

TRAINING MANUAL ON
**FREE, PRIOR AND
INFORMED CONSENT
(FPIC) IN REDD+**
FOR INDIGENOUS PEOPLES



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Asia Indigenous Peoples Pact (AIPP) and International Work Group for Indigenous Affairs (IWGIA)
Chiang Mai, 2012



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Asia Indigenous Peoples Pact (AIPP)
and
International Work Group for Indigenous Affairs (IWGIA)

ACRONYMS

ABS	<i>Access and Benefit Sharing</i>
AIPP	<i>Asia Indigenous Peoples Pact</i>
AMAN	<i>Aliansi Masyarakat Adat Nusantara</i>
AWG-LCA	<i>Ad Hoc Working Group on Long Term Cooperative Action</i>
CBD	<i>Convention on Biological Diversity</i>
CO₂	<i>Carbon dioxide</i>
CoDe-REDD	<i>Community Development through REDD</i>
COP	<i>Conference of Parties</i>
CPP	<i>Consultation and Participation Plan</i>
CERD	<i>Center for Empowerment and Resource Development</i>
CSOs	<i>Civil Society Organizations</i>
eds	<i>editors</i>
et. al.,	<i>and others</i>
FCPF	<i>Forest Carbon Partnership Facility</i>
FECOFUN	<i>Federation of Community Forestry Users in Nepal</i>
FPIC	<i>Free, Prior and Informed Consent</i>
FPP	<i>Forest Peoples Programme</i>
GCF	<i>Green Climate Fund</i>
GIZ	<i>German International Cooperation</i>
GON	<i>Government of Nepal</i>
GtC	<i>Gigatons of carbon</i>
IIFB	<i>International Indigenous Forum on Biodiversity</i>
ILO 169	<i>International Labor Organization Convention on Indigenous and Tribal Peoples No 169</i>
IP	<i>Indigenous Peoples</i>
IPCC	<i>Intergovernmental Panel on Climate Change</i>
IPRA	<i>Indigenous Peoples Rights Act</i>

IWGIA	<i>International Work Group for Indigenous Affairs</i>
MRV	<i>Monitoring, Reporting and Verification</i>
NCIP	<i>National Commission on Indigenous Peoples</i>
NEFIN	<i>Nepal Federation of Indigenous Nationalities</i>
NGOs	<i>Non Governmental Organizations</i>
NTFPs	<i>Non Timber Forest Products</i>
°C	<i>Degree Celsius</i>
R-PINs	<i>Readiness Preparation Idea Notes</i>
RECOFTC	<i>The Center for Forest and Peoples</i>
REDD	<i>Reducing Emissions from Deforestation and forest Degradation</i>
REDD+	<i>Reducing Emissions from Deforestation and forest Degradation Conservation of biodiversity, Enhancement of forest stocks and sustainable management for forests</i>
REL	<i>Reference Emission Level</i>
RP/R-package	<i>Readiness Package</i>
RPP	<i>Readiness Preparation Proposal</i>
SBSTA	<i>Subsidiary Body for Scientific and Technical Advice</i>
SES	<i>Social Environmental Standards</i>
SESA	<i>Strategic Environmental and Social Assessment</i>
SIS	<i>Safeguard Information Systems</i>
ToT	<i>Training of trainers</i>
UN-REDD	<i>United Nations REDD Programme</i>
UNDRIP	<i>United Nations Declaration on the Rights of the Indigenous Peoples</i>
UNFCCC	<i>United Nations Framework Convention on Climate Change</i>

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INTRODUCTION



INTRODUCTION

This Training Manual on Free, Prior and Informed Consent (FPIC) in REDD+ for Indigenous Peoples is the third in a series of four manuals after What is REDD ?, What to do with REDD¹?, and Understanding Community-based REDD+. The first two publications (i.e., What is REDD and What to do with REDD?) were focused on raising awareness of indigenous communities for a better understanding of the concept of REDD+, on what the possible impacts and opportunities of REDD+ are, and how to protect their rights in REDD+² processes and mechanisms. The manual on Understanding Community-based REDD+, on the other hand, focused on assisting indigenous communities to gain knowledge, skills and equip them for full and effective participation in REDD+.

This manual is the product of the collective work of indigenous peoples' leaders and representatives engaging in processes related to REDD+. The process that has resulted in this manual includes a write-shop of indigenous representatives from REDD+ countries, a review of materials relating to REDD+ and FPIC, and consultations with indigenous experts. The initial draft served as the guide for the Regional Training of Trainers (TOT) on FPIC in REDD+. This process ensures the reflection of the perspectives of indigenous peoples in development of this manual.

Since the REDD+ final design and architecture - including its key elements such as financing and the system of information, implementation and monitoring of safeguards - is under negotiations for a comprehensive agreement on REDD+, this manual should be treated as a working guide. It shall be updated according to key developments relating to REDD+ and the experiences and insights of indigenous peoples on the application of environmental and social safeguards, including the right to FPIC of indigenous peoples in REDD+.



¹ Reducing Emissions from Deforestation and forest Degradation

² The addition of conservation, enhancement of forest stocks & sustainable management of forests to deforestation & forest degradation,

What is the purpose of this manual?

This manual aims to build the capacities of the indigenous peoples, networks and organizations to advocate and work for the effective implementation of FPIC for indigenous peoples in the activities and projects relating to REDD+. In particular, the objective of this manual is to equip indigenous peoples with the knowledge and understanding of FPIC and REDD+; and to provide a general guide to communities on the application of FPIC in REDD+ activities in upholding their rights, interests and welfare. Since the social and political environment in each country and locality varies, the use of this manual can be adjusted and customized to better fit the needs and other specific considerations of both the trainers and trainees.

Like previous manuals, this manual on FPIC in REDD+ also intends to strengthen the capacities of indigenous communities to decide on whether they would like to engage in REDD+ or not. It includes a section on engagement in REDD+ for the full and effective participation of indigenous peoples for the protection of their rights in REDD+ processes at different levels.

After understanding the basic concepts of REDD+ and FPIC, indigenous peoples will be able to take decisions by themselves on REDD+ either to withhold consent or accept REDD+ implementation in their territories based on their own terms and conditions.

This manual provides some practical guidelines on how to organize the consultation process; how to access information related to REDD+; how to select IP representatives at national and community levels; how to conduct Free, Prior and Informed Consent; how to conduct independent and collective deliberation for collective decision making process; and how to ensure a grievance mechanism in REDD+.

Who is the intended audience of this manual?

This manual is targeted for indigenous leaders, members of IP organizations and communities, activists, and advocates in general. It is particularly intended for indigenous educators, trainers and facilitators working with indigenous organizations and communities, especially those to be affected by REDD+. Since this is an advanced training manual, trainees or users shall have familiarity with REDD+ and indigenous peoples rights in general. At the minimum, they should have read or gone through the manual on What is REDD+ and What to do with REDD+. It is also expected that the resource persons using this manual will already be knowledgeable and experienced in training approaches and facilitation skills.

In particular, the target participants to the Training of Trainers (ToT) for FPIC in REDD+ at the regional and national levels are indigenous leaders and advocates with the qualifications mentioned above. After the ToT, they are expected to be the trainers and resource persons for the local or community based training, seminars or similar activities on this topic. This manual will be useful for indigenous communities, especially those affected by REDD+, as they are the main target of this manual for awareness-raising and capacity-building.

What are the contents of this manual?

This manual on FPIC in REDD+ has three (3) modules with elaboration below. This training is targeted for four consecutive days, including a 1-day field visit in indigenous communities preferably affected by REDD+. The content and methodologies can be adjusted or customized to fit the needs and other specific considerations of the trainees as well as other important factors.

The first module is focused on basic information and understanding of REDD+, including key developments on REDD+ at the international level. The second module relates to providing the knowledge and understanding of FPIC and the application of FPIC; and the third module provides a community guide on how to conduct FPIC and also to ensure the implementation of FPIC in REDD+.

The table below gives you an overview on what is going to be covered in each module, the number of sessions that each module contains, and the duration of the respective sessions of this training manual.

	Day 1	Day 2	Day 3	(Optional)	TAKE NOTE
	Module 1	Module 2	Module 3		
	What is REDD+? Key Concerns and Implication of REDD+ on Indigenous Peoples REDD + Safeguards	Free, Prior and Informed Consent <ul style="list-style-type: none"> • Concept, Framework and Principles of FPIC • The Principle of FPIC in International Human Rights Instruments • National and International Policies Relating to FPIC for Indigenous Peoples • Lessons Learned from the Conduct of FPIC in REDD + 	Community Guide on Full and Effective Participation of Indigenous Peoples and Application of FPIC in REDD + <ul style="list-style-type: none"> • Forms/levels, Preconditions and Activities Relevant for the Full and Effective Participation of IPs in REDD + • Participation of Indigenous Peoples in Relevant Bodies and Mechanisms Relating to REDD + • Conducting Free, Prior and Informed Consent (Process, application and measures of FPIC in REDD +) • Grievance Mechanisms 	On the last day of the training, participants will be taken to the REDD+ pilot/ demonstration area where they will interact with the community and understand communities' perspectives and concerns regarding the REDD + activities. The visit would also help the participants in appraising the implementation of safeguards in the ground.	An evaluation form based on the training session plans is provided at the end of the manual in order to evaluate and assess the participants' level of understanding after accomplishment of the training. This is just one example of the evaluation format. The trainers and facilitators can use a different format and method for evaluating the participants as per their experiences at the end of the training sessions. IF THERE IS NO FIELD VISIT, THE EVALUATION SHALL BE CARRIED OUT RIGHT AFTER THE TRAINING. In addition, the feedback form for the manual has been included at the end of the training manual to assess the training contents, flow of the sessions and cohesiveness. Please fill up the form and send the feedback and suggestions to the provided address in the form. The main aim of this feedback form is to get the views and opinions of the users to guide us to produce user/community-friendly education materials in the future.
TOPICS					
SESSIONS	3 sessions	4 sessions	4 sessions		
DURATION	6-7 hours	6-8 hours	5-7 hours		



Preparatory work for conducting the training

It is always better to be prepared as a trainer or resource person and to arrange all necessary logistics for training ahead of time rather than at the actual event. This will enhance effective delivery of the training with good quality training sessions, schedule, content, and methodologies while ensuring efficient logistical arrangements.

