

Launch of the UN-REDD Guidelines on Free, Prior and Informed Consent

**UN Permanent Forum on Indigenous Issues
22 May 2013, New York**



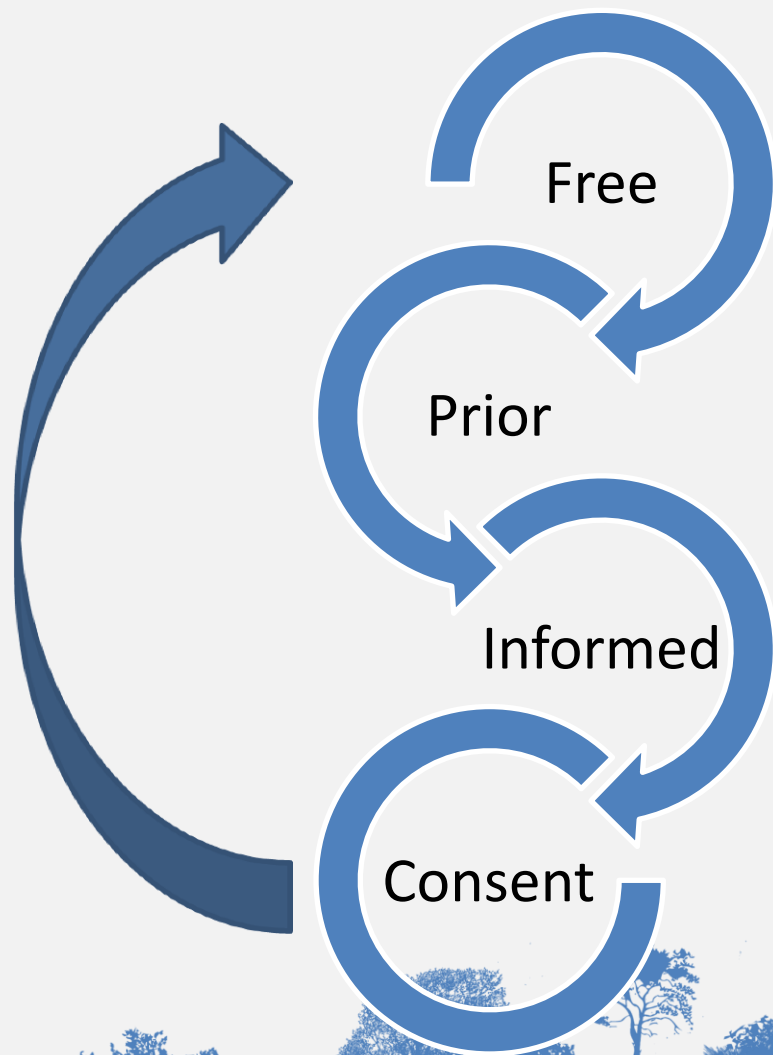
Outline



- 1. What is FPIC?**
- 2. FPIC & REDD+**
- 3. Global Collaboration to Design the Guidelines**
- 4. Key Components of the Guidelines (Normative, Policy, Operational)**
- 5. Next Steps (application, lessons, tools)**



What is FPIC?



- From coercion, intimidation or manipulation
- Before any authorization or commencement of activities, with time for consideration
- All relevant information to make a decision
- A collective “Yes” or “No” through a decision-making process of choice

Stakeholder Engagement

- From Bali to today, full and authentic participation recognized to be crucial for REDD+, including the Cancun Agreements
- UN-REDD Programme is committed to human rights based approach and supporting States to uphold UNDRIP
- Request from UN-REDD Policy Board for guidance
- Demand from stakeholders during extensive consultations
- Led to Guidelines on Stakeholder Engagement and also called for these “FPIC Guidelines”



Global Collaboration to Design Guidelines

- More than 100 representatives from **Indigenous Peoples Organizations from 29 countries**, representing hundreds of IPs
- More than 100 representatives from **more than 50 NGOs, International Organizations, Academia**
- Significant contributions from **11 Governments**
- **6 country-led processes to pilot FPIC for REDD+ and/or develop national/subnational FPIC Guidelines**



