. There should be a procedure to accommodate complaints. If there is fraud or illegitimate claims, for example the sign is premature or the person is not the eldest, it can be eliminated. A community meeting needs to be called, or a hearing officer needs to be notified to conduct the investigation. The issue is once there is money coming in, there will always be an issue of segregation and separation with respect to FPIC. The MOU has incorporated the fee for monitoring should be provided by the investor.

Land tenure and title for FPIC

In the context of indigenous people affected by FPIC, if there are indigenous peoples in an area, they do not identify themselves associated to a domain. They can also undergo FPIC if they do not have a land. In the new FPIC guideline the community can decide whether they could have a project. The FPIC process could also be identified, which helps the community decide when an area wishes to be involved. In the Philippines, it was highly debated in considering FPIC in deciding to take ancestral lands or registered land, as there are some indigenous people who may have migrated to the area 30-40 years ago, and therefore for the purposes of measurement they were called migrated indigenous people. Regardless of whether FPIC is used or denied, a compensation or fee for that land needs to be provided. Almost half of the land in the Philippines is ancestral lands has not been owned or titled yet, it has not been documented and has never been public land. If there is proof that the people were there before the Spanish conquered, they were called native, and they will be given a certain form. Field base investigation determines whether land is an ancestral domain or if the land is untitled.

FPIC and REDD

The REDD project in Cambodia needs FPIC and community agreement. In Seima and many countries as well, the community often destroys the forest for whatever reason. In implementing FPIC for REDD, it requires to conserving the forest and asking the community to stop the negative activities. FPIC is required by the REDD project because this reflects to other protected areas that the community are not allowed to live inside the protected zone. REDD in Seima requires FPIC for indigenous peoples' right. As to avoid deforestation in Cambodia land forest, there is a need to have FPIC. An agreement from the people would be required as to have the land titled, and they need to put the land into REDD implementation. The Cambodia Government wants benefits from community, but unless there is some clear boundaries, community's negative activities toward land forest cannot be stop. This is why REDD is needed to get the consent from the community. When community understands the benefits in getting involved with REDD they'll understand the benefits of the REDD programme. The forestry departments and communities have to make a decision again and for that reason we need FPIC. It was further clarified that the discussed topic is FPIC for policy/programme versus FPIC for project. Papua is project based and Vietnam is planning based. They are both following different approaches which influences how we do FPIC. It would depend on each vision in implementing FPIC, whether for for project or planning.

2.10. Interventions from other countries

Bangladesh

The Bangladesh Tropical Forest Conservation Foundation provides grants to relevant organizations (NGOs, universities, professionals and communities) for the conservation of forests and biodiversity. There are 28 on-going projects with 13 projects focused on directly supporting the conservation of community based forests and forest co-management approaches.

At the start of a project a survey is carried out to determine the baseline information of biodiversity resources, communities living in the area (including ethnicity), and any major features of the project areas (site map). Using GPS a vegetation map is created, and such documentation helps create awareness of resources available.

The next step is to develop a participatory management plan which is implemented by the community. The main strategy of the project is to support the improvement of livelihoods and seek alternative income generating activities of the forest dependent peoples, and to support communities through a compensation package (incentive) for conserving biodiversity. The incentive is given to the community in the form of a revolving loan fund (RLF) which is managed by the community. The projects support building capacities for alternative income generating activities, scientific management of forest & biodiversity and above all organizational capacity development. The community also deposits their savings in the RLF to raise their fund which provides a scheme to attracting more people. Forests are slowly being conserved and the visible result is more water from the forests.

Bangladesh has 17,000 land forests, and started the programme in 2010 in the hope that it could evolve into a REDD programme. Presently, after joining UN-REDD, the REDD+ technical committee works into three phases. The preparation of the draft was completed in March and carried on with presentations, consultations, regional and village meetings. We now form a tri-group strategy, HR and MRV group. The REDD mechanism is needed to protect the Bangladesh forests.

Bhutan

The programme in Bhutan is progressing very slowly because the scheme is still unclear, whether it is a drain or a benefit. In 2010 the National Program for REDD began with a consultation to determine whether it is beneficial or not. The national workshop conducted recommended we carry out a feasibility study and results show that Bhutan has potential for REDD and also REDD+. According to the recommendations, we have three potential areas. The differences we have with other countries are that our forests grow rapidly, and we have more than 50,000 acres of protected lands. There was a forestry conference held where we presented our results showing people's consent of REDD and therefore why Bhutan wants the REDD programme. Thank you.

Pakistan

Pakistan is an initiation stage of REDD but at the same at the piloting stage. There were 2 redesigned MOUs and before that a feasibility study was conducted. For the local and national levels, relevant workshops were conducted which depict the safeguards used in order to inform people about the pilot project. In Pakistan the land is categorized into protected land, reserved land, private land, and man made land. Protected and reserved lands are owned by the government. Private land belongs to individuals, who use the land for production and commercial purpose. The role of the government is to provide the policy, thus through these policies the community is able to use the forest for their benefit. The government can not alter the status of the land



without the consent from local communities, and there are procedures in this regard. For forest reservation, the government needs to talk to local community, district community and provincial level. Forest policy has to get consent from the people and it is like a mandate. No party nor government can go forward without the agreement of all parties.

Solomon Islands

The REDD process is at the initial stage in the Solomon Islands, and certain areas need to obtain the rights to apply it and to also receive a license to do so. First the applicant has to submit form 1 and then an officer will check the area under application. If it is free then the Commission of the Ministry of Forestry gives their acknowledgement and arrange a meeting. This process takes about 2-3 months. The meeting is carried out to decide and determine the name of the land. The processing time period is used to determine the human rights to the land, and ensure that there are no complaints in the future. But if it is undetermined then form 2 will be given. If it is determined the trustee is given form 4 for endorsement, approval and agreement. They then fill in form 3 and after this is agreed it goes to the commissioner who then provides the final approval for the applicant. The process to obtain a consent is also similar to the process on this phase. It also includes gender perspectives. This process is important because it support the development of the FPIC and REDD. Through this process, an FPIC which is already in palce, can be adopted and developed for obtaining an appropriate solution.

Discussion

Jumping into pilot project when designing an MOU

In the case of Pakistan, upon designing an MOU, it jumps into a pilot project without obtaining a user's consent. This is considered acceptable since the risk would be on the user's side not the society side. If the user can prepare the fund then it would be a go.

There is a team of experts from REDD who are involved and already have the necessary advices on those types of issues. A private company in Pakistan is working for REDD readiness, and they came to be a part of the pilot project. Relevant feasibilities studies have been conducted which meant they are now ready to start.

Full and effective participation

A full and effective participation needs to be utilized, not only full participation in an active involvement of the process. Along with this FPIC programme there will be a potential impact in cultural and spiritual values, which information needs to be spread out. With this new idea, it is said that it will impact other areas and it has to be someone who has thorough knowledge about this cultural and spiritual value and it won't be easy.

Lack of capacity at grass root level

In the case of Philippines, the lack of capacity for earlier negotiations was at the grass root level and was not present at the local or national level. They do not know how to face the company, government and it then comes into the programme's domain. Not many has the capacity to deal with the grass root level because the material is not familiar. The main capacity is for indigenous people to be able to speak to the government and the project proponents, as FPIC is not the expert on everything. For example, FPIC does not have bio-thermal experts. It is good if we use independent experts to review the pros & cons of the project. If we use experts from the government they will be biased compared to an independent expert, this should all be done in order to support the community. The lack of capacity building is not reliant on the indigenous people but for the FPIC team. There a need to come up with an appropriate manual. Step by step guidelines so there won't be any misinformation or misunderstanding. This needs to be communicated to society to explain what FPIC is all about, and not as a meant to raise awareness for the group. The context of FPIC in Philippine is not only for the indigenous people, and there is a need to embrace the process and not just talk about it. By immersing ourselves and being passionate we can better convey our message, we can talk about our lives and relate to people. In the Philippines, FPIC project is not only for REDD+ it is also targeted towards REDD, Mining, and others.

Lack of negotiation skill

In the Philippines, there is no question forwarded to the government on their needs, such as watering system. In this case there is a need to have a MOU with FPIC process. As for the profit sharing, it has been incorporated into the scheme to gain benefits. However, they have to communicate to the community on how they will use the programme.

Different kind of project categories

There are projects with 2-5 year duration and they cover large scale projects such as mining, farming, forestry and each of them use different sets of guideline. The other classification that is called small scale projects, for example a contract to build schools does not require much time. For the small scale project can be approved by the regional government only. In Bhutan, there are different types of benefit and one of the types is benefit distribution. There are direct and indirect benefits. Direct benefit means after participation, they still own the land and can still use their land. Indirect benefit means after consent, in the future the programme team will be able to carry out conservative work and the local community will get more, and improve their local infrastructure. We do not attract any new investors. The national and provincial governments will improve the infrastructure so the people can expect to experience more of these advancements in the future.

Changes of location of FPIC targeted community

To anticipate when FPIC is applied to the ancestral domains, and if the indigenous people moves to a different area where FPIC is not applied, there is a need for a mechanism for this as who would have the right to the FPIC. In the case of the Philippines, there is a process of identification of the people in the area. As there are descriptions about where the indigenous people is but because there are doubts to what extent they have ancestral lands, it would take time to decide their right. Field base investigation is needed and new guidelines to determine whether it is true that the land is their ancestral lands. Based on the available documentation we can decide if this is true or not.

To overcome language barrier

To overcome the language barrier with the local community, Cambodia uses language of consultation and language of agreement. They are from the government and local NGOs, and local staff who are indigenous people and have the spirit. During the consultation meeting, there is at least one indigenous person, one from the local government and one from the local NGO. During the consultation with the community, the council can also join and be part of the meeting. The language that they use is Kano Language.

2.11. Working Group Discussions

Videos of Vietnam and Indonesia FPIC activities were played during the break.

Conclusion of Working Groups

Ways on how to communicate a complex concept like REDD+ to a variety of rights-holders, especially low literacy communities.

The ideas to reach a targeted community with handicap of literacy could be done utilizing more drawings, paintings, and pictures storied, especially for school students. Other means of communication could also be provided such as through religious groups which may involve everyone. Identifying a person whom has the capacity in influencing others, be that from the government, or local celebrities. With regard to REDD programme, it should be communicated clearly in details and in an up-to-date manner.