Logistics

Generally, the organizers should prepare the logistics including travel, accommodation and food, materials, handouts and kit, facilities and equipment needed at least one month before the training.

Logistics shall be arranged according to the nature of training sessions, and requirements for facilities, space and environment, equipment, the number of participants, and availability of budget. It is always important to keep in mind that training participants should always feel at home and/or comfortable in a friendly environment.

Materials Required for the Training

- Whiteboard
- Meta cards/colored cards
- Marker pens (board and permanent)
- Laptop computer
- Printer
- Videos/Documentary
- Posters/flipcharts/brown or white paper
- Masking tape
- LCD projector with pointer
- LCD Projector
- Training Banner
- Camera

All necessary documents and handouts need to be printed, and/or photocopied for all the participants and resource persons before the training. This should be part of the training kit. Do not forget to also include pens and notebooks for participants

For the preparation of participants, it is important to provide them in advance with training materials (relevant documents for early reading, training content, methodologies and schedule, logistics,). It is also important to inform participants what they need to prepare in terms of the content of the training to facilitate their active participation, such as getting information related to the training, e.g., on how REDD+ is being implemented in their respective countries/localities, the concerns of indigenous peoples, the situation of forest, the views and concerns of forest dependent communities, etc.

Preparation of trainers and resource persons

Trainers and resource persons necessarily have to prepare ahead of time for the training. Based on the topic, level of participants and expectations, the lesson plan shall be prepared accordingly. Ideally, trainers should have some familiarity of the participants in terms of their level of literacy, knowledge of the topic/issue, experiences, and expectations, as these are important in preparing the lesson plan and identifying appropriate methodologies.

The training hall and the sitting arrangement should also be given proper attention as it plays an important role in creating good working and learning atmosphere. The sitting arrangement, however, depends on the number of peoples, the size of the room, etc. The conventional classroom arrangement should be avoided, if possible.

The trainer should select an appropriate activity that will meet the needs of your group and have lots of fun energizers/icebreakers on hand.

Tips in Preparing the Lesson Plan

1. Identify the key messages based on the objectives (and expectations):
 - Prioritize the topics and/or focus in consideration to the time limitation, level of participants' prior knowledge and understanding.
 - Allocate time for each sub-topic.
 - Prepare key words and examples in line with the key messages.
 - Simplify concepts to the level of participants through the use of simple language, giving examples, drawings, graphics, pictures, etc.
 - Based on the above, prepare lecture guide and/or PowerPoint presentation, charts, maps, graphics or other visual presentations.
 - To make the sessions interactive, formulate key questions for participants and also prepare group exercises or group work.
 - Formulate a brief summary of the key points to conclude the sessions.
2. Identify and integrate appropriate methodologies to deliver key messages that encourage participation and interactive exchange:
 - Identify group exercises, group work, key questions for participants, etc. to make the sessions more dynamic and able to facilitate inter-learning.

PRE-SESSION 1: INTRODUCTION SESSION - GETTING TO KNOW EACH OTHER

Objective:

At the end of these pre-session, participants should know each other and have gained initial information to facilitate their interaction, socialization and cooperation during the training. The expectations of participants are also gathered for the information and guidance of resource persons and organizers.

Required Materials:

Meta cards

Marker pens

Time/Duration:

30 minutes (depending on number of participants)

Steps

- Explain to all participants the objective and process of this pre-session and that all participants have to actively participate in this session. For every training programme, it is important to know the people who are participating and how they are involved in REDD processes and practices.
- Provide meta cards to all of the participants and resource persons
- Ask each participant and resource person to write a single quality or adjective, which describes them best on their meta card. Provide participants with sample characteristics such as “hard-working,” “smiley,” “friendly,” “family-oriented,” etc.
- Ask them to find a partner with a similar quality and adjective. It is not allowed to find a partner who he/she already knows. Set a time limit for this, e.g., 5 minutes.
- Once pairs are finalized, ask each person to interview his/her partner about:
 - Name
 - Organization
 - Personality (using the earlier adjectives)
 - How is she or he involved in the REDD+ process?
 - Has he/she attended any training on REDD+ and FPIC before?
 - What are the expectations from the training?
- Allow 5-10 minutes for the participants to discuss and get to know each other and note down the information.
- At the end of the allotted time, each participant introduces his or her partner to the other participants.
- Another meta card should also be given to participants to write down their expectations. This should be collected at the end of the pre-session and shall be posted on the wall.

This is just an example of an introduction among participants in any training programme. The facilitator and resource person can use other methods that can be more interactive and lively.

All expectations should be crosschecked with the training module and inform the participants how many of those expectations will be covered in the following training sessions. At the end of the training, all expectations will be reviewed and crosschecked at the time of evaluation.



PRE-SESSION 2: GENERAL OVERVIEW OF THE TRAINING – SETTING THE CONTEXT

Objectives:

At the end of this pre-session, all participants will be:

Acquainted with the training objectives, its importance and approaches of the training sessions.

Materials:

PowerPoint presentation of key elements or flipchart on objectives, content, training schedule, and methodologies

Copy of training content, objectives and schedule for distribution

Meta cards and marker pens

Time/Duration:

30 to 45 minutes

Steps

The resource person or facilitator should be well-prepared for presenting a general overview of the training objectives, schedule and approaches with either a PowerPoint or flipchart presentation, and any important logistical issues. This is important for setting the context of any training. The following methods and steps may be useful for this session:

- Explain to all participants the objective and process of this pre-session and that all participants have to actively participate in this session. For every training programme, it is important to know the people who are participating and how they are involved in REDD processes and practices.
- Explain to the participants the training content, objectives and schedule either using PowerPoint or a flipchart. Explain to them why these objectives have been set, why it is important, and share the flow of the session. If necessary, the training schedule will be reviewed later.
- Distribute the training schedule to the participants and present it clearly with outlines of sessions, duration of each session, and field visit information as well.
- Describe to the participants the training methods and approaches, and solicit suggestions to make sessions more interactive, lively and interesting.
- Encourage all participants to ask questions and clarifications on the training content, objectives, methods and schedule.
- Present key logistical information to the participants including some advisories, i.e., reimbursement, field visit arrangements, evening activities, etc.
- At the end of the allotted time, each participant introduces his or her partner to the other participants.



MODULE I : THE REDD+ AGREEMENT



MODULE I: THE REDD+ AGREEMENT

This module will present the basic or general overview of the concept, phases and elements, concerns, and issues of indigenous peoples on REDD+. This will be followed by a presentation on the importance of FPIC in relation to REDD+. Further, there will be discussion on safeguards with cases of Social and Environmental Standard (SES) Initiative in Nepal and Indonesia. At the end of this module, the participants will be able to gain a basic understanding of REDD+ and its implications on indigenous peoples.

After completing this module, the participants should be able to:

- Understand and explain the basic concept of REDD+, international agreements on REDD+ and the different phases of REDD+.
- Explain and express the issues and concerns of indigenous peoples on REDD+, especially the exercise of their collective rights to land, territories and resources.
- Understand the importance on indigenous peoples of the various safeguards mentioned under the REDD+ agreement.

Required Materials:

- Whiteboard
- Meta cards/colored cards
- Marker pens (board and permanent)
- Laptop computer
- Video on: The basics of REDD+;
Indigenous Peoples and REDD+
- Flipcharts/brown or white paper
- Masking tape
- LCD projector with pointer
- Pictures of negotiation process/meetings

Time/Duration:

6 to 7 hours

Sessions

Session 1 (2 hours) - What is REDD+?

- 1.1. Basic Understanding of REDD+
- 1.2. REDD+ in the International Agreements and Negotiation Processes
- 1.3. REDD+ Phases and Elements

Session 2 (2 hours) - Key Concerns and Implication of REDD+ on Indigenous Peoples

- 2.1. In Relation to Indigenous Peoples' Rights to their Land, Territories and Resources
- 2.2. In Relation to Livelihoods, Traditional Knowledge and Forest Customary Practices
- 2.3. In Relation to Benefit Sharing

Session 3 (2 hours) - REDD+ Safeguards

- 3.1. Safeguards in the Cancun Agreement
- 3.2. Environmental and Social Safeguards under FCPF and UNREDD Programme
- 3.3. Strategic Environmental and Social Assessment (SESA)
- 3.4. Social and Environmental Principles and Criteria (SEPC)
- 3.5. FCPF and UN-REDD Guidelines on Stakeholder Engagement in REDD+ Readiness
- 3.6. What are Readiness Preparation Plans or R-PP?
- 3.7. Readiness Package (RP)

SESSION 1: WHAT IS REDD+?

Time/Duration: 2 hours

Steps

1. Divide the participants into groups and give the question in plenary for discussion:
What is forest for indigenous peoples importance, values and roles? (30 minutes).
2. Link the summary of the discussion above with the REDD+ concept through a lecture by the trainer. This is followed by video screening on the basics of REDD+.
3. Identify among the participants who has been following the REDD+ processes in the national or sub-national level or has participated in the regional or international workshops on REDD+.
4. Ask him/her to share his/her experience with the participants. This is followed by a lecture to explain the REDD+ agreement and negotiation processes with the use of pictures.
5. Lecture to explain the phases of REDD+ using the table or chart. Participants should be encouraged to raise questions for clarifications.

1.1. Basic Understanding of REDD+

a. Why are forests important?

Forests are large areas with a dense growth of diverse trees, other plants and bushes. These forests are important for indigenous communities as a source of foods, firewood, medicine, fodder for livestock, and materials for construction, as well as other daily requirements and other ecosystem services. At the same time, they are important as massive reservoir of carbon. The area of the world's forests is one of the most important carbon sinks storing 4,500 gigatons of carbon (GtC), which is more than the atmosphere and oil reserves in the world (Corpuz et. al., 2009). Most of these forests are in a state of degradation mainly as a result of agriculture, monoculture, plantations, illegal logging, mining and oil extraction, pasture, urban development, and road expansion. The 4th assessment report of IPCC (IPCC A4) in 2007 has estimated 17% global greenhouse gas emissions from deforestation and land use changes. This amount is more than the carbon emissions from transportation that includes road, rail and ships worldwide.

b. What is REDD?