Drafting and Consultation Process

Regional Consultations

*Viet Nam (Jun '10)
Panama (Oct '10)
Tanzania (Jan '11)*

Revision of FPIC Guidelines

Apr – Sept '12

Working Final shared with UN-REDD Policy Board

Oct '12

Draft Guidelines

Feb – Jul '11

FPIC lessons learned workshop

*Asia Pacific Region
Apr '12*

Working Final launched

Jan '13

Internal review by global and regional UN-REDD staff

Aug – Nov '11

Update to UN-REDD Policy Board

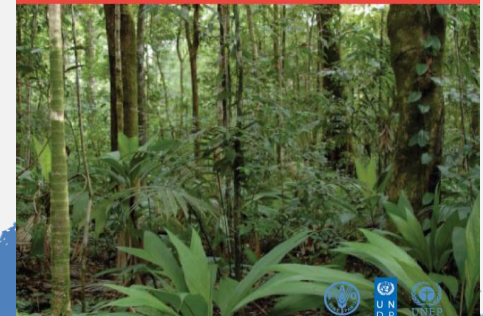
Mar '12

Public comment

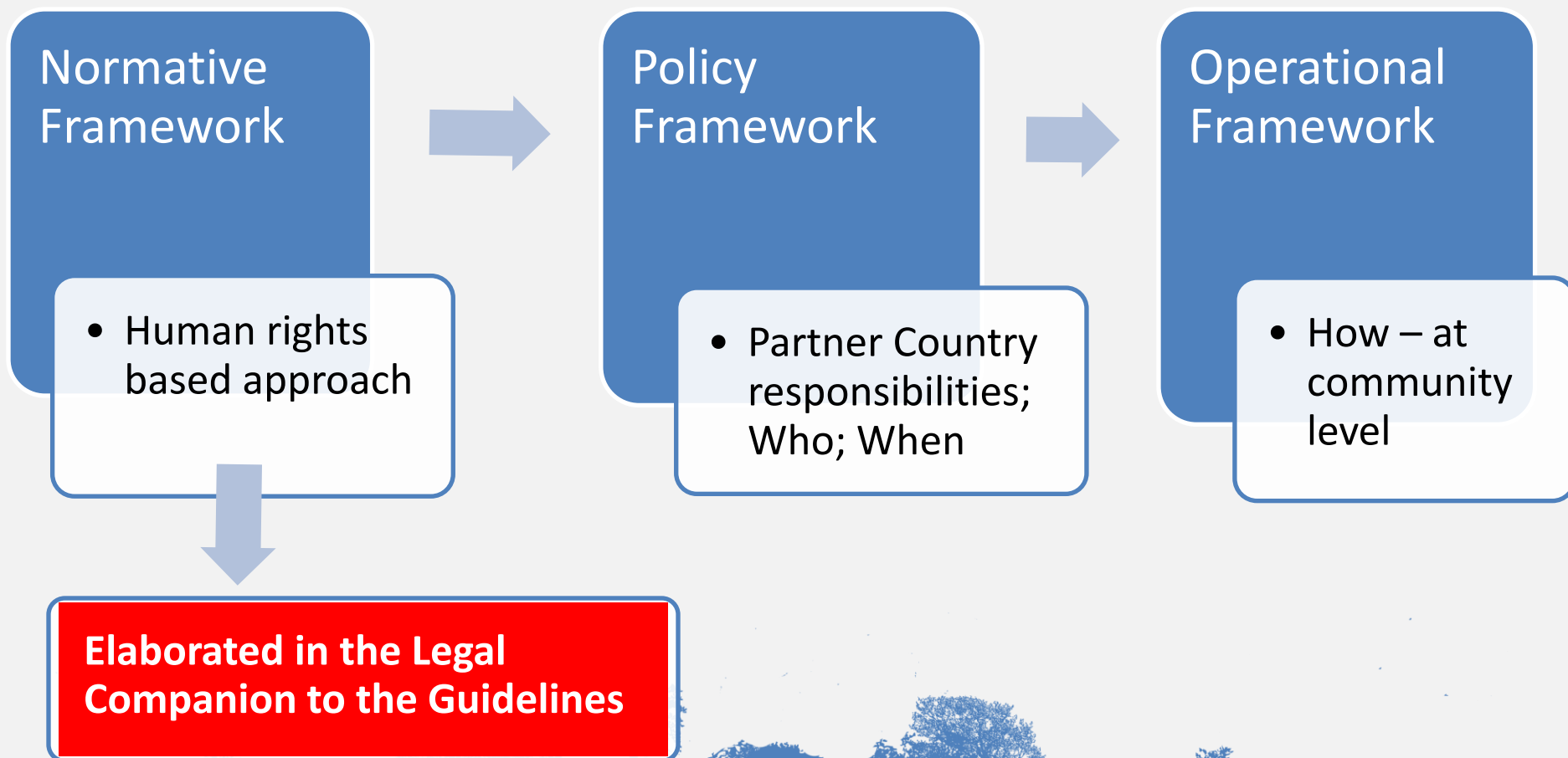
Dec '11 – Jan '12

Expert workshop to review FPIC Guidelines

Feb '12



Key Components of the Guidelines



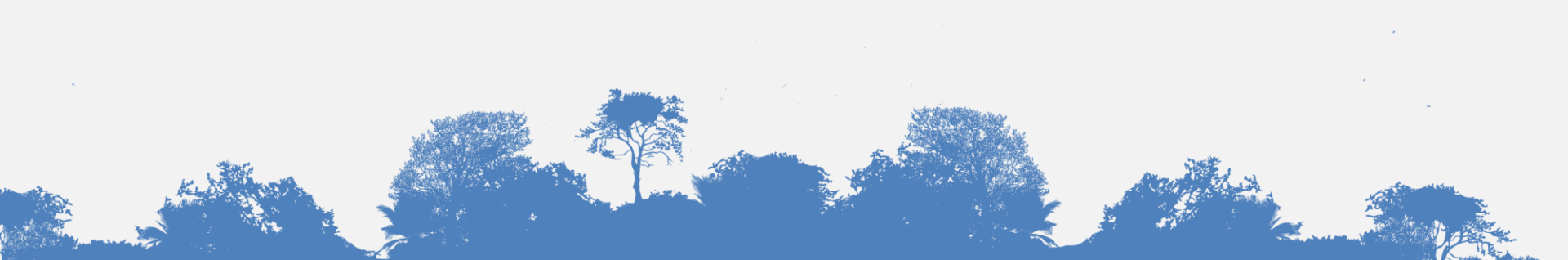
Normative Framework & Legal Companion to the Guidelines



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Senior Attorney

Forest Peoples Programme



FPP's Role



- History with UNDP
- Contributor in consultations like many here
- Participated in Expert Workshop
- Asked to assist in strengthening the legal foundations that give rise to the requirement of FPIC
 - Contributions to Guidelines text
 - Aid in creating Legal Companion



FPIC as a Normative Standard



- FPIC is a requirement
- FPIC is a legal norm affirmed by international law
- Doesn't matter if you call it a right, principle, legal requirement – consensus: it imposes duties and obligations on States
- not an end in and of itself; a derivative of underlying rights requiring respect/protection
- Acts as a safeguard, also as a precondition before impacting other rights



Guidelines do not Bind States



- Guidelines and Legal Companion do demonstrate international law does affirm the specific duties & obligations of States – and by extension the UN and its programmes --to respect, protect, and promote FPIC
- But the Guidelines do not bind the States → The treaties and international instruments the States ratified bind the States
- Guidelines create no new rights and no new duties and obligations that did not exist before
- They are a tool to now operationalize the right of consultation and the requirement of FPIC, and in doing so protect the rights of indigenous peoples and forest dependent communities



Unambiguous Recognition of FPIC in International Law

- Discussed throughout Guideline and not-exhaustively, but extensively supported by the Legal Companion
- Legal Companion
 - **International Treaties** (specific to IPs & general HRs)
 - Jurisprudence of Treaty bodies (human right committees)
 - **Regional Conventions/Treaties**
 - Jurisprudence of regional treaty bodies (African Commission, Inter-American Court, Inter-American Commission etc)
 - **UNDRIP**
 - **State Practice** (evidence of customary international law)- domestic cases, statements of int'l organizations, rapporteurs, IFI policies, UN Expert mechanism, etc)