In some remote villages in Southern Papua and in Central Kalimantan, Indonesia, it would reach their understanding by utilizing concrete example. Most village participants were smokers, and they requested to smoke in a room. After half-an-hour they found it difficult to breath, and then how they understood the climate change! Another way is to describe the trees as the key to open the window, as a dramatic way to get them starting to communicate an idea which they wish to express. The use of role playing has been implemented in Central Kalimantan, Indonesia: one played the head of community, another played the oil palm company, and some played village farmers.

The PNG village community wondered whether the Facilitators would bring balloons from the western countries to fill them the PNG air. Relevant answer was given that the REDD+ will pay for the clean air. In Cambodia, in Seima project, the community had experience an earlier community forestry, and therefore could say that REDD+ is not a new idea, but REDD+ adds more incentive for people and provides a more secure forest protection system. Cambodia: produced a video that reflected the real situation of changes in forest.



Central Sulawesi, Indonesia used the example of changes of local climate. The illustration of a harvest failure due to a longer dry season and a shorter rainy season. Initially the village community did not realize why the harvest failed, but then in consultation with the UN-REDD team, they could explain about the climate change and communicate REDD+. Such examples based on the community experience is more powerful than talking about 'greenhouse gas emissions'. Examples which are relevant to overseas like Nepal or Bhutan for melting glaciers, need to be avoided to be used to village community in Indonesia.

The most useful media in communicating REDD+ in low literacy communities

In reaching low literacy communities, the choice of utilizing a suitable media would depend on the social target. Television on a cable TV may be used, and children would love to watch cartoon films, or short movie for adults, and debates for high school students or secondary school. Themed messages could be packaged for FPIC. This could be merged into a movie or a TV series which may be broadcasted twice a week to the audience. The issue of climate change may also be included in the TV series which need to be prepared in an attractive package to draw TV viewers. It is important to get relevant feedback from the targeted community whether they understand the package or whether it is suitable to them.

In PNG, communication is utilized, among others, through a play. Act out the impact of climate change and the outcomes. And the play also shows the benefits if you don't cut down your trees. In Myanmar, meetings organized through religious leaders. In the Philippines, REDD+ road shows were conducted together by NGOs and government. In Java, Indonesia, information can be communicated through traditional puppet shows. However, Indonesia found it most effective to disseminate information through playing a movie at the end of the day after finishing work. Utilizing local language is more effective. In Cambodia, videos were shown to community leaders to improve their understanding, and then the community leaders were requested to explain to the community about climate change and REDD+ in the local language. In Africa, CIFOR did research on beehives, and the idea spread when a person who was well-respected took up the new technology of beehives first. Relevant information may be socialized to school children, and then they could further inform it to their parents and grandparents. In this regard, Indonesia has put information into primary school curriculum about REDD+.

Methods for giving or withholding consent

Further information on how community giving or withholding consent was shared among the working group members. In Vietnam, used system of raising-hands, but then there was a herd mentality, and so they moved to secret ballots, which had never been used before. In Cambodia, in Seima project, they used hand-raising, with 80% indicating consent. In this regard, the whole community had to be present, or, community could nominate representatives who could make the decision on their behalf. Whereas in Indonesia, there was a custom to accept a drink (tea, coffee, water) if you accepted something. In a village in Central Sulawesi, sub-village asked to nominate their representatives, who decided for the communities. In Bangladesh, the decisions were made on the basis of 50% plus 1. While in the PNG, in 5 demonstration sites, they drafted a consent form (issued by the government), the form is translated into local



language, and people sign yes or no. The threshold is 75% for a decision. In Vietnam, balloting system was used. The need to explain the importance of going to the meeting was socialized by the facilitator by visiting houses first to encourage people to attend, and the timing of the meeting was chosen after people are not working. Vietnam noted that people attended a meeting was not representing those who would say no. Thus, after a meeting, a team needs to find out the view of people who did not attend the meeting.

National guidelines and method used to give or withhold consent

Communicating with local community in Mongolia, although they are interested in participating in meetings, but when it comes to deciding something, they tend to avoid it, since decision would be followed by responsibilities. Whereas In Indonesia, discussions in community may be held until they reach a consensus. However, consensus cannot be reached in a closed meeting, and they tend to avoid voting, but would decide based on secret ballots which is 50% plus 1.

National guidelines and stipulate method for consent

Sharing experience from the Philippines conveyed that if a community requested the project, then the local legislative body would vote, and 2/3rds vote elected officials. The country a local government code for all local communities (who may not be indigenous peoples, so it applies to all people). Whereas Bangladesh community would first seek personal contact with each individual householder, then if they would support the project, a meeting could be held.

Documenting FPIC

First of all, there should be a common agreement on the methodology process to ensure that cultural aspects are considered (timeline, language, etc).The whole process should be documented (minutes for every meeting) and it should demonstrate good will, clarity and efficient participation mechanisms. The final document should be in writing but it is recommended that other alternative forms of documentation are used as well (video, audio, posters, etc). The responsible party for documenting the process should be the project team, led by the national authority and accompanied by community delegates/representatives. The community should be the one that provides feedback on the documentation and validates the legitimacy of the process. The products should be shared with the interested parties, especially with the community. It is also recommended that there is a public record created for this purpose.

It is good to document the whole process of FPIC, from pre-conditions, implementation and post implementation (evaluation/verification). It may be documented from the beginning as a learning tool and inputs for an evaluation. The document would be useful in case of conflict to be referred to by grievance mechanism. The process includes the meeting attendance, participants, signatures, minutes of meeting, formal letter, who

should be notified, how people were notified, representatives, how is the process done/procedures, what form is the information, what type of decision making process, what conflicts were raised how were they addressed, decisions and reservations.

It would be interesting to learn about a customary law of the area, how this is decided by the majority, the elderly, or by one vote. How sensitive issues are recorded or noted, which the community should be asked whether the information is confidential and/or sensitive category and whether it can be documented. Consistency needs to be maintained in community documentation to also consider local traditional laws.

When documenting FPIC, it is important that the communities should be mobilized to document the process. The produced document needs to be translated into other languages for other communities to understand. It was advised that the indigenous population/traditional leader should lead the documentation. However, it should be done by two people – communities (tribal leader) and independent representative from FPIC team – in two languages. All minutes of ‘official meetings’ should be recorded unless communities do not want it to be (e.g. in cases of internal meetings). The draft written document (not recorded nor video-taped type of document) needs to be reviewed (should be shared first with communities consulted), and revised before it is finalized which taken into account that there were no secrets and all should be open. In the Philippines, a final report should notarized. The implementation of General Rule should be made public, unless there was an objection by community.

Grievance Mechanism

Many countries have worked on grievance mechanism. In Nepal, the government has mandated a designated CSO to work on grievance mechanism. Whereas in Indonesia, there is a pro-bono community legal assistance/advisor which has initiated a joint-evaluation mechanism with other multi-stakeholders including the government and local NGOs. In the PNG there traditional mechanisms, but yet materialized any new institutions. It has been agreed by participants that there is a need for an independent body of autonomous department for grievances with mandate to address grievances. This should be a part of the government since they should be responsible for addressing grievances. The criteria includes independent, multi-stakeholder, impartial and accessible However, there is a concern with regard to the Gov’s interference on grievances, which is a challenge.

Depending on the country there are different institutions or mechanisms already in place, for example attorney offices, ombudsman office, mediation mechanisms, etc. However, currently they do not have the capacity or mandate to deal with this kind of grievances. Thus their capacities should be strengthened in relation to environmental issues, climate change issues –especially REDD+, cultural issues, etc. There should be a set of general guidelines for grievance mechanisms.

The criteria identified include institutional competency (criminal issues, civil issues, HR issues, cultural issues, etc.), independency and transparency (not involved or related to REDD project), and the severity of the grievance should dictate if it is handled by local, national or international mechanisms.

The types of grievances identified include project exclusion or forced inclusion, lack of agreement or transparency in benefit distribution, lack of sufficient information, disrespect or lack of knowledge of local customs or culture, lack of fulfillment or breaching of agreements by one or both of the parties, and externalities such as lack of capacity to deal with illegal logging caused by outsiders.

Types of conflicts

Conflicts may be varied. However, several conflicts have been identified, such as and ownership, social/economic benefits, rights violations, interim process to move from logging to REDD+ which requires for an alternative options to navigate between gaps, and how to ensure adherence to safeguards

Discussion

Communication

It was suggested to include in the communication, the usage of television and street drama. The possibility of choosing one particular media for a location, may not be applicable to other location. Therefore, communication through media should be open for possibilities based on the target community location, etc, not based on one fixed media format.

Reaching consensus

With regard to decision making, a consensus perhaps is better than voting.

Benefit sharing

The concern was raised whether it should be given individually. In Bangladesh the incentive was provided to the people. They have access to the funds for their own benefit, sharing it partially or individually. It was suggested to further discuss the topic in other occasion since the discussion would focus on responding to the given questions for this break-out session.

Consent through traditional norms

The consent in some villages in Central Sulawesi introduced a unique norm. When the community were served drink (tea, coffee, water), if they drank it, then it would mean they give the consent. If they did not drink it, it would mean they do not agree and no consent was given.

Consultation stage

Some other countries non-participating UN-REDD country wishes to get involved soon in joining the UN-REDD programme as to avoid illegal loggings in their country. There is a need to respond to such countries on how quick the REDD Programme can be implemented. It was further explained that should there be such a question, it could be responded that it will not happen within one or two years, since there are international requirements which need to be met.

2.12. FPIC in UN-REDD Partner Countries in Asia-Pacific: Next Steps

Presenter: Tim Boyle – UNDP HQ Bangkok

This workshop is to promote a greater understanding of the FPIC process among all UN-REDD partner countries, and it is hoped that the sessions in the workshop could support the participants in achieving a greater capacity to design and implement the FPIC processes.

In this regard, confidence needs to be increased on how to put FPIC in place. There has been talks among the participating countries about REDD to produce something. However, after some time, it would seem that further talk is still required before producing something perfect. An example from the Philippines showed that they have gone through several guidelines, five years for IPRA, then four years later for a revised IPRA document, and after another four years, another revision was inevitable.

The UN-REDD programme supports all countries in preparing for REDD. However, the it is not a full support, but sharing the required information. There would be a need to find a donor. The provided assistance from UN-REDD programme includes finding solutions and methods of next plans in guiding the FPIC. For example, Equador wishes to finish the brochure and start communicating with the indigenous people, thus they need to prepare some aspirations and social stance with the PGA and FPIC. Further key stakeholder needs to be identified. Input from other participant that this would require national support, operational guideline, and the right person to assist with the initiation process the local and international levels, while creating extensive FPIC network among the programmes. It was also suggested for participants to learn from other countries which have already reached certain stage of FPC. Seeing from the Indonesian and Vietnamese posters, participants need not start in preparing FPIC from scratch, since posters can be a great tool of community with the local community. Vietnam's national guideline may be referred to as to help in better understanding on the national guideline entails and how it can be useful.