REDD is basically a mechanism to create an incentive for stopping the forests from being cut down and its degradation, which thereby helps to decrease or reduce emissions of carbon into the atmosphere (Angelsen [eds.], 2008). REDD is a proposed financial mechanism for the developing world that gives incentives for reducing carbon emissions from deforestation and forest degradation (AIPP, FPP, IWGIA and Tebtebba, 2010a). But protecting the forest does not only prevent carbon emission, it also helps to remove carbon, which is already in the atmosphere. This is called carbon sequestration. The result is an increased carbon stocks in the forests.

c. What is REDD+?

“REDD plus” (usually written REDD+) goes beyond deforestation and forest degradation. It includes:

- conservation;
- sustainable management of forest; and
- enhancement of forest carbon stocks/sequestration.



It means incentives are also provided to those countries with high forest covers and less forest degradation and better forest management, in addition to the countries stopping deforestation. This is a positive incentive given for conservation, sustainable management and enhancement of carbon stocks in the forests (AIPP, FPP, IWGIA and Tebtebba, 2010b).

REDD+ creates the financial value of carbon stored in the standing forests. Therefore, since there is carbon sequestration and increased carbon stocks in addition to the prevention or reduction of carbon emission, “REDD” becomes “REDD+.”

The concept of REDD and REDD+ can be presented as:

(a) Reducing emissions from deforestation	a) + b) are REDD	Reducing greenhouse gas emissions
(b) Reducing emissions from forest degradation		
(c) Conservation of forest carbon stocks	c), d) + e) are the “plus”	Enhancing existing forest and forest cover for increasing carbon sequestration
(d) Sustainable management of forest		
(e) Enhancement of forest carbon stocks		

1.2. REDD+ in the International Agreements and Negotiation Processes

a. How did REDD get into the climate change negotiations?

The United Nations Framework Convention on Climate Change (UNFCCC) is the most important international agreement dealing with climate change, climate policies and negotiations. The first proposal on reducing emission of greenhouse gases from deforestation was endorsed officially in COP 11 (2005) in Montreal. Most of the Parties supported this proposal and agreed on the importance of the REDD+ in the context of climate change mitigation. COP 13, (2007) in Bali came out with an action plan that includes policy approaches and positive incentives on reducing emissions from deforestation and forest degradation, the role of conservation, sustainable management of forests and enhancement of carbon stocks. This Bali Action Plan formally adopted REDD+ as mitigation option for reducing emissions in forests (Corpuz et. al, 2009; Stephen, 2009).

b. What is the importance of the Cancun Agreement to REDD+?

After more than three years of negotiations, Parties to the UNFCCC approved halting and reversing forest loss, reducing emissions from deforestation and forest degradation and enhancing forest carbon stocks in developing countries in COP 16 in Cancun, Mexico. The Cancun Agreement provides important guidance for all parties and actors - including REDD countries, NGOs, and multilateral institutions that are supporting countries - to prepare and implement REDD+. This UNFCCC decision on REDD+ is a positive step towards conserving and managing the world's forests to deal with climate change in developing countries. In addition, this agreement on REDD+ has anticipated revitalizing and amplifying funding sources to support REDD+ phases.

Source: http://www.un-redd.org/NewsCentre/COP16_Press_Release_en/tabid/6595/Default.aspx



The Cancun Agreement clearly emphasizes that REDD+ actions must maintain existing forests and carbon stocks and it encourages all developing countries to find effective ways to reduce pressures on forests (Box 1). It also provides guidance to the developing countries on REDD+ readiness for planning and implementation (phases 1 and 2) and results-based activities (phase 3). REDD+ activities include a national plan, a national reference emission level, a robust and transparent national forest monitoring system, and a system for providing information for how safeguards should be considered, respecting indigenous peoples' rights.

Box 1: Major Highlights of Cancun Agreement related to REDD+

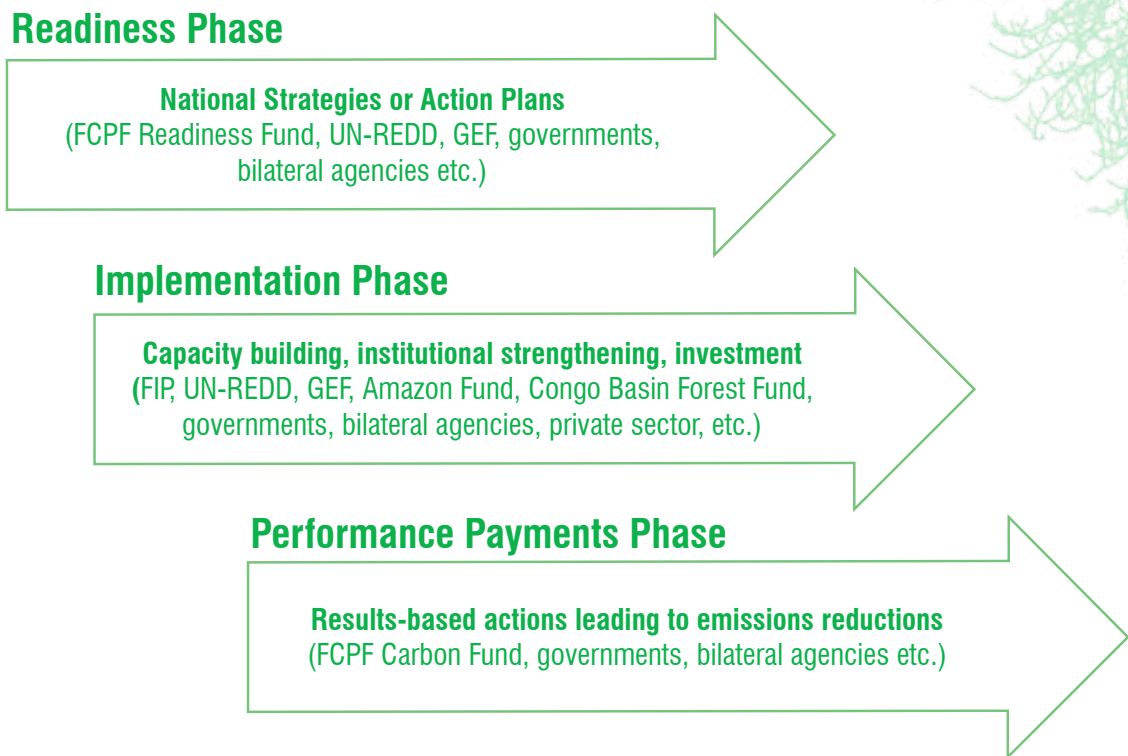
- **Global greenhouse gas targets:** Affirms global target of 2 °C above pre-industrial levels and agrees to consider a more ambitious 1.5 °C limit.
- **Mitigation commitments:** Agrees on scaling-up needed mitigation efforts to substantially reduce global emissions by 2050.
- **Measurement, Reporting and Verification (MRV):** Focuses on enhanced reporting and review of mitigations and climate financing with international assessment and review process and biennial submission of updates by developing countries.
- **REDD+:** Mechanism to create incentives for reducing deforestation and forest degradation using a phased approach with defined comprehensive set of safeguards.

(Source: www.climatefocus.com, January 2011)

1.3. REDD+ Phases and Elements

There were many discussions and proposals for the incorporation of REDD+ mechanism into the national frameworks following a post-2012 climate regime. Among these proposals, UNFCCC's agreement outlined a phased approach to the implementation of the REDD+ mechanism. The first phase is the "readiness phase" that focuses on planning, preparation and capacity-building. The REDD+ countries prepare the REDD+ strategies at the national level and initiate processes to ensure social and environment security, including reference levels, safeguards and REDD+ implementation frameworks. The second phase is the "implementation phase" in which REDD+ countries will begin the implementation of strategies and enabling processes. This phase will also focus on undertaking policy and legal reforms and implementing demonstration and result-oriented activities. The third phase, which is the "accounting phase," will focus on monitoring, reporting and verifying on the basis of results-based actions to reduce emissions and enhance sequestration. Actions and activities in the first two phases will ensure that performance-based payment is made to the REDD+ countries in the third phase. This phased approach has flexibility for countries to participate based on their capacity and have incentives to proceed from one phase to another. Each phase may not necessarily be completed before proceeding to the next phase. For example, if the key elements/activities under the readiness phase have been put in place and/or accomplished, the implementation phase can already commence while activities under the readiness phase are being done.

Fig: Cooperation Across the Phases of REDD+ (Source: www.forestcarbonpartnership.org)



TAKE NOTE: REDD+ is currently at the readiness phase and a comprehensive agreement has yet to be achieved, especially in relation to REDD+ financing and the conduct and mechanisms for the Monitoring, Reporting and Verification (MRV) of carbon, as well as on safeguard implementation. Some of the REDD+ countries are more advanced in the sense that they have submitted R-PINs, R-PPs and preparations for R-Packages; while others are in the process of preparing these packages. For instance, Nepal and Indonesia have already submitted R-PINs, R-PPs and prepared SESA, while Thailand has only submitted R-PIN. Therefore, REDD+ countries are at different degrees of implementation of REDD+, though all of them are in the readiness phase.

a. What is Phase 1 or the Readiness Phase?

During Phase 1, countries prepare their national strategies or action plans through inclusive consultations and interaction with multi-stakeholders, build national capacities for REDD+ implementation and MRV, and also start to demonstrate REDD+ activities with the instigation of policies and measures. If necessary, this may initiate changes to existing laws and the creation of new laws. Presently, all REDD+ countries are in the readiness phase of the REDD+. A Readiness Package (R-Package) will be produced by each of the REDD+ countries at the end of this phase. The submission of the R-Package - although voluntary - is a critical stage in developing the confidence of the implementing countries of the REDD+ mechanism under the World Bank's Forest Carbon Partnership Facility (FCPF)³. Their partner-countries are expected to prepare documents for the R-Package for review of the Participant Committee (the decision-making body of FCPF) for approval prior to endorsement to the Carbon Fund.