Critical Issues & Emerging Issues

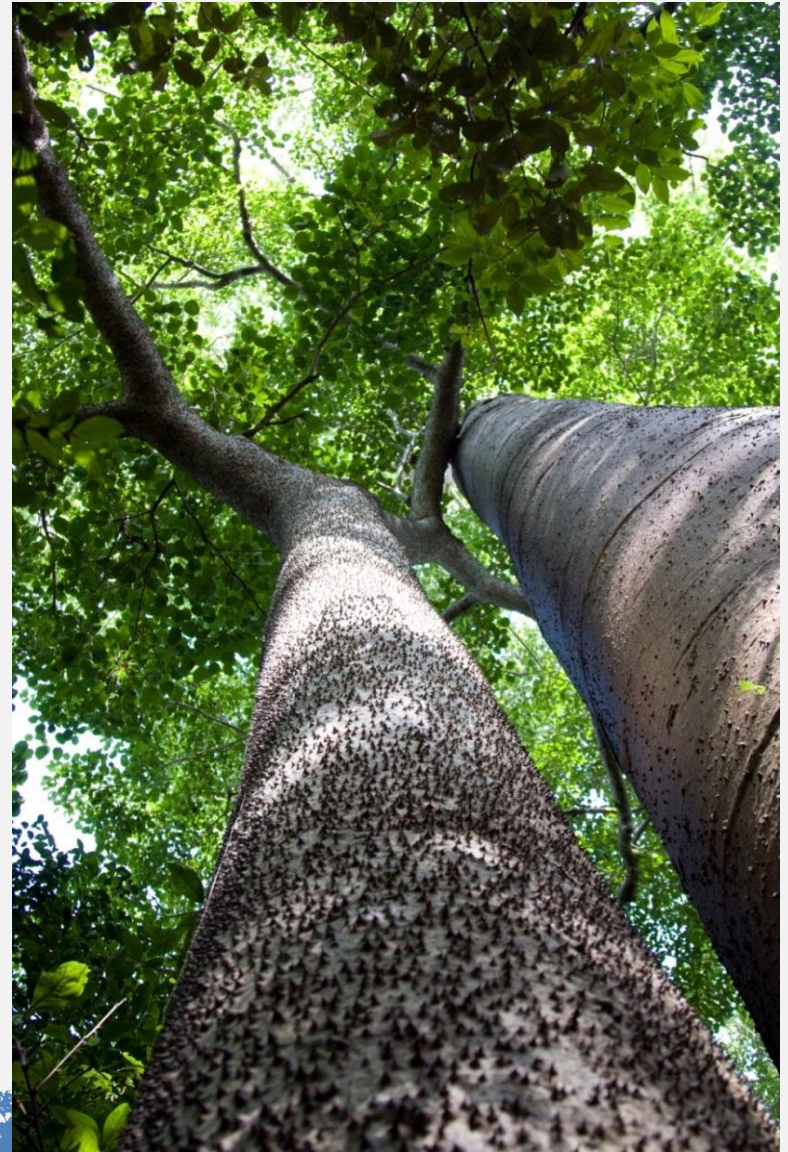
****spirit and intent of FPIC****

- When does FPIC apply?
 - A clear does universe exists
 - A less clear universe may also exists
- Does FPIC get triggered only at the community level or also for national-level activities, policies & decisions?
- From who do we seek FPIC from?
 - Indigenous peoples and forest dependent communities
 - From the institutions and representatives the designate
 - Representation at the national and community levels
- **WE ALL NEED TO CONTRIBUTE TO DEVELOPING OUR UNDERSTANDINGS OF THESE AREAS EVEN MORE & TO GIVING LIFE TO THESE GUIDELINES**

Policy and Operational Framework & Next Steps



- What is required of Partner Countries?
- When is FPIC required?
- What level is FPIC applied?
- Who seeks/gives consent?



Country Responsibilities Readiness Phase



Develop National FPIC Guidelines / Methodology:

- **Legal basis for FPIC** in the country;
- **Who:** Rights-holder mapping and HRIA;
- **When:** Which activities will require FPIC;
- **How:** Methodology – how FPIC will be applied at the community & national level

Incorporated into National REDD+ Strategy:

- National REDD+ Strategy must **recognize the duties and obligations of States to secure FPIC**
- **FPIC for specific components of National REDD+ Strategy**



When is FPIC required?

Rights and interests of IPs (and FDCs) may be affected...

Specific activities

Scale of project

Degree of impact

(See section 3.2)

What level is FPIC applied?

Community: specific proposed activity

National: policy, legislative, administrative (through designated inst. and/or representatives)

FPIC Scoping

- Proposed activity + impacts
- Status of land, territory or resource
- Rights holders
- How to engage

FPIC Proposal

- Capacity needs
- Facilitation
- Timeline
- Language
- Decision making process
- How FPIC is provided
- Method of verification
- How to address grievances

FPIC Process & Independent Evaluation

- Were principles and definitions of FPIC met?

Next Steps

- **Ongoing application** (Vietnam, Indonesia, Cambodia, Papua New Guinea, Solomon Islands, Democratic Republic of Congo)
- **Tools** to facilitate application (e.g. HRIA, FPIC Repository)
- Regional/global **exchanges on lessons & challenges** (e.g. Asia Pacific Publication)
- **Collaborative efforts** among IP, Government, NGO, Academia and the UN to improve understanding of **how FPIC can be applied** to REDD+ (e.g. FPIC at the national/policy level)
- Adapt Guidelines for **broader application of FPIC** across UN projects



Thank you!