It was noted that FPIC is not only REDD since it can be applied to other issues. There are many industrials which may promote similar activities. Thus, collaboration from

various concerned parties is required. It was further explained that the AIPP activities have been supported by other parties.

2.13. Wrap-up conclusion and closing

Wilistra Dani of the Indonesia Ministry of Forestry provided the closing remarks

Wilistra Dani thanked the participants for sharing their country experience on conducting activities with regard to the development and implementation of FPIC guidelines and pilot testing. It was observed from the feedback to the given presentations that the UN-REDD Programme has provided an ample space to every country in creating shortcut activities in order to develop various REDD+ architecture instruments, starting from policy, methodology, institution, safeguard and capacity building.



It is hoped that workshop would result in each participant achieving the same perspective on how the social safeguard framework in each of the UN-REDD countries are developed and then implemented in order to support the implementation of the REDD+ mechanism. In designing and implementing the social safeguard framework, it is necessary to adjust for the national dynamic of every UN-REDD country members.

Each country has its own unique condition, situation and complexity; so that any development methodology will be made of different characteristics. The improvement and development of activities by the UN-REDD program have also been carried out in order to increase the capability of its partners as well as the government's.

The implementation of FPIC in each of the workshop participating countries is hoped to be implemented successfully. The most important of developing and implementing FPIC is not only producing an excellent Guideline, but the process of developing the document may enhance the capacity of the local community. As seen from the pilot province of Central Sulawesi, its success is embedded in the local community through a concrete example of Rukmini Paata Toheke who began her work from a local community level and using the information and guidelines provided by the UN-REDD team Indonesia, she has now become a respected resource advisor for the local community. Although REDD+ is still being negotiated, it was suggested to check that everything has been prepared in advance as to enable us all to be ready for the implementation when the REDD+ mechanism is available.

3. Key Messages

The key messages of the Second FPIC Regional Workshop are outlined already in Point-1 of this workshop report. From the evaluation report made after the workshop where the workshop participants have written their thoughts and ideas towards conducting such a workshop in the future, the following views expressed by them in general on the workshop contents, however, they do not necessarily represent positions of or consensus among participants.

- A real applications/processes in FPIC from other REDD+ implementing countries in the coming days.
- More issues need to be identified from group work exercises for a more interactive group discussion.
- To identify clearly the benefit of the programme to the community, a secret ballot may be conducted as to gather the community problems and needs are.
- REDD+ should arrange a regular contact system with the workshop participants.
- A next suggested topic of the workshop would be “development on projects” benefits, etc. Future learning meetings should involve other organizations/agencies in learning together, and to bridge the gap between UN-REDD programme and other initiatives around
- Continuous interaction among the participants in very important for learning, PLEASE think about developing an email group (mailing list) for people to contribute and share information.

Update on UN-REDD Programme guidelines on FPIC

Presenter: Jennifer Laughlin, UNDP Headquarters

UN-REDD Prioritizes: Stakeholder Engagement.

- From Bali to today, full and authentic participation recognized to be crucial for REDD+
 - Strong support from the UN REDD Policy Board for guidance
 - Demand from stakeholders during extensive consultations
 - Led to development of Harmonized Guidelines on Stakeholder Engagement
 - Also called for these FPIC Guidelines
-
- There is unequivocal and universal recognition that REDD+ cannot succeed without the full and effective participation of IPs and local communities that is reaffirmed in the UNFCCC negotiation text
 - Recognizing this, the Policy Board has requested guidance and guidelines in supporting stakeholder engagement from the beginning of the UN-REDD Programme (including the IP and CSO members of the PB)
 - Additionally, there has been unanimous demand from IP and CSO stakeholders during the extensive consultations that UN-REDD has held with these stakeholders during global IP/CSO consultations
 - As a result of these consultations, the UN-REDD Programme developed comprehensive Stakeholder Engagement Guidelines
 - And this commitment to full and effective stakeholder participation has also lead to the preparation of these FPIC Guidelines

FPIC Guidelines: Consultation Process So Far

Jun 2010 – Jan 2011: 3 regional consultations with IPs & civil society in Vietnam (Jun 2010); Panama (Oct 2010); Tanzania (Jan 2011):

- Reprs of 76 IP & civil society organizations from 32 countries
- Reprs of 47 international & regional organizations
- UN-REDD country staff

Feb – Jul 2011: Synthesis of input into draft Guidelines

Aug – Nov 2011: Internal review by global & regional UN-REDD staff

Dec 2011 – Jan 2012: Public comment period

Feb 2012: ‘Expert Workshop’ to review FPIC Guidelines

Mar 2012: Presented update to UN-REDD Policy Board

In order to solicit input from a range of indigenous peoples and civil society, between June 2010 and January 2011, the UN-REDD Programme held three consultations in the

three main regions where the UN-REDD Programme works. Following the synthesis of input, we consulted UN-REDD Programme staff, the UNDP legal department, the UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, and other independent experts. We are now finalizing the document in preparation for a global external consultation which we plan to launch in the first half of November this year. Following this consultation we will determine whether there will need to be further iterations and consultations or whether we will be able to finalize the guidance, based on input received.

FPIC Guidelines: Objective and Scope

Objective: To outline a normative, policy and operational framework for UN-REDD National Programmes to seek FPIC, as and when appropriate, as determined by the National Programme in consultation with relevant rights-holders

Users: UN-REDD National Programmes and Partner Countries

FPIC Guidelines: Contents

The Guidelines provide information on:

1. The normative framework underpinning the UN's obligation to support the right to FPIC.
2. Definitions of the elements of FPIC.
3. UN-REDD Programme Policy on applying FPIC.
4. Operational framework for seeking FPIC.
5. Grievance and accountability framework.

1. Normative framework for FPIC

- **UNDG Guidelines on Indigenous Issues (2008)**
Policy and operational framework for implementing a HRBA to development for and with indigenous peoples. Included as a key result of such an approach is the application of the principle of free, prior and informed consent in development planning and Programming.
- **UNDRIP (2007)**
IPs right to FPIC and UN obligation to uphold the Declaration.
- **CBD (1992)**
Article 8 (j) of the Convention requires that the traditional knowledge of indigenous peoples and local communities may only be used with their approval.
- **ILO Convention 169 (1989)**
A legally binding document which requires, among other things, that State Parties obtain the FPIC of indigenous and tribal peoples before resettling them.
- **Cancun Agreements - decision on REDD+ (2010)**
Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples.

2. Definitions of the elements of FPIC

Free: refers to a process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed.

Prior: refers to a period of time in advance of an activity or process when consent should be sought, as well as the period between when consent is sought and when consent is given or withheld.

Informed: refers to the type of information that should be provided prior to seeking consent and also as part of the ongoing consent process.

Consent: refers to the decision made by indigenous peoples and other forest dependent communities reached through their customary decision-making process.

3. UN-REDD Programme Policy on applying FPIC

National Programmes to include description of plans to consult on FPIC: who, when, how – in stakeholder engagement component of R-PP.

During Readiness Phase, National Programmes

- Undertake stakeholder/rights-holder mapping to determine who;
- Impact assessment to determine when;
- Pilot activities to determine how;

Consult with stakeholders to develop and validate national methodology

R-PP -- Section 1b. *Information Sharing and Early Dialogue with Key Stakeholder Groups*; and a proposal for further consultations on this topic should be included in Section 1c. *Consultation and Participation Process*.

4. Operational framework for seeking FPIC

- **FPIC Scoping Review:** proposed policy; rights-holders; legal framework; impacts and mitigation measures; proposed budget
- **FPIC Proposal:** capacity needs; facilitator; location; timeline; language; decision-making process; documentation; other participants; verification; consent to what; recourse mechanism; consultation process
- **Independent evaluation:** review against definition of FPIC as criteria and agreement in Scoping Review/FPIC Proposal

FPIC Scoping Review:

- A description of the proposed policy or activity; A description of the rights-holders, their governance structures and how they wish to be engaged, including the institutions that are empowered to represent them; A description of the legal status of the land, territory and resources concerned, including a description of the geographical area under formal, informal and/or customary use by the rights-holders, including maps and methodology used to establish the maps; An assessment of the social, environmental, and cultural impacts of the proposed

policy/ activity on the rights-holders, including the specific impacts that have required the partner country to seek FPIC and how these impacts will be mitigated; and Resources allocated for seeking FPIC.

Special attention should be made by partner countries to support community efforts to describe many of these items in their own terms, including traditional uses of natural resources and community-based property rights.

FPIC Proposal:

- Capacity and information needs of the National Implementing Partner and/or rights-holders that need to be addressed before the FPIC process can take place;
- A designation of whether the process will require a facilitator, and if so, who it should be;
- Where and how the consultations will take place;
- A timeline for the proposed consultation process to seek FPIC;
- The appropriate language and media for information sharing and distribution;
- How decisions will be taken by the community;
- The geographical territory and communities that the decision will cover;
- How FPIC will be given, recognized and recorded;
- The role of others in the process (if any), including local government officials, UN agencies, institutions, donors, independent observers (strongly recommended) and other stakeholders;
- Methods of verifying the process, including, where relevant, participatory monitoring arrangements;
- Terms and frequency of review of the agreement(s) to ensure that conditions are being upheld; and
- Process for voicing complaints and seeking recourse on the FPIC process and proposed policy or activity.

Independent evaluation should be undertaken by an institution, to be mutually agreed by all relevant rights-holders, to verify that the process was aligned with the definition of each of the terms of FPIC outlined in section 2 above.

5. Grievance and accountability framework

National level:

National Programmes are required to establish national-level grievance mechanisms. We are developing guidance on how to do this. This requirement is already outlined in the FCPF and UN-REDD Readiness Preparation Proposal (R-PP) Template.

Global level:

The UN agencies are undertaking a review of existing policies and procedures to determine a base upon which to build a grievance and accountability mechanism.