³ Forest Carbon Partnership Facility (FCPF), 12th Participants committee meeting (June 27-19), Santa Marta, Columbia, Resolution PC/12/2012/1: The role of the Readiness Package in the FCPF and the Readiness Preparation Process

TAKE NOTE: The Carbon Fund is a funding scheme for payment of forest carbon during the implementation phase of REDD+.

The R-Packages (under FCPF) or National Action Plans (under UN-REDD) show the end of the readiness phase and the start of the implementation phase. It will determine the structure and contents of mid-term progress reports on REDD readiness efforts through major international assessment of the REDD countries. In addition, it will influence access to FCPF Carbon Fund and other REDD+ financing. It will also influence countries' responses to the Cancun Accord to create information systems for safeguards.

TAKE NOTE: Civil society organizations have expressed concerns that the safeguards implementation and monitoring mechanisms may not be defined properly in the R-Package or National Action Plans. In addition to this, the role of experts and national and local organizations in relation to safeguard monitoring is not also clear. There is an emerging agreement on the need to focus on progress, feasibility, relevance and consistency with emerging UNFCCC guidance in relation to safeguards in the R-Package. Currently, the requirements, including safeguards implementation under the R-Package, is yet to be finalized by the Participants Committee of FCPF in its meeting in June 2012 (12th PC meeting). In this meeting PC agreed on the purposes, scope, assessment process and endorsement process of R-Package under a note on the role of Readiness Package in the FCPF and the Readiness Preparation Process prepared by FMT in 10th Meeting.

The REDD participant country may submit Readiness Package (R-Package) to Facility Management Team (FMT) and request the PC to endorse the package based on the progress in implementing Readiness Preparation Proposal (R-PP). After endorsement by the PC, the participant country may submit Emission Reduction program to FMT for carbon Fund.

Focus of the REDD+ Readiness Phase

1. Strategy and national plan that includes actions to be taken for addressing following among others:
 - Land tenure issues (may include review and reforms of laws);
 - Identification of drivers of deforestation and forest degradation;
 - Forest governance issues (also: benefit sharing);
 - Gender consideration;
 - Safeguards that ensure full and effective participation of indigenous peoples.
2. Defining national and – where appropriate – sub-national emission reference levels.
3. Establishing a robust and transparent national forest monitoring system, that means: an MRV system at national and – where appropriate – sub-national level.
4. Establishing a system for providing information on how safeguards are addressed and respected in all REDD+ activities.



b. What is Phase 2 or the Implementation Phase?

During this phase, the national policies, measures, strategies or action plans that have been prepared during the readiness phase are implemented to reduce emissions (as stated in the national REDD+ strategies that will be verified with baselines and indicators). For the implementation phase, more capacity-building and the development of technologies or the transfer of technologies from other countries may be necessary for the implementation of the national strategies, policies and actions.

The implementation phase will also include concrete pilot projects during which REDD+ is put into practice, including technology transfer. These are called “result-based demonstration activities,” which means that these concrete REDD+ projects produce results that can be measured. The projects clearly show how much carbon emission has been prevented or how much additional carbon has been sequestered through forest conservation. After this, a system is introduced, which includes the measurement of carbon, the reporting on what has been measured, and a process through which it has to be shown that these measurements and reports are correct (which is called “verification” – to show that it is true). This is referred to as the MRV system.

c. What is Phase 3 or the Accounting Phase?

This is the final phase when REDD+ is to be fully implemented and when all the results are measured, like in the pilot projects during the implementation phase. This phase is known as the “accounting phase” because during this phase a kind of “book-keeping” on carbon has to be done, such as measuring how much carbon is emitted, how much carbon emission has been prevented, and how much additional carbon has been stored. The MRV system tested during the implementation phase will have to be fully applied. Depending on the results of this “book-keeping,” it will be determined how much money will be paid as compensation for the REDD+ activities.

d. In summary, what are the elements of REDD+ in the different phases?

This table presents different elements that should be considered in different phases of REDD+ in terms of scale, performance indicators, funding mechanisms, and monitoring, reporting and verification (MRV).

Elements/phases	Readiness Phase	Implementation phase	Accounting Phase
Scale	Sub-national	Both sub-national & national	National
Performance Indicators	<ul style="list-style-type: none"> • Strategy adopted • Legislative & policy assessment completed • Consultation conducted • Institutions in place 	<ul style="list-style-type: none"> • Policies & measures enacted & enforced • Simplified estimation of emissions & removal against agreed reference level 	Forest carbon change quantified & compared to the reference level
Funding	Initial support for national strategy development & readiness activities (e.g., FCPF, UN-REDD, bilateral initiatives)	Funding from bilateral & multilateral sources & COP-mandated funds	Primarily linked to compliance carbon markets but might also be via global fund
MRV systems	Capacity development on MRV conducted	Capacity development & basis monitoring capacities	Advanced monitoring capacities & setting reference levels

Source: Adapted from Meridian Institute (2009), cited in Angelsen et. al., (eds), 2009. Pp 15.



SESSION 2: KEY CONCERNS AND IMPLICATIONS OF REDD+ ON INDIGENOUS PEOPLES

Time/Duration: 2 hours

Steps

1. Start the session with a video screening on Indigenous Peoples' Rights and REDD+, which will assist in triggering the ideas among the participants.
2. Divide the participants into three groups and assign topics to each group, namely:
 - Indigenous Peoples' Rights to Land, Territories and Resources;
 - Traditional Knowledge and Customary Forest Practices;
 - Benefit Sharing.
3. The key issues and concerns of indigenous peoples on the respective topic have to be identified, discussed and reported.
4. Additional inputs and explanation by trainer.

2.1 Introduction: Why are lands, territories and resources (forests, in particular) important for indigenous peoples? What are indigenous peoples' experiences with forest laws/policies/programmes and forest projects?

Indigenous peoples have their own distinct cultures, identities and resource management systems based on their historical and intricate relations with their land, territories and resources. They have protected, managed and nurtured their lands and resources for centuries, even prior to the establishment of nation-states. As distinct peoples for millennia, they are entitled to their lands, territories and resources to ensure their distinct and collective identities, dignity, survival, and development from their own perspectives. This right, along with other related collective rights, are enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

Forests have multi-functional values and roles for indigenous peoples that have long depended on forest resources for their livelihoods. They have developed sustainable forest resource management systems to support their livelihoods and food security. Based on this, a significant portion of the world's remaining forests is found in indigenous peoples' territories. Forests are their main sources of food, habitat, livelihoods, medicines, and other ecosystem services. In addition, it has socio-cultural and spiritual functions for them.

Many experiences in the past have shown that governments and private companies have ignored, repeatedly refused or insufficiently recognized the rights, concerns and interests of indigenous peoples in forest-related matters. These include forest policies, programmes and projects at the national, regional and global levels. In fact, indigenous peoples are considered as forest destroyers and a number have been evicted in the name of forest conservation, such as in some areas declared as national parks, protected areas or conservation areas. Likewise, legal prohibition and restrictions of their forest-related livelihood activities, such as shifting cultivation or rotational agriculture, have been a common practice across Asia. Thus, many indigenous peoples have expressed their serious concerns on REDD+, as its implementation may aggravate the further violation of their rights over their lands and resources, and to their livelihoods, among others.

The case of Kaeng Krachan National Park in Thailand is the recent example of such eviction and violation of human rights towards Karen people (Box 2).

Box 2: Forced Eviction and Violation by Park Authority in Thailand: KAENG KRACHAN NATIONAL PARK

Recently, Forest and Park authority of Kaeng Krachan had forcibly relocated a number of Karen indigenous peoples from the Kaeng Krachan National Park in May-July 2011, leading to the violation of their human rights and rights to their land and territories. In addition, they were harassed; their houses and stored grains were burnt; and their money, jewelry, finishing and agricultural tools were stolen by a group of National park authorities and military forces. These Karen peoples had no option except to move away from their land and territories. Some of them are staying with relatives in other villages and some are still hiding in the forest without sufficient food and shelter. This is a good example of eviction and violation in the name of conservation of natural forest.

Source: IIFB letter to Thai Government, (January 15, 2012)

2.2 What are the Major Implications of REDD+?

a. Indigenous peoples' rights to their land, territories and resources

- REDD+ and the commoditization of forest for carbon market and carbon fund may create additional interests and competition among indigenous peoples for forest lands and consequently increases the danger of displacement of



the indigenous peoples; increase incidence of conflicts and violations of land and forest resource rights.

- Despite indigenous peoples' right to participate in decision-making and requirement of FPIC, governments, private companies and conservation NGOs have been taking decisions on forest and land-use zoning without the informed participation of indigenous peoples. This has further increased the demarcation and conflict of forest reserves, protected areas, conservation forest or sustainable forest management zones.
- It is expected that there will be increased zoning of forests by government and conservation NGOs and companies under REDD+, which will increase demarcation of protected areas, forest reserves or sustainable forest management zones to receive REDD+ payments. The majority of these forest zoning and land classification programs throughout the world ignore the customary rights of indigenous peoples to their land and territories.
- Many national REDD+ planning and local REDD+ pilot schemes have paid superficial or limited attention to land rights and land tenure issues and conflicts (such as in Cameroon, Panama, Suriname, Paraguay)⁴. Indigenous peoples are not properly consulted on land tenure actions and planning processes.
- Due to incentives and compensation mechanism of conservation and management of forest efforts in REDD+, there might be an increase in land grabbing and forest encroachment by migrant settlers, outsiders and private companies. This will, in turn, increase the chances of eviction of indigenous communities from their traditional land and carbon protected forest areas.
- The prospect of monetary benefit may also create more conflicts on land and forest boundaries between communities, among local landholders and forest owners.

