

Group 1: Defining FPIC

WHAT IS FPIC (Page 2)

It is important to emphasize that the right of indigenous peoples to consultation and free, prior, and informed consent is grounded in the rights of Indigenous Peoples to self-determination, lands and resources.

When listing governments commitment to international agreements, include:

- Convention on elimination of racial discrimination

[note: we support the suggestions made by the French group in this connection]

Principles

- Add this sentence at start:

States or other parties shall ensure that when FPIC of communities are sought, the customary laws, procedures and community protocols of these communities shall be respected and complied with at all levels.

Land tenure (insert after Principles)

"It is highly desirable for states to provide legal recognition and protection to indigenous peoples' lands prior to moving forward with REDD-related activities. However, even without this, REDD activities shall recognise and respect IPs rights to land, territories and resources based on customary use and occupancy in accordance with relevant international standards. In this connection, the right to consultation and consent in relation to REDD activities does not depend on Government recognition of indigenous peoples' rights to lands and resources. At the same time, IPs rights to land and resources based on customary use and occupancy must be addressed as part of the ongoing REDD activities."

To whom do these guidelines apply?

Within these guidelines the term "indigenous peoples" is understood as it is under international standards and instruments, and does not depend on the way any particular state may define the term. In the African context, the definition of "indigenous peoples" used by the African Commission on Human and Peoples Rights is a useful point of reference (BUT note also the important points of the French speaking group on the specific situation in Central Africa).

PRIOR: (Page 3)

Customary Community Decision-making structures need to be supported in whatever way they identify as important, e.g. to support them in building their indigenous peoples' organisation, and their decision making capacity.

INFORMED (Page 3)

Add to title: Refers to the type of info that should be provided prior to seeking consent "**and also as part of the ongoing consent process**"

Add:

- (i) People need to have access to sufficient scientific information, reports and studies – both the original sources and also in the appropriate language

(ii) People need to be informed of both the potential positive and negative consequences of giving consent to the project, including the potential problems that:

- No benefit may reach the community, or
- Benefits may be captured may be one group leading to conflict and inequality.

Information must be made available on an ongoing and continuous basis

ONGOING CONSENT: (also page 3)

Communities need to be able to give consent on the basis of specified conditions

Communities may choose to grant their consent on the basis of certain conditions (e.g that benefits continue to be derived from the project). If these conditions cease to be met, the community shall be provided with the opportunity to review, reassess and either reaffirm or refuse consent at any time. This option may be invoked at any stage, including during the information, assessment, design, implementation, monitoring & evaluation stages. This also applies

At the same time, bearing in mind the significant commitment of time and resources that may have been invested during the process by other stakeholders, the community should not be able to withdraw its consent arbitrarily; thus, if the conditions upon which the original consent was based are being met, ongoing consent is implied.

In this connection, it might be useful for mechanisms to be established for the community to periodically review whether the agreements are working and to decide whether to continue or withhold consent based on the new circumstances.

In this process the community may need to review:

- the agreement between the community and the REDD project, and
- the agreement within the community itself.

Help build the capacity of community-based decision-making structures so that it is able to review and ensure (i) that benefits are continuing to arrive from outside, and (ii) that benefits are reaching everybody within the community.

Page 4 - **THE 4 steps described do not reflect the African situation and need to be reviewed or removed entirely**

These national processes don't necessarily apply in Africa: the key issue is to ensure that community laws and procedures are applied.

e.g. Change Step 1: *“Enter into dialogue with relevant communities and, if applicable, with the existing IP network in a country. Identify the IP or other forest*

dependent communities' governance structures present in the country (where applicable), region or community. Where a national IP body is being consulted then verify that it has a mandate from communities."

Page 4 - Either reverse the map (i.e. place communities on top and national institutions on bottom) or get rid of it

Who seeks FPIC? (Page 5) - Change "may" to "shall"

How is FPIC recognised (page 5-6)

We haven't examined this closely but this is a confusing and somewhat redundant section: should be deleted or clarified?

The map on page 6 needs to reflect the ongoing nature of the consent process

This should be retitled '*Linking FPIC to the UN-REDD Programme through establishing ongoing consultation and consent*'

Consent should not be just at a particular moment in time, but repeated across the diagram, and the diagram should be made into a circle - perhaps one that starts at top left with a line in (having the stages as currently stand).

FPIC

In situations where FCPF and UNREDD are operating together, the standards of FPIC should apply. As a specialised agency of the UN, the provisions of the UNDRIP – including the right to FPIC - do and should apply to World Bank processes and policies. FCPF should not develop parallel and weaker guidelines.