NGO / Academia

- CARE Lima

- CIFOR
- Conservation International (CI)
- University College London (UCL)
- University of Dalat, Viet Nam
- Federation for the Self -Determination of Indigenous Peoples (FAPI), Paraguay
- Forest Peoples Programme (FPP)
- Gaia Commoditas, Indonesia
- Gender Action, Washington, DC
- Global Witness
- HuMa, Indonesia
- ILRC
- Indigenous Peoples of Africa Coordinating Committee (IPACC), Kenya
- Lao PDR GIZ- CliPAD Project
- Programme de Mudanças Climáticas - Climate Change
- Programme Instituto de Pesquisa Ambiental da Amazônia (IPAM)
- Rainforest Foundation Norway (RFN)
- RECOFTC
- The Nature Conservancy (TNC)
- Stakeholders consultation, DRC

Government

- Brazil
- Guatemala
- Norway
- Ecuador

UN-REDD National Programme

- UN-REDD Programme, Indonesia
- UN-REDD Programme, Vietnam

Inter-governmental Bodies

- BDP/RBLAC Regional Expert, UNDP
- GEF/UNDP Small Grants Programme
- OHCHR
- World Bank
- UNDP DGG – Anti-Corruption Team
- UNDP DGG - Human Rights Team
- UNDP Paraguay
- UN Permanent Forum on Indigenous Issues
- UN-REDD Regional Coordinator, Asia/Pacific, UNEP
- World Health Organization (WHO)
- Workshop of UN-REDD RTAs

We held a public consultation on the FPIC Guidelines for a seven week period between 1 December 2011 and 20 January 2012. We received 37 sets of comments, representing 20

NGOs, 4 Governments, 2 UN-REDD National Programmes, and 11 Intergovernmental Bodies.

Overview of Key Recommendations

1. Needs to be tailored to national contexts
2. Strengthen normative framework section
3. Who gives consent?
4. When is FPIC required?
5. How is FPIC applied?
6. Address differing standards (FCPF & UN-REDD)
7. Grievance and accountability mechanisms
8. Incorporate gender perspective

An analysis of the comments reflected 8 overarching recommendations.

1. **Provide clarity on how the Guidelines will be tailored to national contexts:** Given the diversity of, among others, peoples, terminologies, legal frameworks and phase in the REDD+ process, there is a need to tailor the Guidelines to country contexts. At the same time, there is a need to ensure consistency with international normative frameworks.
2. **Section 1.3 (normative framework) of the Guidelines should be strengthened:** There is a need to include additional references to international case law to ensure the human rights-based approach is accurately and comprehensively elaborated. There is also a need to ensure the rights of 'other' stakeholders (non-indigenous peoples, including minorities, forest-dependent communities, women, etc.) are clarified.
3. **Provide clarity on who gives consent:** Further clarity is needed on the process to determine which groups FPIC should be extended to. Stakeholder terminology should be better defined, made consistent throughout the document, and tailored to national contexts. Further guidance is needed on how rights-holders will be represented in FPIC processes.
4. **Provide clarity on when FPIC is required:** The Guidelines need to provide further information on which activities require FPIC and how National Programmes should make this determination, as well as to what extent FPIC is required in the REDD+ Readiness phase.
5. **Provide clarity on the process for seeking FPIC:** Further guidance is needed on: the methodology for evaluating and verifying the FPIC process; the identification and role of the facilitator in the FPIC process; and determining an appropriate timeline for the FPIC process.
6. **The scope of application of the Guidelines should be clearer in countries supported by both FCPF and UN-REDD:** The difference in standards between the two Programmes on the topic of FPIC creates confusion and inconsistency for countries and undermines efforts to enhance coherence and efficiency in the readiness process.
7. **The Guidelines need to elaborate on the proposal for grievance and accountability mechanisms:** Given the significance of these two components to

the overall implementation of the FPIC Guidelines, and more broadly the UN-REDD Programme standards, further clarification is requested on their design and operational.

8. **The Guidelines should be reviewed and revised from the gender perspective.**

Expert Workshop, February 2012, Geneva

1. **Who gives consent?**
2. **When is FPIC required?**
3. **Process for Seeking FPIC**

We held an expert workshop to help us think through some of the more complex and challenging questions arising from the public consultation. This took place from 10-11 February this year in Geneva, in conjunction with the workshop on the SEPC.

The workshop brought together around 40 participants representing indigenous peoples, non-governmental organizations, UN-REDD Programme partner and donor countries, and UN agencies.

The main objectives of the Workshop were to:

- Review proposed revisions made in response to the feedback received during the public consultation.
- Cause a breakthrough in understanding and the ability to apply FPIC for REDD+, especially regarding key issues such as *for whom? when to apply? how to apply?*
- Refine the draft UN-REDD Programme Guidelines on Free, Prior and Informed Consent (FPIC).
- Provide an opportunity for an in-depth discussion of the objectives, contents and application of the draft FPIC Guidelines.

Who Gives Consent?

1. FPIC is a recognized right of indigenous and tribal peoples under international law.
 2. Elaborate on the rights of other stakeholders
 3. Apply the World Bank's criteria on IPs
 4. Introduce a means to assess and manage human rights risks and impacts associated with UN-REDD Programme activities.
 5. Adopt the definition of consultations as stated in ILO Convention 169, which states that all consultations have the objective of achieving agreement or consent
-
1. The Guidelines should state that FPIC is a recognized right of indigenous and tribal peoples under international law.
 2. The Guidelines should elaborate on the rights of other stakeholders (non-indigenous and tribal peoples).
 3. The Guidelines should apply the World Bank's criteria:

- self-identification as member of a distinct indigenous cultural group and recognition of this identity by others;
 - collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories
 - customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
 - an indigenous language, often different from the official language of the country or region.
4. The Guidelines should introduce a means to assess and manage human rights risks and impacts associated with UN-REDD Programme activities, such as a human rights impact assessment (HRIA).
 - A HRIA would support National Programmes to identify potentially affected stakeholders and their composition including who the rights-holders are and which rights they are entitled to
 - As a starting point, the UN-REDD Programme could review and learn from the International Finance Corporation's (IFC) Guide to Human Rights Impact Assessment and Management, and other relevant tools supported by Norway, Denmark, Oxfam and others.
 5. The Guidelines should adopt the definition of consultations as stated in ILO Convention 169, which states that all consultations have the objective of achieving agreement or consent (ILO 169, Art 6, Para 2)

When is FPIC Required?

- Should consent be required at the national level or only at the community level? (If national, how should (all relevant) rights-holders be represented?)
 - Required at **local level** when activity will affect the right and management of land, territories and resources of IPs.
 - At **national level**, FPIC doesn't mean collective consent from every community. Instead, consent through representation.
- What criteria/questions could support a National Programme to determine whether or not an activity requires FPIC?

Process for Seeking FPIC

- Clarify the methodology for evaluation/verification of an FPIC process
- Provide more guidance on the role of the facilitator in the FPIC process
- Clarify what is reasonable regarding FPIC process timeline

Next Steps / Application

- Revise FPIC Guidelines:
 - **Who:** Tools for stakeholder/rights-holder mapping
 - **When:** impact assessments to determine which activities require FPIC
 - **How:** Learn by doing – different in everything context, share best practices and tools
- Apply Guidelines on Stakeholder Engagement in the preparation of UN-REDD countries' R-PPs to develop stakeholder consultation plans

- Support UN-REDD National Programmes to develop national methodologies / guidelines
- Update to address emerging needs / experiences

Questions to be discussed

- Relationship between guidelines – UN-REDD, national and sub-national
 - What should be the relationship between the UN-REDD Guidelines and national guidelines?
 - How can the UN-REDD Guidelines support the development of national-level guidelines?
 - What issues/topics are best covered in national guidelines versus UN-REDD Guidelines and vice versa?
- Developing and applying national FPIC guidelines:
 - What is the objective of national guidelines?
 - How will national guidelines be applied or tested?
 - Is further work on national guidelines required before they are ready for application? If so, what needs to be done?
 - Challenges in developing guidelines?

PNG Experience in developing FPIC Guidelines and Procedures.

Presenter: Eunice Dus (Office of Climate Change and Development, PNG).

Free, Prior and Informed Consent (FPIC) Process Development in Papua New Guinea

The process.

The Concept of FPIC is not new in PNG; FPIC has been practiced to some extent by extractive industries including forest industry.

Although the International Labour Organisation Convention 169 (1989) and other international people rights has encouraged countries to recognize and allow local communities to practice their rights, the PNG Constitution recognizes and respects the rights of the local communities including their traditional cultures and the different judicial system available at the local level.

- ~ 7% of world's biodiversity in >1% of world's land mass
- 815 different language and cultural practices
- 97% of customary land
- 82% of population live in rural areas
- Strong political leadership
- Support across key ministers
- Lean office with strong team
- Uses *secondees* from other departments
- Operational since Jan 2010
- Shapes national strategy

1. Provide guidelines to project proponents and key stakeholders to process FPIC for REDD+ Project
2. Respect rights of project communities
3. Rights and Interest of project communities are captured in the planning, design and implementation
4. Landowners are identified, informed, protected and safeguarded from any arbitrary decisions by project proponents

Progress of Free Prior Informed Consent [FPIC]

PNG produced a draft document for internal review

Stakeholder Consultation for feedback: REDD+ Technical Working Group, stakeholders

Revised document – Second Draft of the Manual was produced

Stakeholder Workshop on the Second Draft of the FPIC Manual.