Box 3: REDD+ and indigenous peoples' rights in Peru

Indigenous peoples are still under threat of land grabbing, eviction, violation of human rights from REDD+; though it was agreed in COP 16 in Cancun that REDD+ can succeed only when the rights of the peoples who live in the forest will be respected. For instance, in Peru, Amazonian indigenous peoples have occupied and used almost one third of 69 million hectares of forest for generations. They seek the full legal recognition of their possession of these forest and lands. But the Government of Peru has given minimum importance to the rights of the indigenous peoples in the process of developing its national strategy. Still, 20 million hectares of indigenous territories remain unrecognized and legislative framework undermines the rights of indigenous peoples. Therefore, indigenous people argue that current REDD+ policies will not only fail to benefit indigenous peoples but it is likely to dispossess them of their lands and impose restrictions on their livelihoods.

Source: R. E. Llanos and C. Feater. 2011. The reality of REDD+ in Peru: Between Theory and Practice.

b. Livelihoods, traditional knowledge and forest customary practices

- If the land rights, particularly of the forest customary lands of indigenous peoples, are not recognized, the loss of traditional land or territories - after identifying REDD+ pilot and implementation areas - may lead to displacement and relocation of indigenous peoples.
- Many indigenous peoples' livelihoods, and customary practices are highly dependent on forest and forest resources. These include the practice of shifting cultivation or rotational agriculture. Therefore, the prohibition and restrictions of these activities under REDD+ will undermine these practices, as well as the application, enhancement and transfer of tradition knowledge

⁴ FPP, November 2011. Rights, Forests and Climate Briefing papers: Lessons from the field: REDD+ and the rights of indigenous peoples and forest dependent communities.

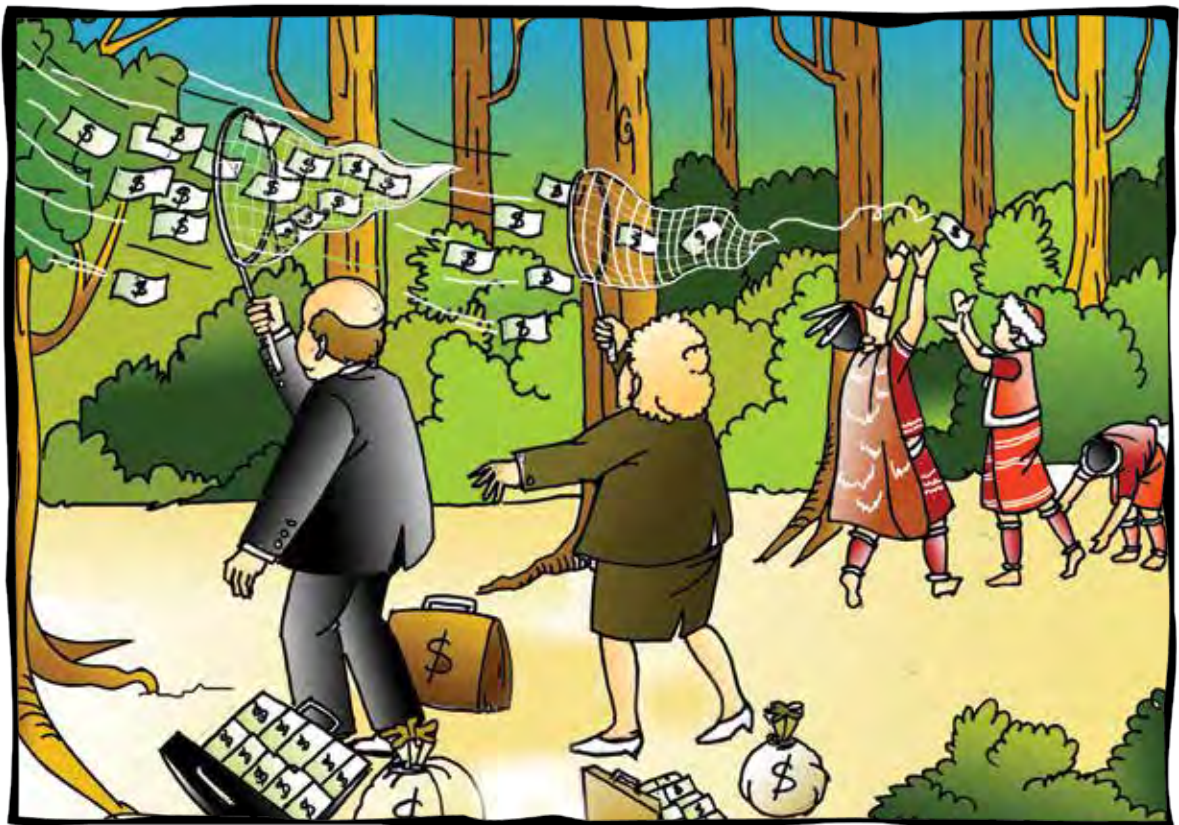


- Shifting cultivation and gathering various products from the forest for the livelihood are the common practices of forest-dependent indigenous peoples. These are critical activities of indigenous peoples for their food security. At the same time, these are important forms of land use and forest management practices for many indigenous peoples in different parts of the world. Shifting cultivation, however, is considered as a major source of deforestation by governments and others, which is unfounded and unjust. Nevertheless, REDD+ may further strengthen the prohibition of shifting cultivation.
- REDD+ programmes may consider collection of wood for fuel, cutting down trees for house construction and other purposes, and gathering non-timber forest products (NTFPs) or medicines as forest degradation activities. This means there may be more restrictions to free access to resources and biodiversity (for food and medicines) of indigenous peoples in their own forest; as a consequence, they may have to pay for previously free environmental services like water, forest and bio-resources after becoming a part of REDD+ programme.
- Focusing only on environmental protection and conservation of forests in a technical approach without understanding and recognizing the contributions of indigenous peoples through their traditional forest use and management practices (including traditional knowledge) could further marginalize and undermine the traditional livelihoods of indigenous peoples.
- On the other hand, REDD+ can also contribute to recognizing the value of traditional knowledge systems for forest management and strengthen the capacity of indigenous peoples for long-term conservation and sustainable forest management.

c. Benefit sharing

- Based on the REDD+ architecture, indigenous peoples and local communities are entitled to receive financial benefits and/or other forms of benefits on technical resources from REDD+ as payment for their contributions to reduction of carbon emission and enhancing the carbon stocks in their forests. The mechanism, however, for benefit sharing that is equitable is yet to be established.

- There may be no effective participation of indigenous peoples in the design, approaches and mechanisms for benefit sharing, which may result to unfair compensation payment to indigenous peoples and local communities
- The conduct of carbon measurement and monitoring may only be limited to experts and government officials without the participation of indigenous peoples. This may result to manipulation of their entitlements to benefits and compensation, and their basic needs may not be addressed appropriately.
- Indigenous peoples fear that equitable benefit sharing under REDD+ will only remain as promises and/or only token amount will be given to them.
- There are increased chances of conflicts between indigenous peoples and local communities, and within communities, regarding compensation payments and benefits under REDD+ if proper measures for sharing benefits among households and communities are not put in place.



- There are also the chances of the elites within indigenous communities capturing or having control over the benefits. The benefits from REDD+ might not reach all the concerned indigenous peoples despite their contributions.
- Corruption is widespread in many countries and finance for REDD+ remains very vulnerable if there is no concrete accountability and transparency measures put in place at different levels.

SESSION 3: SAFEGUARDS UNDER REDD+ AGREEMENT

Time/Duration: 2 hours

Steps

1. Start the session by asking what they understand by the term “safeguards” and give examples.
2. Provide a brief input on safeguard with the key words of “Do No Harm.”
3. Present the Cancun Agreement and the engagement of indigenous peoples.
4. Provide the key elements of the safeguards in the Cancun Agreement.
5. Ask participants how they interpret each key safeguard, then elaborate as needed.
6. Present a brief background of the UN-REDD and FCPF and on their safeguards, namely, SEPC and SESA, in a simplified manner.
7. Break the participants in small group to discuss their views on the key issues and challenges on the implementation of safeguards in REDD+ in their own localities.
8. Each group shall present the outcomes of their discussion in the a plenary session.
9. The resource person/facilitator shall encourage all participants in the hall to raise questions and queries to the group and presenter.
10. Present a brief conclusion tying up the whole session including the presentation of the participants.

3.1. Safeguards in the Cancun Agreement

TAKE NOTE: The Cancun REDD+ Agreement has clearly mentioned that REDD+ countries have to develop a system that provides information on how the safeguards are being addressed and respected throughout the implementation of REDD/REDD+. The Subsidiary Body for Scientific and Technical Advice (SBSTA) under UNFCCC is requested to develop guidance on the Safeguard Information System (SIS) for presentation and agreement on the COP 18 in Qatar in November- December 2012.

a. What is a safeguard?

The term “safeguard” literally means something that offers security from danger. Safeguards are associated with a “do not harm” approach. In REDD+, safeguards are important to protect against social and/or environmental damage and/or harm. Safeguards are widely used as measures, procedures or policies to prevent undesirable outcomes of any programmes and actions. Every environmental, social, humanitarian, and economic work needs social and environmental safeguards. It is an effective risk management policy and measure.

b. What are the purposes of safeguards in REDD+?

- To ensure that REDD+ actions do not cause negative social or environmental impacts.
- To provide policies and measures that address both direct and indirect impacts to indigenous communities and ecosystems.

c. What information should be shared on safeguards?

- **Performance indicators and standards** against which to assess and measure the compliance of activities on natural habitats, socio-cultural resources, and indigenous peoples.
- **Social and environmental assessment processes and mechanisms** like community consultations and review panels
- **Incentives** for ensuring institutional compliance and accountability, such as training, monitoring and reporting.

A number of institutions such as the World Bank (WB) and the Asian Development Bank (ADB) have adopted their social and environmental safeguards as a result of the demands of social movements and civil society organizations due to the negative impacts of their funded projects. These projects include large dams, infrastructure projects, commercial agriculture and plantations where indigenous peoples and local communities were forcibly displaced, or have caused water or air pollution and environmental disasters, among others. Their safeguards include an IP Policy relating to avoiding adverse impacts of their projects on indigenous peoples.

Since REDD+ has serious implications and threats to the exercise of the collective rights of indigenous peoples, indigenous peoples' leaders and organization have been active in raising awareness on their concerns in REDD+. They have also been engaging in lobby and advocacy along with civil society organizations and advocate groups in the international negotiations on climate change and in REDD+ in particular. As a result of their sustained engagement in the negotiations in REDD+, some of their demands were included as social and environmental safeguards in the REDD+ Agreement in Cancun (COP 16) in December 2010. While these safeguards are weak relative to the demands made by indigenous peoples, it is nevertheless a major achievement, given the resistance to safeguards by many governments.



d. What are the REDD+ safeguards in the Cancun Agreement?

1. Conservation of natural forests and biological diversity (taking into account the sustainable livelihood needs of indigenous peoples and local communities).

TAKE NOTE: This means REDD+ should not lead to the destruction of natural forests and biodiversity. Conversion of natural forest to tree plantations or logging of natural forest is therefore prohibited under REDD+

It also provides for incentives to conserve natural forests and ecosystem services and to ensure that they are beneficial to the environment and the local people.

2. Respect for the rights and knowledge of indigenous peoples and members of local communities (taking into account relevant international obligation, national circumstances and laws)

TAKE NOTE: This safeguard provides for the respect for the rights of indigenous peoples. These include the rights to lands, territories and resources, and the right to their livelihoods and resource management systems, as enshrined in the UNDRIP, along with other collective rights of indigenous peoples. Even with the reference to relevant international obligations of states in the REDD+ Cancun Agreement, however, many states and key actors in REDD+ continue to refuse to recognize and respect the rights of indigenous peoples, especially to their forest and carbon rights. It is then imperative that indigenous peoples shall continue to assert the recognition of their rights as part of the international obligation of states.

3. Full and effective participation of the indigenous peoples

TAKE NOTE: This means the full and effective participation of indigenous peoples in REDD+ in all the stages and phases of REDD+, as well as to relevant activities of REDD+ that concern indigenous peoples. The full and effective participation of indigenous peoples in REDD+ include their representation in relevant bodies, mechanisms and process related to REDD+ at all levels—local, sub-national, national, and global. It also entails effective and inclusive consultations at all levels, as well as the Free, Prior and Informed Consent of indigenous peoples, especially at the local and sub-national levels. The elaboration of the full and effective participation and FPIC of indigenous peoples in REDD+ is elaborated in the subsequent section of this Manual.

4. Transparent and effective national forest governance structures

TAKE NOTE: The important element of the indicator of having an effective REDD+ is the establishment of a transparent and effective national forest governance structures. This means clear bodies and mechanisms for the implementation, monitoring and reporting of REDD+ shall be set up to include accountability measures at all levels. It also requires anti-corruption measures and policies for transparency for independent monitoring and verification.

Relevant UNDRIP Provisions on IP Rights to Land, Territory & Resources

The UNDRIP recognizes the importance of land, territory and resources for indigenous peoples, and several articles refer to the rights of indigenous peoples over these. The central articles in this respect are 25 and 26. In addition, Article 8 and 10 clearly provide for protection from dispossession.

Article 25:

Indigenous peoples have the right to maintain and strengthen their distinct spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, water and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26:

1. Indigenous peoples have the right to the lands, territories and resources, which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - a. Any action, which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - b. Any action, which has the aim or effect of dispossessing them of their lands, territories or resources;
 - c. Any form of forced population transfer, which has the aim or effect of violating or undermining any of their rights;
 - d. Any form of forced assimilation or integration;
 - e. Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the Free, Prior and Informed Consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

TAKE NOTE: The language in Cancun REDD+ Agreement on social safeguards relating to indigenous peoples are explicitly referred in the following sections:

1. Paragraph 72, which refers to the "the full and effective participation of relevant stakeholders, inter alia, indigenous peoples and local communities;"
2. Paragraph (2. c) of annex 1, which refers to the safeguards regarding the "Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws."

The footnote to paragraph (2. e) in annex 1, which refers to the need to ensure that any actions taken in REDD do not lead to the destruction of natural forests and biodiversity, but should give incentives to conserve natural forests and ecosystem services and to ensure that they are beneficial to the environment and the local peoples. The footnote to this paragraph refers to the need to take into account the sustainable livelihood needs of indigenous peoples and local communities.

Paragraph 71 (d) requests developing countries undertaking REDD+ actions to develop a system for providing information on the safeguards. The intent is to build a system on a defined structure that will enable the regular provision of information. It requires that the information provided should demonstrate that the safeguards are being addressed and respected throughout the implementation of the activities.

3.2 Environmental and Social Safeguards under FCPF and UN-REDD Programme

The Forest Carbon Partnership Facility (FCPF) is a global partnership scheme of the World Bank that aims to reduce emissions from deforestation and forest degradation, forest carbon stock conservation, sustainable management of forests, and enhancement of forest carbon stocks (REDD+). The FCPF became operational in June 2008. The Participant Committee (PC) of FCPF is responsible for reviewing country submissions, deciding on grant resource allocation, approving budgets; and is also comprised of observers representing indigenous peoples, civil society and international organizations, the UN-REDD Programme, the UNFCCC Secretariat, and the private sector. Two indigenous peoples' representatives each from Asia Pacific, Africa and Latin America sit in the PC as observers. These representatives, however, do not have voting rights, but are allowed to express their views on issues under discussion.

Similar to World Bank's FCPF programme, there is also a collaborative programme on REDD+ jointly run by three of the United Nations' largest agencies: the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization (FAO), which is known as UN-REDD Programme. The aim of the UN-REDD is to assist developing countries and the international community to gain experience with various ways of paying for REDD+ and how to deal with the risks involved. The chair of the United Nations Permanent Forum on Indigenous Issues (UNPFII) or his/her designate is represented in the UN-REDD Policy Board. Also, one representative each from Asia and the Pacific, Africa, and Latin America and the Caribbean are represented as observers in the Policy Board.

The REDD+ programmes of the World Bank and these UN agencies are assisting developing countries in their efforts to reduce emissions from deforestation and forest degradation by building national capacity for REDD+ activities, and testing a program of performance-based incentives payments in certain pilot countries. Both the FCPF and UN-REDD Programme have their own social and environmental safeguards targeted to identify, reduce and mitigate the potential social and environmental harms through the meaningful participation of, and consultation with, indigenous peoples and relevant stakeholders. The Strategic Environmental and Social Assessment (SESA) and the Social and Environmental Principles and Criteria (SEPC) are the safeguards under the World Bank FCPF and the UN-REDD Programme, respectively.

TAKE NOTE: The stake of indigenous peoples in REDD+ is the potential risks to rights, livelihoods, culture, biodiversity, etc.

3.3. FCPF: Strategic Environmental and Social Assessment (SESA)

The Strategic Environmental and Social Assessment (SESA) aims to ensure environmental and social considerations into REDD+ Readiness. It facilitates the planning process to help government to formulate their R-PPs and R-Packages in a way that reflects inputs from the key stakeholders groups and addresses the key environmental and social issues identified.

The SESA guidelines has been integrated into the R-PP template & the SESA guidelines can be summarized as follows:

- a. Undertake existing or new diagnostic work to identify and prioritize the drivers of deforestation and the key social and environmental issues associated with the drivers, including those linked to the WB safeguard policies. The diagnostic work should cover, among others, issues such as land tenure, benefit sharing, access to resources, likely social and environmental impacts of REDD+ strategy options;
- b. Undertake diagnostic work on legal, policy and institutional aspects of REDD+ Readiness;
- c. Assess existing capacities and gaps to address the environmental and social issues identified;
- d. Draft REDD+ strategy options taking into consideration the above issues;
- e. Develop framework to mitigate and manage the risks of the REDD+ strategy options. i.e., to be included in an Environmental and Social Management Framework (ESMF);
- f. Establish outreach communication and consultative mechanisms with relevant stakeholders for each of the above steps. The consultations for SESA will be integral to consultations for the REDD+ Readiness process and the REDD country's consultation plan should therefore include the consultations on the social and environmental considerations as well.

3.4. UN-REDD: Social and Environmental Principles and Criteria (SEPC)

The UN-REDD Programme has developed a set of Social and Environmental Principles and Criteria (SEPC) to enhance the multiple benefits of, and reduce risks from REDD+.

The objectives of the Principles and Criteria are:

1. To address social and environmental issues in UN-REDD National Programmes and other UN-REDD Programme-funded activities;
2. To support countries in developing their national approaches to REDD+ safeguards in line with the UNFCCC.

The Principles and Criteria are in line with the guidance provided by the Cancun Agreement, and have emerged from the existing rich body of knowledge and literature on safeguards, standards and certification. The SEPC reflects the UN-REDD Programme's responsibility to apply human rights-based approach to its programmes, uphold UN Conventions, treaties and declarations, and apply the UN agencies' policies and procedures. The SEPC is consistent with the readiness support offered by the UN-REDD Programme and reflects the Programme's issue-specific Operational Guidance and can help countries demonstrate how they are working to meet their commitment under other multilateral agreements. They consist of broad principles within which lists of criteria have been identified as conditions to be met by UN-REDD Programme-funded activities in order to contribute to the achievement of the Principles.

3.5. FCPF and UN-REDD Guidelines on Stakeholder Engagement in REDD+ Readiness

Indigenous peoples are the rights holders of the forest since they have socio-cultural, economic, environmental and spiritual association with forest for generations. Stakeholders include forest dependent communities, formal and informal forest user groups, relevant government agencies, private sectors, etc. In the context of the UN-REDD Programme, stakeholder engagement practices should follow a human rights-based approach and adhere to the UNDRIP, the UN Development Group Guidelines on Indigenous Peoples' Issues, and International Labor Organization (ILO) Convention No. 169. The consultation plan of the UN-REDD countries should include an additional component for FPIC in accordance with the UN-REDD Programme Guidelines on FPIC. For FCPF activities, REDD+ activities affecting indigenous peoples are governed by the World Bank Operational Policy 4.10 (OP 4.10). It is aimed to ensure that the development process fully respects the dignity, human rights, economies, and cultures of indigenous peoples.



a. What are the common principles and guidance of FCPF and UN-REDD for effective stakeholder engagement?