Third draft with comments from workshop

Final draft to submit for NCCC endorsement to trial in pilots

Background of Free Prior Informed Consent [FPIC]

FPIC by definition is a locally and culturally specific process in which the affected communities themselves determine the steps involved in developing a project that may affect their livelihood and resources

The Convention on Biological Diversity (1993) recognizes that indigenous knowledge may only be used with prior approval and requires national governments to protect indigenous cultures and people

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Has the most complete description of FPIC and clear obligations on States regarding the rights of indigenous peoples, including their right to own and use their traditional territories

Defining Free Prior Informed Consent [FPIC] in PNG context

The following outlines the different elements of a “**free, prior and informed consent**”

- a) **Free** means no force, intimidation, manipulation, coercion, bullying or pressure by any government or project developer (company)
- b) **Prior** means that landowners (people) have been consulted and given enough time to make a decision on the project before the actual REDD+ project activity begins
- c) **Informed** means landowners are given all relevant information to make their decision about whether or not to agree on the REDD+ project development
- d) It is important that in the event where changes are made over time regarding certain information or where new information is made available, landowners should be informed about these changes
- e) In the event there is difficulty in communication between project developer and landowner communities, an interpreter should be used to communicate the message clearly across to the people
- f) Note that if the people do not understand clearly the information they were provided, then simply we can say that, they are not informed to make a good decision regarding the project
- g) **Consent** means people involved in the project allow indigenous landowner communities to say “**Yes**” or “**No**” to the project, and also at each stage of project development during decision-making process. It is important that landowners must be consulted and participate in an honest and open process of negotiation that ensures
- h) All parties are equal, neither having more power or strength
- i) Landowners’ group or ILGs decision-making processes are allowed to operate
- j) Landowners’ right to choose how they want to live is respected

The National Constitution of PNG also embraces the right to FPIC process by acknowledging human rights in sec. 32-56 (Basic Rights, Qualified Rights and Special Rights of Citizens)

Free, Prior and Informed Consent (FPIC) Manual highlights:

- Back ground in PNG context
- Guiding questions for Establishing FPIC
- Importance
- Key principles
- Defining the key elements of Free, Prior, Inform and Consent
- Important Points in Designing a Robust Process for Obtaining FPIC
- Problems Associated with Lack of FPIC
- Provide case studies
- Establishing Local Grievance Mechanism to Address Community Issues on REDD+
- Guiding Procedures for Respecting the Rights of Communities
- Steps to doing FPIC
- Steps to involve participants from different stakeholders
- Helpful Questions for Landowner Communities to ask Project Developers about REDD+
- Steps in a REDD+ Process that Respects the Rights of Communities to FPIC
- International and National Legal Frameworks supporting FPIC

How do we implement “Free, Prior and Informed Consent Process” in REDD+ Projects in Papua New Guinea?**General Public:**

1. Carried out awareness on Climate Change, REDD+ and on the different safeguards including FPIC
2. 11 out of 22 provinces
3. NGOs through their activities
4. Several workshops held at provincial and national level to showcase and allow for a broader and wider range of stakeholders including the general public
5. Visit schools (community – universities)
6. Provincial workshops/consultations in implementing provinces
7. Radio plays which will be on air on weekly basis
8. Cartoon storied for comics section of national paper
9. Created a website
10. Edition by an expert

Government Level:

1. Technical Working Groups of multi-stakeholder (CBOs, International/National NGOs, Churches, Government, Private Sector and Development Partners)
2. National Climate Change Committee (NCCC)
3. National Executive Council

Preparing the Community to Participate in REDD+

1. FPIC- creating Integrated Land Groups (ILGs)
2. Through ILGs express interest, identify a developer

3. Capacity assessment – strengths and weaknesses, Project Mapping – organization at village level
4. Together with developer discuss the project with people to make sure they understand REDD+
5. people say ‘Yes’ or ‘No

1. **Identified and expressed six steps of how communities participate in FPIC**
2. **Steps involved in a REDD+ project that Respects the rights of communities to FPIC (Communities – Developer – Government) Papua New Guinea Demonstration Projects – PNGFA**

(Showing map of Papua New Guinea)

These are the sites of Papua New Guinea Demonstration Activities as identified by the PNGFA in October 2010. This maps show the prototype as I have identified. We have our first activities within these 5 projects. The stars indicate 2 pilot projects that we have. Near the borderline we have 2 provinces. The second project is for the people in the island With the project site located on the top of a mountain. It’s all up to them what project site they want to use for deforestation.

Indonesian experience in developing FPIC Policy Recommendation

Presenter: Agus Setyarso from National Forest Council - Jakarta

DKN and REDD+

Some Lessons Learned on FPIC

Themes

1. POSITION AND ROLES OF THE NATIONAL FORESTRY COUNCIL (DKN)
2. DKN AND FPIC
3. ISSUES AND LESSONS LEARNED
4. POLICY RECOMMENDATIONS

POSITION AND ROLES OF THE NATIONAL FORESTRY COUNCIL

Profile of the National Forestry Council of Indonesia (DKN)

- Established in the Indonesia Forestry Congress IV (2006) based on the mandate of Forestry Law (Art. 70 UUK 41/1999)
- Vision: achieving GFG and SFM with the most benefits for the people
- Structure: CBO with 5 chambers (community, business, government, NGO, academician) – governed by a Presidium
- Multistakeholder dialogue is the character in every initiatives

DKN Missions

- In partnership with the government to materialise national politics and policies in the forestry system
- To maintain harmony in the multi-dimensional relations among actors in forestry
- To monitor the performance and evaluate the forestry system

DKN Position on REDD+

- REDD+ is an integral part of GFG and SFM
- GFG requires transparency and participation of stakeholders – multistakeholder dialogue should be the main modulation of REDD+. Giving enough space to consult with multiple-parties.
- Ensure that every relevant party maintains equality in raising opinions and contributing to policy decision processes, Programme and activities associated with public interests.
- Sharing concern for the high dynamics for initiatives and transactions related with REDD+, with a slow and low dissemination and shared learning on the ground
- Call for increasing level of listening and accommodation of community and business aspirations as main actors in CC and REDD+.
- Maintaining feedbacks for better policies and Programme, based on the multistakeholder dialogues.

- Supporting efforts in integrating various, but not necessarily coherent schemes on CC and REDD+ (RAN-GRK, STRANAS, RPJM, NAMA, NATCOM, UNREDD, FCPF, FIP, voluntary initiatives)
- Call for strong leadership both at national and sub-national levels in governing REDD+

DKN and FPIC Basis for Peoples' Involvement

- Involvement of people is mandatory to ensure the performance of political, policy, Programme, strategy and initiative accountabilities.
- Conditions on involvement:
 - Comprehension on concepts of climate change, carbon emission, and REDD+
 - Clarity on rights of carbon
 - Clarity on CC and REDD+ schemes and initiatives
 - Transparency of information related with CC and REDD+ initiatives
 - Multi-way communication with respect to substantial content, aspirations, feedback space, and communicative personal attribute

FPIC - DKN

- FPIC should be carried out and started prior to the endorsement of an initiative of REDD+
- Main subject of FPIC are customs and local communities.
- FPIC should be conducted using national and local guidelines that have internalised local culture and socio-economy

Main subject of FPIC is to customize the process within local communities. We should differentiate between local communities and members in Jakarta. FPIC should be conducted using national and local guidelines that have internalized local culture and socioeconomics. The national Programme should stop at the principle level only, and not go into further details at the local level.

DKN Principles on FPIC

- **Transparent** – availability and accessibility of information related with planning, implementation, the results of FPIC and the freedom to raise opinions/issues related to these information
- **Accountability** – processes and results of FPIC should be packaged in a dependable format to the respective stakeholders
- **Inclusiveness** – ensures the engagement of main stakeholders without differentiating between sex, ethnic groups, age, religion
- **Integrity** – consistency between implementation against respective planned activities
- **Participatory** – engagement of all community elements/members who are potentially affected by REDD+ project/Programme
- **Freedom** – free in expressing opinions and free from any pressure/ external interests.

DKN and Mainstreaming FPIC to REDD+ in the Country

- REDD+ Institution: REDD+ Task Force established by the President
- FPIC status at the country:
 - various understanding on the FPIC concept
 - has not been officially adopted for REDD+ implementation
- DKN approach:
 - FPIC should be part of the national policy of REDD+, i.e. in the national REDD+ strategy

FPIC Policy Recommendation Development

- Collaboration between DKN and UN-REDD
- FPIC is important and strongly needs to be mainstreamed into Indonesia's policy immediately
- 5 reasons to develop FPIC policy recommendation
 - COP 16 results
 - REDD+ Task Force plan to develop safeguards for REDD+ implementation
 - REDD+ site is land based, related with community
 - REDD+ will generate impacts to community

Main steps of FPIC

(Content of the Recommendation)

- Pre-conditioning: increasing knowledge of stakeholders through socialisation, workshops, dissemination of information in various media – aimed to get a level-of understanding among stakeholders
- Decision/agreement process: how consent is formulated and by whom. It should be made clear that all justified parties are included in the process. The process is expected to be facilitated by local facilitator.
- Verification: undertaken by a team assigned by the REDD+ implementing unit to evaluate whether all FPIC processes comply with the respective principles.
- Dissemination of FPIC results: all the records of FPIC processes and decisions/ consent are to be provided to all relevant stakeholders
- Availability of complaint mechanism with an agreed protocol

How can we implement this if the people to whom we are talking to don't understand this at all? Knowledge should be delivered to the people.

ISSUES – Lessons Learnt Through Various Forums

- a. Awareness and understanding on REDD+
- b. Transformation from REDD+ and Carbon into livelihood systems
- c. FPIC – for whom?
- d. Development of FPIC policy recommendation
- e. Prerequisites for MRV Standards

Awareness and Understanding on REDD+

- Understanding of sustainable forest management may be perceived differently according to the level of understanding of each party. This indicates that the exchange of perspectives between the parties needs to be intensified. SFM principle should be harmonized between national and local/customary principle.
- Finalizing an understanding on REDD+ is not a simple task for any community, as there are too many technical terms that are difficult and not possible to communicate at the local Programme level. It is recommended to develop REDD+ socialization packages using a simple form of the language which is easy to disseminate at the community level.
- Experience and learning levels on the SFM, REDD+ readiness, and the community role is different from case to case. This indicates the importance of shared learning among initiators of SFM and REDD+. At the national level, the issue of information exchange, synergy and coordination still appears as a major issue. It is recommended that this issue is resolved as soon as possible to avoid confusion and to mitigate the lack of appropriate services for the REDD + initiative

It takes 2-3 days just to introduce the concepts, and we try to re-arrange the component with no guarantee it'll be applied. After the introduction we need to make sure that the system is applied on the ground level. It should be delivered in the appropriate language. For example if we want to introduce climate change, we can't just say to them that some birds don't sing at a particular time anymore because of climate change, because in their language these birds only sing at a certain time. They won't grasp the concept of climate change if we don't put it into a context that they will understand, so if we tell them that their situation has changed which stops the birds from singing, maybe they'll understand.

Transformation from REDD+ and Carbon into Livelihood System

- There is no clear definition on the intersection between REDD+ initiatives within the existing livelihood system. REDD+ is perceived as "alien"
- How do we align this alien into the system of the communities livelihoods?
- REDD+ safeguard has a design constraint before it takes effects.