Information

The prerequisite to the full and effective participation is the dissemination of timely information at all levels in the forms and manners understood by indigenous peoples and relevant stakeholders. Sufficient time should be allocated for them to understand and deliberate on the potential risks and opportunities in REDD+ and their potential role in the processes.

Consultation

Consultations with indigenous peoples must be carried out through their own existing processes, organizations and institutions, e.g., councils of elders, headmen and tribal leaders. Indigenous peoples should have the right to participate through representatives chosen by themselves in accordance with their own procedures and decision-making institutions. Consultations should also take into account the issues of gender. In case of UN-REDD Programme, indigenous peoples have the right to give or withhold their consent, and consultation should be carried out in accordance with the UN-REDD Programme Guidelines on FPIC. Records of consultations and reports on the outcome of the consultations should be prepared and publicly disclosed in a culturally appropriate form, including in local languages.

Land tenure, resource-use rights and property rights

The issues of land tenure, resource-use rights and property rights in many tropical countries are still unclear. This has a very serious implication to the livelihoods of indigenous peoples. Therefore, special emphasis should be given to address these issues and ensure communities' collective rights to land and carbon assets according to applicable international obligations.

Grievance

The guidelines has stressed on the need to establish impartial, accessible and fair mechanism for grievance, conflict resolution and redress, which must be accessible during the consultation processes and throughout the implementation of REDD+ policies, measures and activities.

Indigenous Peoples living in Voluntary Isolation

Indigenous peoples living in voluntary isolation who may be affected by REDD+ activities have to be identified before the development of REDD+ programme/activity so as to ensure that the developed REDD+ programme/activity completely avoids contact with these communities.

TAKE NOTE: Besides FCPF's SESA and UN-REDD Programme's SEPC, Climate, Community and Biodiversity Alliance (CCBA) and CARE International are facilitating the REDD+ Social and Environmental Standards (SES). This initiative aims to define and build support for a higher level of social and environmental performance of REDD+ programmes through the development of standards that can be used by governments, NGOs, financing agencies, and other stakeholders to design and implement REDD+ programmes that respect the rights of indigenous peoples and local communities; and generate significant social and biodiversity co-benefits.



Box 4: World Bank Operation Policy 4.10 on Indigenous Peoples

Objectives: To design and implement projects in a way that fosters full respect for Indigenous Peoples' dignity, human rights, and cultural uniqueness and so that they; (a) receive culturally compatible social and economic benefits; and (b) do not suffer adverse effects during the development process.

Operational Principles:

1. Screen early to determine whether Indigenous Peoples are present in, or have collective attachment to, the project area. Indigenous Peoples are identified as possessing the following characteristics in varying degrees: self-identification and recognition of this identity by others; collective attachment to geographically distinct habitats and territories; presence of distinct customary cultural, economic, social or political institutions; and indigenous language.
2. Undertake free, prior and informed consultation with affected Indigenous Peoples to ascertain their broad community support for projects affecting them and to solicit their participation: (a) in designing, implementing, and monitoring measures to avoid adverse impacts, or when avoidance is not feasible, to minimize, mitigate or compensate such effects; and (b) in tailoring benefits in a culturally appropriate manner.
3. Undertake the social assessment or use similar methods to assess potential projects impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options preferred by the affected Indigenous Peoples in the provision of benefits and design of mitigation measures. Identify social and economic benefits for Indigenous Peoples that are culturally appropriate, and gender and inter-generationally inclusive and develop measures to avoid, minimize and/or mitigate adverse impacts on Indigenous Peoples.
4. Where restriction of access of Indigenous Peoples to parks and protected areas is not avoidable, ensure that the affected Indigenous Peoples' communities participate in the design, implementation, monitoring and evaluation of management plans for such parks and protected areas and share equitably in benefits from the parks and protected areas.
5. Put in place an action plan for the legal recognition of customary rights to land and territories, when the project involves: (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples traditionally owned, or customarily used or occupied; or (b) the acquisition of such lands.
6. Do not undertake commercial development of cultural resources or knowledge of Indigenous Peoples without obtaining their prior agreement to such development.
7. Prepare an Indigenous Peoples Plan that is based on the social assessment and draws on Indigenous knowledge, in consultation with the affected Indigenous Peoples' communities and using qualified professionals. Normally, this plan would include a framework for continued consultation with the affected communities during project implementation; specify measures to ensure that Indigenous Peoples receive culturally appropriate benefits, and identify measures to avoid, minimize, mitigate or compensate for any adverse effects; and include grievance procedures, monitoring and evaluation arrangements, and the budget for implementing the planned measures.
8. Disclose the draft Indigenous Peoples Plan, including documentation of the consultation process, in a timely manner before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders.
9. Monitor implementation of the Indigenous Peoples Plan, using experienced social scientists.

Source: FCPF and UN-REDD Guidelines on Stakeholder Engagement (The World Bank's Environmental and Social Safeguards are currently under review)

Box 5: REDD+ and Social and Environmental Standards in Nepal and Indonesia

The Government of Nepal (GON) is engaging with the Forest Carbon Partnership Facility (FCPF) under the World Bank and as an observer in the UN-REDD Programme. The GON has fully participated in the REDD+ SESA Initiative as well. Nepal is developing its National REDD Strategy, including the process of Social Environmental Standards (SES), which will be used to assess the social and environmental quality in the design phase. The FCPF has supported the government to build capacities on REDD+ for development of the Readiness Preparation Proposal (R-PP) and performance-based incentive payment mechanism in Nepal.

Nepal has established a country-level REDD+ SES standards committee in August 2010 and developed governance systems for the use of REDD+ SES in Nepal. The REDD Cell under the Ministry of Forest and Soil Conservation (MoFSC), GON and the Federation of Community Forestry Users in Nepal (FECOFUN) are facilitating the use of REDD+ SES in Nepal.

In Indonesia, Central Kalimantan has dense forest cover of 10 million hectares, which is about 67% of the total provincial area. With this forest area, it is the leading Indonesian province in the development of REDD+ activities. There are many REDD+ demonstration activities and community-based carbon projects under the REDD+ programme. It is also selected as the pilot province for the Indonesia-Norway Partnership on REDD+. This province has participated in REDD SES initiative with SES standards, which is being applied to the state level REDD strategy.

In August 2010, country level governance for the use of REDD+ SES was established in Central Kalimantan. It has planned and developed country-indicators for specific interpretation and assessment of performance with respect to the SES standards. Government line agencies (Provincial Planning Agency, Office of Environment, Office of Forestry and Provincial Secretariat) and stakeholders, including academic institutions, are very supportive and interested to use REDD+ SES in Central Kalimantan. With the involvement of all stakeholders, representatives and government institutions are developing policy options and institutional framework for implementation of REDD SES at the provincial level.

Source: <http://www.redd-standards.org> (22 September, 2011)

TAKE NOTE: In the context of FCPF, all REDD+ countries are expected to follow the World Bank Operational Policy 4.10 on Indigenous Peoples, which is one of the safeguard policies of the World Bank. This policy ensures the respect for the dignity, human rights, economies, and cultures of indigenous peoples. The WB has focused, however, on free, prior and informed consultation instead of Free, Prior and Informed Consent, which is issue for indigenous peoples

3.6. What are Readiness Preparation Proposals or R-PPs?

The Readiness Preparation Proposals (R-PPs) is the document in the REDD+ process that is submitted by the REDD+ countries to the Participant Committee of the Forest Carbon Partnership Facility. This is the first step that presents that the country is ready for REDD+. The R-PP is the summary document of present policies and governance on reducing emission from deforestation and forest degradation, which set the countries to become ready for a comprehensive and systematic way in tackling critical governance challenges in the readiness phase.

The various components and their subcomponents in the RPP are outlined below:

Component 1: Organize and Consult

- 1a. National Readiness Management Arrangements
- 1b. Stakeholder Consultation and Participation

Component 2: Prepare the REDD+ Strategy

- 2a. Assessment of Land Use, Forest Policy and Governance
- 2b. REDD Strategy Options
- 2c. REDD Implementation Framework
- 2d. Social and Environmental Impacts

Component 3: Develop a Reference Scenario

- 3.1. Proposed approach for determining historic rates of deforestation, forest degradation and enhancement of forest carbon stocks
- 3.2 Approach for determining reference scenario for future rates of deforestation, forest degradation, conservation and enhancement of forest carbon stocks
- 3.3 Proposed approach for capacity-building

Component 4: Design a Monitoring System

- 4a. Emissions and Removals
- 4b. Other Benefits and Impacts

Component 5: Schedule and Budget

Component 6: Design a Program Monitoring and Evaluation Framework

R-PPs should consider following safeguard standards:

- Environmental factors
- Socio-economic factors
- Benefit sharing and governance
- Drivers of deforestation and forest degradation
- Sustainable production of goods and services
- Capacity-building of the indigenous communities

TAKE NOTE: While there shall be common features of R-PPs such as those presented above, not ALL R-PPs have the same format or content as it depends on the specificities of each REDD+ country.

Box 6: Indigenous peoples' issues & concerns on R-PP in Nepal

In the process of R-PP, the Government of Nepal had brought a wide range of stakeholders related to forest sector - including government departments, civil society organizations & communities - to discuss & reach consensus on the strategic options & actions for REDD implementation. This process was started with a national level awareness workshop. In total, 3,180 individuals were consulted through a series of workshops & meetings at national, regional/district & community levels. Indigenous peoples, local communities, forest dependent communities, Dalits, women, & civil society organizations, government departments, political parties & constitutional assembly members, the media, academicians & private sectors were consulted in the process.