FPIC – For Whom

- FPIC on Programmes and activities regarding the utilization of forest resources should not be limited as a pre-requisite, but included continuously to be part of the Programme and activity implementation. It is recommended that we formulate FPIC and C&I standards based on the results of the multi-stakeholder consultation facilitated by DKN.
- DKN Forum noted the importance of social security safeguards which can't be abandoned by anyone who deals with Programmes and activities regarding the community

Development of FPIC Policy Recommendation:

Lessons Learned

- A set of national (Indonesia) based general guidance on FPIC implementation is available
- Since the launching, FPIC has been a hot topic for REDD+ in Indonesia and people are becoming aware of the importance of FPIC for any land based project.
- Triggered some REDD+ initiatives to develop C&I and field guidance for FPIC implementation and monitoring
- Community positions in the forest resources management (and REDD+ as part of it) is rooted in the clarity of a spatial plan for the community. It is recommended to refine the policy to clarify the spatial plan, both for community and for the concession holders)
- REDD + should not be interpreted as limiting the scale of projects or activities, and isn't oriented or geared towards selling the project or carbon. REDD+ should be understood as an effort to reduce emissions from degradation and deforestation, which should be reflected in sustainable forest management

Prerequisites for MRV Standards

- There were some MRV standards being developed by the Ministry of Forestry with the SNI system, and on the other hand there are people who also have experiences related with measurement and reporting that need to be adopted into the MRV system
- There are various situations within the community roles on REDD+ initiatives as well as the MRV. The communities position can begin from being a benefit receiver, supporting the Programme / activity (safeguards), up to co-manager on the forest resources management including managing REDD+
- There is an issue on defining the unit of reporting. Whenever KPH is established on the ground, it is considered as the proper unit for MRV
- When people are engaged in a continuous process on REDD+ Programmes and activities, then they are at the forefront for updating data and information, which in turn helps improve the quality of MRV

Further Policy Recommendations

- Re-defining SFM:
 - To retain the basic principles of sustainability
 - To entertain local understanding of forest and forest management
 - To internalise carbon as a component of forest products
 - To re-introduce avoiding deforestation and forest degradation
 - To accentuate the need for the accountability of actors
 - To explicitly mention equality
- Re-align SFM into government structures:
 - In the national coordinating ministries

- In the Ministry of Forestry
 - In the provincial and district level governments
- Clarity of position, engagement, and roles of communities
 - Sustainable livelihood as the basis
 - Dissemination of information
 - Capacity building
 - Mechanisms of engagement
 - Internalising FPIC into standard mechanisms of engagement
- Internalising REDD+ into KPH framework:
 - Preparing strong grounds for spatial infrastructure
 - Identifying “deserving” local stakeholders and beneficiaries
 - Transforming NFI system into a permanent ground unit
 - Transforming MRV standards into a ground SOP
- Engagement of communities in REDD+ MRV
 - Clear distribution of responsibilities on MRV
 - Positioning the community as a responsible party whenever appropriate
 - Capacity building to enable communities to measure, monitor and verify their own carbon and REDD+ contribution

Best Practice and lessons learned from Vietnam in piloting FPIC

*Presenter: Nguyen Thi Thu Huyen, UN-REDD Vietnam and
Nguyen Quang Tan, RECOFTC, Vietnam*

Lesson learnt in FPIC and pilot project conducted two years ago.

It started in the 4th month of the Programme and spread throughout five and a half months, from January to June of 2010

We conducted our pilot study in three places, and this all spread out to about three months in the field. In early Jan 2010 without any guidance and rather than using a six page Information Proposal as an approach to ensure Free, Prior, Informed Consent from Ethnic Minorities in Lam Ha and Di Linh Districts, the Lam Dong province for UN-REDD Programme activities in those districts, we prepared a two page report that helped us decide on the course of action for the UN-REDD project.

We had no guidelines, and only had a piece of paper from the government. The process depends on you how many steps you want to have. We started with 8 steps:

1. Local awareness raising
2. Recruitment and training of the introduction (2/3 carried out simultaneously)
3. Recruitment and training of the introduction
4. Preparation of village meeting
5. Village meeting
6. Recording decision
7. Documentation and rapport
8. Verification and evaluation

We didn't have any experience. We learn a lot from documentation.

Who gave consent?

Consent was sought from households:

- local ethnic minority people
- migrant ethnic minority people
- migrant Kinh people who lived in the village at the time of FPIC

What are the Lessons Learnt? Issues / Measures

- **Step 0: Preparation**
 - Lack of community/village socio-economic data
 - Lack of usable communication materials
 - Limited local Government readiness
 - Lack of time for this step
 - Difficult to plan without sufficient information

- **Step 1: Awareness raising**
 - Unfamiliar concept of CC and REDD+ mechanism: to link it to existing local Programme/mechanism
 - Limited times : more times and multi phased awareness raising
 - Cost/effective use of mobile facilitators
- **Step 2+3: Recruit & train facilitator**
 - Not easy to get the right candidate
 - [Age/Gender/Ethnicity/Knowledge/Skills]
 - Train both substance/facilitation skills
 - Over-burdened/expected role of facilitators
 - Need more time for training = multi-phased training
 - Good to have the **Manual for facilitator** after phases are completed
- **Step 4: Prepare for village meeting**
 - Planning
 - Role of village head
 - Pre-check
 - Need separation between logistic arrangement and substance of the meeting
- **Step 5: Village meeting**
 - Facilitation (logistic plus substance)
 - Mobilize help from local people
(max 100 pax/meeting, some in the evening)
- **Step 6: Recording decision**
 - Balloting: hand-raising, balloting, secret balloting
- **Step 7: Document and Reporting**
 - Lack of minutes
 - Different information required
- **Step 8: Evaluation and Verification**
 - With no prior experience of FPIC in the country, the process was very encouraging
 - Progressive improvement from phases 1 to 3
 - There was a lack of any mechanism, independent of the FPIC team to review any complaints made by local people.

What has been done since FPIC?

- Set up of team of 21 village facilitators (district FPD, village head)
- 4 village meetings to gain feedback on E&V and adjusted process including a setup of the recourse mechanism

Held a workshop to inform 78 villages of their FPIC results, and set up of a team of 21 village facilitators (district forest official, village head) so that they don't need to separate their work from the UN-REDD team at the fields. There were 4 village meetings held to get the necessary feedback.

Feedback from 4 village meetings

- More time for discussion
- Not too many meetings
- Individual vote preferable not through representative
- Local facilitator to be part of recourse mechanism
 - Add more on recourse mechanism: check phase 2 proposal

Recommendation for full FPIC

- Process institutionalized
- Sufficient time / funding
- Define when to start the process
- Other stakeholders in the process
- Subcontract to an NGO?

Establishing principles for a grievance mechanism

- Single mechanism covering BDS and FPIC
- Accessible to all; maintains anonymity (if desired)
- Has legitimacy and is equitable and transparent in operation
- Respects performance standards
- Address grievance at local level first

Design of FPIC process

- Availability of reliable socio-economic data
- Adequate discussion on local (governance) contexts
- Various media for awareness raising
- Adequate time for intra-community discussions
- The limitations of the process and measures to address these limitations
- Proper guidance on the implementation
- Very simple guidelines, few pages.

FPIC Facilitators

- Facilitators play an important role and use sufficient efforts to recruit and train
- Facilitators should be neutral and balanced in terms of age, gender, ethnicity and experience/knowledge
- Training and continuous reflections are essential to prepare the facilitators for work
- Manual FPIC facilitators who cover key issues in REDD+ facilitation, communication skills and local contexts (including traditions) can be handy
- Facilitator has to be neutral. Can't take sides between the local government, stakeholder or developer.

Raising awareness and communication

- Use of multiple channels/ media (e.g. radio, videos, TV, posters, briefs, leaflets) and monitor their uses
- Continuous reflection and learning
- Use of local language(s) in communication and awareness raising
- Sufficiency and neutrality of information provided
- Sufficient time for community members to absorb information

Continuous reflection and learning, the material is understood and reflected in the implementation. Use of local language(s) in communicating and raising awareness, for example: in the meeting or in various media the sufficiency and neutrality of information provided, gives time for the community members to absorb the information.

Decision making

- Adequate time for discussion and decision making
- Collectively as a group or individually as independent actors/households.
- Involve community members from the beginning of the process to improve ownership. So they can't just say yes or no, they need to be involved
- Capacity building for the local community to make their own decision
- Proper documentation of the whole process, not just at the final decision. The final decision is important but the process is also needed to justify the process.

Grievance and review mechanism

- Grievance and review mechanism to be established & made publicly to community members
- Take into account independence from the FPIC team and adequate representation of ethnic, gender, political and well-meaning groups

Outcome of the FPIC Process

Outcome to be properly documented and shared publicly (in the local language) with all community members after the process, particularly with those members who were not able to participate.

What was consent given for?

The intention was to seek consent for the implementation of the UN-REDD pilot in the respective villages. Most villagers, however, expressed after the FPIC process that they had given their consent for **“protection of the local forests and benefits from it”**

What has been done since FPIC?

I would like to take this opportunity to explain what we have achieved over the past two years.

- A workshop to inform 78 villages of the FPIC results
- Set up of a team of 21 village facilitators (district forest officials, village head, etc)
- 4 village meetings to get feedback on evaluation, verification and adjusted the process accordingly, which included setting up a recourse mechanism

Establishing a grievance mechanism

Principles:

- Single mechanism covering benefit distribution and FPIC
- Accessible to all; maintains anonymity (if desired)
- Has legitimacy and is equitable and transparent in operation
- Respects performance standards
- Address grievance at local level first

There was a total of 34 facilitators Who have now become strong believers in the process and have thanked me for providing this chance to them.

Best Practices and lessons learnt from Indonesia in piloting FPIC

Presenter: Mrs. Rukmini Paata Toheke, Working Group IV, Central Sulawesi

The Best Practices and Lessons learnt from FPIC in Central Sulawesi. The background covered the process of development, the trial of the FPIC Guideline, lessons learnt and our next steps. There are quite a few group discussions that can be achieved from this workshop group, which provided us a chance to have a final consultation from 1-6 and then another consultation in Bogor.

Background

- Central Sulawesi as UN-REDD Programme Indonesia's pilot province
- The Provincial Government is committed to reducing the greenhouse gas emissions
- Steps taken by the Provincial Government: appointing a Provincial Forestry Service as the focal point of the effort and establishing a REDD+ Working Group (WG)
- Central Sulawesi REDD+ Working Group: 4 Working Groups
 - WG I : Policies
 - WG II : Methodologies
 - WG III: Demonstration Activities
 - WG IV: FPIC, Capacity Building and Community Empowerment

The Process to Developing FPIC Guidelines

Common perception → First draft → FGD → Consultation with experts on FPIC → draft 2 → trial I → lessons learnt → Consultation with national experts → FGD to revise the draft → trial II → verification → Finalized draft → Legal process → Final FPIC Guideline

Lessons learnt after the FPIC Guidelines

Prior to having the guidelines we trained future facilitators from 6 villages, which came to a total of 30 trained facilitators, with the hope that there will be 2 more facilitators. But in the end there were only 5 facilitators. We proceeded with a visit to Talaga village which is considered a village of indigenous people. But unfortunately there was some earlier misinformation regarding the REDD+ mechanism, which indicated that there wouldn't be any benefits towards the community and that REDD+ will take away the people's rights. Therefore this particular project couldn't be continued at that location and was rejected on the basis that villagers believed that it would take away the rights of the community. However, we did manage to start the process in the village of Lembah Mukti, who gave us a great response and provided both sides with a learning forum.

The lessons learnt from the villages including the consultation with national experts has been revised, and alongside the results from the trial we now expect additional inputs from these experts with regards to the finalized guideline. As the guideline was finalized

with the government and following a legal process, there will more instances where the inputs are made without the acknowledgement of the indigenous people, but we hope that this finalized guideline will be accepted by the community itself.

Contents of the FPIC Guidelines

Foreword

1. Introduction
2. About Free Prior and Informed Consent (FPIC)
3. Global Warming, REDD+ and FPIC
4. The Importance of FPIC in REDD+ related activities in Central Sulawesi
5. Phases to Implement FPIC:
 - Preconditions
 - Implementation
 - Post Implementation
6. Closing

Phases of FPIC Trial in Central Sulawesi

Pre-conditions

- Locations selected for trial of phase 1 & phase 2
- Development of communication materials to support the FPIC trial
- Recruitment of facilitators for FPIC trial,
- Training of facilitators
- Scoping the selected locations
- Dissemination on REDD+ related activities by facilitators on behalf of the Provincial Government to the indigenous peoples and/or local community

Implementation

- Data collection on the targeted indigenous peoples and/or local community
- Design on implementation (of decision making)
- Consultation with head of village
- D1: Dissemination at the village level
- D2: Dissemination to the representatives of the sub-village
- D3: Decision making in the village by the representatives the of sub-village with the assistance of facilitators

Post Implementation

- Review on the implementation's weaknesses
- Review on the decision making results
- Revision on the FPIC Guidelines based on the results of the trial

Preparation of Communication Materials

- Identify types of communication materials
- Development of communication materials
- Test for the communication materials' effectiveness in the field
- Revisions of the communication materials
- Reproduction and distribution of the communication materials

Training of Facilitators

Selecting the facilitators

- 5 people from each village
- Women representatives

Training implementation

- Locations : the village of Sabang, subdistrict of Damsol, district of Donggala
- Duration: five days
- Resource personnel/trainers: Provincial Forestry Service, Communication Practitioners, Working Group IV (Badan Kesatuan Bangsa Politik dan Perlindungan Masyarakat; Univerisity of Tadulako, Palu; Association of Indonesian Forest Concessionaires; indigenous peoples and/or local community; non-government organizations; Forest Management Unit of Dampelas-Tinombo; Forestry Service)

Training of Trainers (TOT) for Facilitators

Participants: representatives of indigenous peoples and/or local community member of the villages of Talaga and Lembah Mukti.

The Profile of Villages for the FPIC Trial

The village of Talaga

- Village structure: village→sub-village
- Decision making mechanisms: village authority and traditional authority.
- The status of knowledge related to REDD+: *REDD+ will take the community's rights by force (this information was given by an NGO that had entered this village)*

The village of Lembah Mukti

- Village structure: village→five sub-villages→neighborhood council→household council
- Decision making mechanisms: decisions are made at the village level by representatives of each sub-village who receive inputs from discussions at the sub-village level.
- The status of knowledge related to REDD+: no prior knowledge of REDD+.

FPIC Trial: Preconditions/Information Dissemination

- Preconditions for Activities: Facilitators informed the multi-stakeholders in the villages and sub-villages about the planned Programme of the Forest Management Unit (FMU) in the village of Lembah Mukti.
- After having received the information about the planned Programme by FMU to plant rubber trees in their area, the villagers of Talaga immediately "Rejected" the Programme (the villagers had previously received information that the REDD+ Programme would take away the rights to their lands by force) the FPIC *process was not continued.*

- The Village of Lembah Mukti also received an explanation about the planned Programme to plant rubber trees by the FMU of Dampelas Tinombo

Intermission: 2 Weeks

Not only did the facilitators make sure that the villagers (living in the sub-villages) understood the Programme, they also facilitated the **DECISION MAKING PROCESS**.

The Implementation of FPIC Trial Activities in the Village of Lembah Mukti

8th – 10th March 2012

Day 1:

- Information dissemination regarding the REDD+ scheme, FPIC Guidelines, FPIC Process and the planned Programme of the Forest Management Unit that aims to reduce the effect of climate change (*at this stage the facilitators were accompanied by the Forest Management Unit and Forestry Service officials*)

Day 2:

- Information dissemination at the sub-village level consisting of five sub-villages
- Discussions at the sub-village level

Day 3:

- Decision making discussion session conducted at the village level which was attended by representatives from five sub-villages (*five people represented different community components for each sub-village*)

FPIC Trial Results

- The Villagers of Lembah Mukti “AGREED” to implement the forest rehabilitation Programme by the Forest Management Unit
- The agreement was written and signed (as per the Letter of Agreement) by the village’s negotiators.
- The trial results not only states the villagers’ consent to the rehabilitation of the forest, but also indicates their continued commitment, problems and needs.
- A platform was established to manage complaints and feedbacks

Consent, Commitment, Problems and Needs (12 points)

Divided into 4 categories:

- **Consent**
- **Commitment:** Environment Conservation
- **Problems:** Settlement of Land Boundaries
- **Needs :** Information

Lesson Learnt

The Status of Awareness Issues Related to REDD+

- The Villagers of Talaga were aware of REDD+ before facilitators from WG entered the village (regardless of the accuracy of information received) and they rejected REDD+.

- The Villagers of Lembah Mukti weren't aware of REDD+, but already know of the benefits of forests for the environment. The villagers gave their consent for REDD+ activities

The Phases of FPIC Trial Implementation

- It is necessary to add one phase into the FPIC Guidelines: Coordination with the District Forestry Service, sub-district authority and local police.
- It is necessary to involve any forest related Technical Implementation Units in the process of information dissemination and raising awareness.

Using the media to disseminate the information

- The project information needs to be explained in such details that include:
 - the location,
 - implementation techniques,
 - positive and negative impacts on the environment and the community,
 - the roles of the Forest Management Unit and of the community,
 - technical information regarding the planting of trees and benefits sharing (if any), etc.
- There should be specific segmented target audiences prior to selecting the type of communication materials.
- The most convenient material for facilitators to disseminate their information in a direct platform setting (face-to-face) is demonstration materials (e.g.: flip chart)
- Communicating a Programme is not instantaneous, it takes repeated efforts in order to convey the message so that it is well absorbed and understood. Trained facilitators who enter the village community also can help accelerate the process of understanding.

Decision making schemes

- There is a need to form a platform for managing complaints (such as a mediator between the villagers and the Forest Management Unit)

The Benefits of Discussion Forums for FPIC

- Discussion forums for FPIC could also be used as a communication forum between the community and forest related authority. In this forum, the community are able to communicate their aspirations, and the authority is aware of the community's needs

Next Steps

- Evaluation of the FPIC Trial I (April 2012)
- Review and Refine the FPIC Guidelines (April 2012)
- FPIC Trial Implementation II (May 2012)
- Finalization of FPIC Guidelines (June 2012)
- Legal Process to Validate FPIC Guidelines (July-September 2012)

An Institutionalized FPIC process in the Philippines

Presenter: Robeliza Halip, Researcher, Non-Timber Forest Products Exchange Programme, and Jonathan D. Adaci-Ancestral Domains Office

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+ 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*

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

Steps in FPIC Process (2006 Guidelines)

1. Application of project proponent files with the regulatory agency
2. Regulatory agency refers application to NCIP
3. NCIP endorses application to NCIP Regional Office
 - a. NCIP Refers to Master List of Ancestral Domains
 - b. Can result in Certificate of Non-Overlap (CNO)
4. Pre-FBI (Field Based Investigation) Conference
5. FBI Proper – commences after payment by project proponent of FBI Fee (to NCIP Trust Fund)
6. Pre-FPIC Conference
7. 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

Rationale of the Policy Study on the FPIC Implementation

- There have been reports of complaints ranging from the 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.

- NCIP has deemed it urgent that an assessment and evaluation of the FPIC processes is carried out, in view of these 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+ initiatives aimed at utilizing/managing forest resources leads to varying effects and impacts on indigenous rights over resources.

Policy Study on the assessment of the FPIC implementation

OBJECTIVES

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

Common experiences in the implementation of FPIC requirement Communities

- Consent was mainly given because of the anticipated economic benefits
- Phasing of the acquisition of consent
- No monitoring mechanisms on violations committed during the conduct of 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)
- Signing of MOA were done outside the communities leading to mistrust of community members to their leaders/designated signatories
- Information provided to the communities were insufficient for them to come up with an informed decision

NCIP

- Different interpretations of FPIC teams, differences in between the affected and impacted area
- MOA content not scrutinized well by the RRT (Regional Review Team)
- NCIP role as a 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
- Budget constraints in the NCIP
- Insufficient inter-agency coordination in the implementation of the FPIC requirement

Emerging Policy Options

- Time-bound vs. Customary system of decision making within 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
- Strengthen feedback system with the affected communities and local NCIP offices
- Invite independent technical experts especially during the FPIC process
- Ensure the full participation of indigenous peoples
- Encourage IPs 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 their 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 which called for the review of the 2006 FPIC Guidelines, and 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

The need for an overview of FPIC in the Philippines, doesn't come from the sky nor from the sea as it is a legal document, and we are lucky compared to other countries.

Indigenous Peoples of the Philippines

- Indigenous Peoples refer to Filipinos who have continuously lived as organized communities in defined territories (ancestral domains) since time immemorial, and who have retained some or all of their own social, economic, cultural and political institutions
- IPs include those who may have been displaced from their domains or may have resettled outside their ancestral domains

Areas that don't have indigenous peoples, as they don't have their ancestor lands, don't need FPIC.

STATE POLICY from pacification, assimilation, integration to recognition

- The Philippine Constitution expressly provides for the recognition of and respect for their rights:
(Sec. 20, Art. 2 – Recognition & promotion of IP rights; Sec. 4, Art. 12- protection of the rights of IPs to their ancestral domains to ensure their economic, social & cultural well-being & the recognition of the applicability of customary laws governing property rights; Sec. 6, Art. 13- Recognition of prior rights of IPs to their ancestral lands; Sec. 15, Art. 14- IP right to preserve & develop culture, tradition & institutions in relation to the formulation of national plans & policies)

- Adherence to the principles of International treaties and Conventions, notably ILO Convention 169 and the UN Declaration on the rights of IPs
- Implementing Laws – Primarily R.A. 8371 (IPRA) and others

Republic Act 8371

Indigenous Peoples Rights Act (IPRA)

- The IPRA was signed into law on October 29, 1997
- It created the National Commission on Indigenous Peoples [NCIP] to protect and promote the interest of IPs/ICCs with due regard to their beliefs, customs, traditions & institutions.
- Landmark legislation to:
 - Correct Historical Injustice
 - Enforce Constitutional Mandates
 - Observe International Norms

Rights Defined under IPRA

- Right to Ancestral Domains and Lands
- Right to Self-Governance and Empowerment
- Right to Social Justice and Human Rights
- Right to Cultural Integrity

The revised FPIC guidelines and other related processes (NCIP Administrative Order No.3, 2012 Series.)

2002: creation of the guideline but it is incomplete.

2006: resolve certain issues but further revisions are required

2012: final FPIC guideline

For those of you who have just started FPIC, it took us 14 years to come up with our FPIC guideline and we are currently on our 3rd or 4th FPIC version. It's a long process.

FPIC Guidelines of 2012

- I. **Legal Bases**
- II. **Overview of the FPIC Process**
- III. **Other Processes:**
 - **Community Solicited/Initiated Process**
 - **Local or foreign funded projects in cooperation with NCIP**
 - **Traditional Use Rights**
 - **EPR Process**

I. Legal Bases

Section 2: Declaration of State Policies:

The State shall protect the rights of the ICCs/IPs to their ancestral domains to ensure their economic, social and cultural well being and shall recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

Section 7:

Refers to the rights to ancestral domain including the right to develop, control and use the same and to benefit and share the profits from allocation and utilization of the natural resources found therein with the right to negotiate the terms and conditions for the exploration of natural resources in the area

Section 59:

Provides that in areas where there are ancestral domains [AD], all departments and other government agencies shall be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement until and unless an FPIC is obtained. In areas outside AD, projects and plans can only proceed upon certification that indeed the land is outside AD. The certification to be issued is called the Certificate of Non-Overlap (CNO)

II. Overview of the FPIC Process**A. Extractive, intrusive, large-scale activities**

- Exploration, development, exploitation, utilization of lands, energy, mineral, forest, water, marine air, and other natural resources, including feasibility studies
- Programs leading to displacement and resettlement
- Declaration & management of protected and environmentally critical areas
- Bio prospecting and related activities
- Programs or activities affecting the IPs' spiritual and religious tradition, customs, and ceremonies
- Industrial or large-scale tourism/agricultural/forestry land uses or management projects
- Carbon Trading activities
- Establishment of military facilities, conduct of military activities, organizing para-military forces
- Similar/analogous activities

B. Non-extractive, small-scale activities

- Non-extractive exploitation and utilization of natural resources
- Programs, plans, activities not covered under the above enumeration
- Activities not requiring government permits
- Feasibility studies on subjects not covered by the above enumeration
- Other small-scale quarrying
- Similar/analogous activities

Who shall provide or exercise the right to use FPIC?

The ICCs/IPs landowners of ancestral domains, or adjacent areas affected by the planned project or activity, and for those affecting two or more areas the process may be held separately with the provision of one certificate. Migrant IPs will be allowed to participate if permitted by the IPs/ICCs.

Certificate of non-overlap (CNO)

Issued by the NCIP attesting the area affected by the activity, to ensure that it doesn't overlap or is in fact outside the chosen domain. This is usually issued after a Field Based

Investigation [FBI]. For precautionary measures the proponent shall execute an undertaking for the conduct of FPIC processes should an overlap be found.

IV. Other Processes

A. Community Solicited/Initiated Project

Programs, projects and activities solicited or initiated by the concerned ICCs/IPs themselves where the activity is strictly for the delivery of basic services to be undertaken within or affecting the ancestral domain, do not require compliance with the FBI/FPIC requirement, however, they shall be subjected to a validation process.

B. Local or Foreign Funded Projects in cooperation or coordination with NCIP

NCIP may enter into cooperation with other government agencies and foreign funding agencies for projects involving delivery of basic services or for the promotion of economic and sustainable development, in which case, the strict requirements of FPIC may be dispensed with and only community validation is sufficient.

C. Exercise of Traditional Use Rights

Gathering, hunting and such other traditional use by members of the ICC/IP of natural resources found within their ancestral domain like gathering or cutting of forest products for family/personal consumption, subsistence and livelihood, do not require the conduct of the FPIC Process, provided, it was done purposely for such an intention.

D. Exercise of Priority Rights [EPR]

Should the community decide to exercise their priority rights in the harvesting, extraction, development, or exploitation of any natural resource within their AD, they shall declare through a community resolution to the concerned ICC/IP community during a community assembly called for the purpose.

Should the community later on manifest that it does not have the financial or technical capability or capacity to undertake the activity, they may engage a partner but the same shall be subjected to FPIC.

IV. Salient Provisions

A] Excluded Areas from any Activity except for the exclusive purpose for which they are identified.

1. Sacred grounds burial sites of indigenous communities
2. Identified international and local cultural heritage site
3. Critical areas identified or reserved by the ICCs/IPs for special purposes
4. Other areas specifically identified by the IPs in their master plan.

B] Memorandum of Agreement [MOA]

This document shall embody the provisions agreed upon in the negotiations including the payment of royalties to the IPs/ICCs. A community master plan on the use of royalties and other benefits must be incorporated or accompany the MOA. It shall exclude Corporate Social Responsibilities as part of the negotiations since these are provided by law.

C] Simultaneous application

No two or more applications of similar subjects shall be simultaneously entertained at any given time, that covers the same area while an application is being processed therein, neither shall another be given due course while a previous application is being processed.

D] Applicability of Customary Laws

Customary laws and practices shall be the primary consideration in all surrounding issues and this includes imposing sanctions accordingly

E] Use of Royalty and Other Benefits

The utilization of financial benefits received shall be embodied in a document prepared by the IPs/ICCs. It shall be used for programs and projects that will redound to the well-being and benefit of the ICCs/IPs. Part of it may be used for the delineation and titling of their ancestral domain or for the formulation of their community master plan. It should have allocations for: livelihood and social development projects; education and training of members; capitalization for cooperative development; credit facility; salaries or wages of persons engaged to perform professional services; mutual assistance, and the like.

F] Decision Making is Not Time Bound

In the decision making stage the IPs/ICCs are not compelled to issue a decision within a specified time but in accordance with their customary laws or practices.

V. Prohibited Acts

- 1. Applicant:** Employment of threat, coercion, intimidation or bribery
- 2. NCIP Officer or employee:** Acceptance or receipt of money, gifts, or valuables from the applicant, or the use of falsified facts
- 3. IP community or member and/or Elder/leader:** Solicitation, acceptance or receipt of gifts, money or valuables things from the applicant, consorting or mediating with the applicant to unduly influence the result of the FPIC Process
- 4. NGOs/ CSO/GAs/LGUs/Other Groups:** Undue influence or interference with the FPIC process or to the community

Planning for FPIC in Cambodia

Presenter: Sopa Sokun Narong- Wildlife Conservation Society, Cambodia

Seima has been the site of a joint conservation program between the Forestry Administration and WCS since 2001. It was declared a Protected Forest in 2009 and sustainable financing is required for long term site management.

The key communities in the area are ethnic Bunong (Phnong), with some areas located within protected zones. The livelihood value of the reserve for these communities are very high – farmland, forest resources and cultural values.

Formalising land tenure for communities is central to the project

- All indigenous communities around the reserve are being assisted to obtain Commercial Land Titles
- Andoung Kraloeng village received its title in March 2012
- It is only the 3rd village in the country to reach this stage

Seima is one of Cambodia's official REDD+ demonstration projects and has been chosen as the REDD+ project is aimed at a voluntary market. The government is the project proponent and carbon owner and any additional input will come from: increased budget/staffing, new legal status, new enforcement strategies and new incentive systems.

**Core REDD+ activities include a strong focus on alternative livelihoods
Community aspects aim to provide increased incentives for conservation**

Links to the National REDD+ Roadmap

- Involvement of indigenous groups/FPIC/safeguards
- Raising awareness of and support for REDD
- Communities/LNGOs bringing their experience to the national level
- Demonstration of the value of resolving tenure
- Linking REDD to Protected Forests management (3 m ha)
- Hard data on deforestation, drivers and carbon stocks
- Testing interventions for avoiding deforestation
- Management of revenues, benefit-share/incentives
- Monitoring biodiversity and social co-benefits
- Scope for scaling up to province/sub-national

Community aspects based on CCBA project standards

- Free, Prior and Informed Consent specific to REDD is being obtained through extensive consultations that aim to meet best practice
- Formal community agreements ensure role of government and community are clearly set out

- Annual consultations will maintain consent/guide management
- Forest/land rights are recognized and in most cases enhanced
- Project design requires no relocations
- Net positive social impacts will be measured using qualitative and quantitative monitoring of livelihood indicators

Consultation Process

Three phases per village conducted over separate visits.

- **Phase 1)** Awareness raising and discussion of the draft impacts assessment
 - Day 1 - Awareness raising, impacts assessment with village leaders/committee
 - Day 2 - Plenary discussions with all community members
- **Phase 2)** Discussions on consent and presentation of the community agreement includes Independent Legal Advice (workshops by local NGO, CLEC)
- **Phase 3)** Finalization and signing of the agreement. Benefit-share system hasn't been designed yet – separate consultation will be conducted during 2012.

The consent needs to be obtained from 20 villages who use the REDD area within the Seima Protected Forest need, and in most villages the existing community groups have already chosen and proposed their representatives.

Timetable

- Consultations at village level mainly conducted from December 2010-January 2012
- This time includes some delays whilst we awaited funding plus the finalization of a draft agreement
- All communities are now happy to sign the draft agreement
- Awaiting decision from FA on final text

It all takes about 40 months

Outcome

- Positive response, keen to sign quickly
 - High level of concern over threats to forest resources
 - Generally few concerns about project design
- Some community concerns were raised
 - Doubts over effectiveness of law enforcement efforts (especially for illegal logging) and ability to prevent land concessions
 - Request strong assurances over access to farmland, resin trees
 - Wish to be consulted over benefit-sharing
 - Independent legal advice meetings had same observations with govt. and conservation NGO absent