In addition, separate workshops were organized specially targeting indigenous peoples, women & Dalits. At the same time, different outreach educational materials were developed & used for common understanding on REDD+. The series of consultation & participation of stakeholders were facilitated by an inclusive consortium of Association of Collaborative Forest Users, Nepal (ACOFUN), Dalit Alliance for Natural Resources (DANAR), Federation of Community Forest Users, Nepal (FECOFUN), ForestAction Nepal, Himalayan Grassroots Women's Natural Resources Management Association (HIMAWANTI) Nepal, Nepal Federation of Indigenous Nationalities (NEFIN), & Nepal Foresters' Association (NFA). There are key issues raised that are related to indigenous peoples during the readiness period:

- Indigenous peoples have expressed their concerns on REDD+ that it should respect & recognize their rights over traditional knowledge, skills, customs, customary legal systems while formulating, implementing & evaluating policies, plans, & programs related to climate change & REDD+;
- Women & Dalits are also concerned on REDD+ that it should not affect their access to & use of forest products to sustain their livelihoods & traditional occupations;
- Indigenous communities & women have raised voices for ensuring their full & effective participation in the decision-making process & an equitable benefit sharing mechanism;
- Indigenous peoples have emphasized on securing Free, Prior & Informed Consent (FPIC) over any policy & programme relating to climate change & REDD that would affect their sustainable livelihood & fundamental rights;
- Nepal Federation of Indigenous Nationalities (NEFIN) & other civil society organizations like Federations of Forest User Groups have affirmed that the REDD+ should have mechanisms to ensure the rights of indigenous peoples & local communities, as well as rights to exercise customary laws & practices on the sustainable management & use of forests.

This R-PP has a separate consultation & participation plan (CPP) that aims to promote transparent, inclusive, accountable, & equitable process of consultation & participation for efficient & sustainable REDD+ implementation in Nepal. The main principles & approaches for this CPP are as follows:

1. A Participatory & inclusive process: REDD+ should ensure inclusive participation of all concerned stakeholders based on socio-economic & geographic equity including indigenous communities, local communities, women, Dalits & others in REDD readiness preparation process;
2. Mainstreaming Gender: REDD+ should ensure full & effective participation of women in REDD+ readiness process in decision-making & benefit sharing mechanism;
3. Multi-stakeholder collaboration: REDD+ should follow a model of multi-stakeholder & multi-sectoral collaboration for REDD+ implementation;
4. Integration of safeguard measures: REDD+ should consider safeguard measures to prevent potential impacts. Strategic Environmental & Social Assessment (SESA) under the World Bank sets out a process to avoid these impacts;
5. Rights-based Approach: Full respect of rights of indigenous peoples including FPIC, ILO 169, among others;
6. Capacity-building: Capacity-building for all stakeholders at all levels..

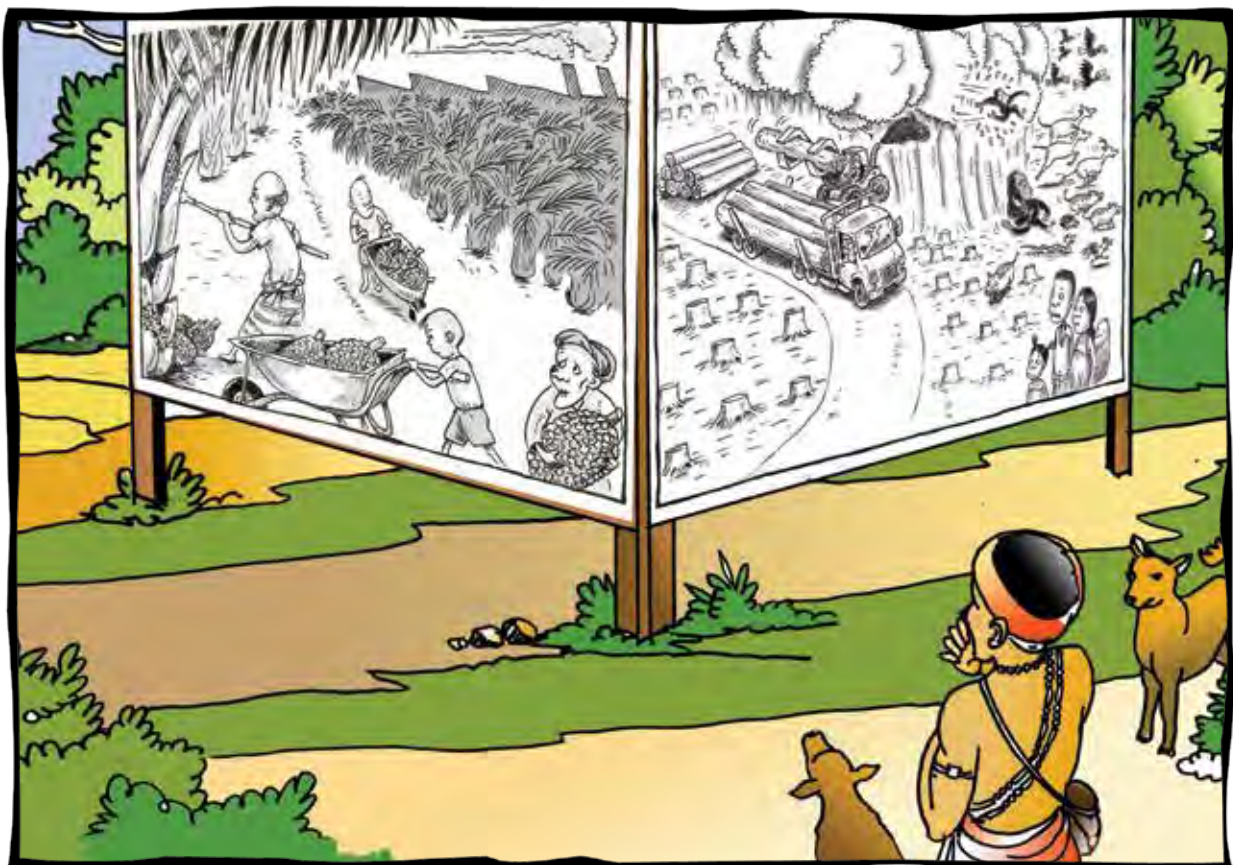
Source: MSFC/GON, 2010. Nepal's Readiness Preparation Proposal under REDD+ (2010-2013), Ministry of Forest & Soil Conservation, Government of Nepal

3.7. Readiness Package (RP)

The REDD+ countries prepare national REDD+ strategies and initiate the process of SESA in the readiness phase. This will then be implemented in the implementation phase, which supports the processes of enabling and undertaking policy and legal reforms and results-based demonstration activities. There are Readiness Packages in between these two phases, which will collect and produce a number of documents required for the implementation of REDD+, such as REDD+ strategy, implementation framework, monitoring, reporting and verification (MRV) system, a reference level scenario (REL), and safeguards. The R-Package is produced by the countries at the end of the readiness phase and hence marks the accomplishment of the first phase and the beginning of the implementation phase.

R-Packages shall:

- Provide structure and contents of mid-term REDD+ implementation reports;
- Provide orientation to donors for scaling up financing in the second phase;
- Build confidence for REDD+ implementation and measures for transparent, participatory and accountable governance framework;
- Determine and/or influence access to the FCPF Carbon Fund and other REDD+ financing;
- Clarity on social and environmental risks and creation of information systems on safeguards for maximizing social and environmental benefits to ensure sustainability.
- Guidance for institutional capacity-building on the part of government, civil society and indigenous actors and required policy reform for effective REDD+ implementation.



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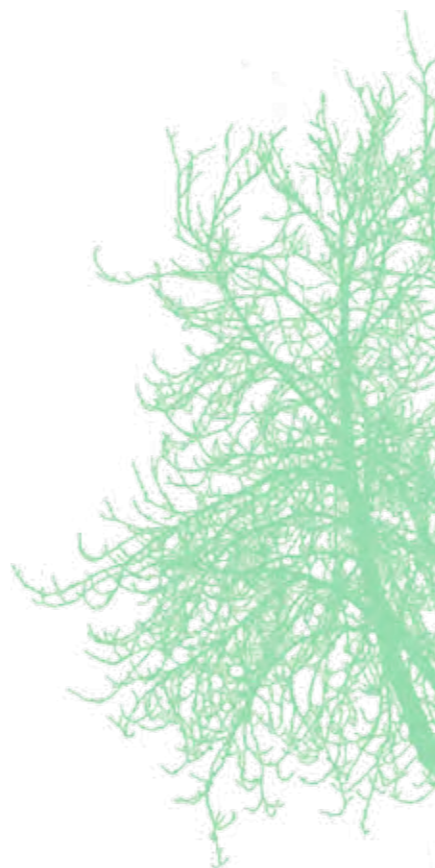
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MODULE II :
**FREE, PRIOR AND INFORMED
CONSENT**



MODULE II: FREE, PRIOR AND INFORMED CONSENT

This module covers the basic concept and understanding of FPIC. It provides general background on the evolution of the FPIC concept, its features, key principles, and how it is incorporated in international human rights instruments relating to indigenous peoples. It also elaborates on each element of the FPIC process and how it relates to exercising the collective rights of indigenous peoples. At the end of this module, there is a session relating to the lessons learned from the perspectives of indigenous peoples in implementing FPIC in a number of countries.

After completing this module, the participants will be able to:

- Define and explain the features of FPIC.
- Explain how FPIC is related to indigenous peoples.
- Explain the key principles of FPIC in terms of substance and the process.
- Explain the various references to FPIC in the international human rights instruments.
- Describe the key elements of FPIC.
- Give examples of some national policies related to FPIC for indigenous peoples.
- Explain some lessons learned in conducting of FPIC.

Required Materials:

- Whiteboard
- Flipcharts/brown or white paper
- Meta cards/colored cards
- Masking tape
- Marker pens (board and permanent)
- LCD projector with pointer
- Laptop computer
- Video on: FPIC pilot in Vietnam and Indonesia c/o UN-REDD

Time/Duration:

6 to 8 hours



Sessions

Session 4 (2.5 hours) - Concept, Framework and Principles of FPIC

- 4.1. What is FPIC?
- 4.2. Understanding the Differences Between Consultation and Consent
- 4.3. Why are Indigenous Peoples entitled to FPIC?
- 4.4. What are the Features of FPIC?
- 4.5. What are the Key Elements of FPIC?
- 4.6. What are the Key Principles of FPIC in Terms of Substance and the Process?

Session 5 (1.5 hours) - The Principle of FPIC in International Human Rights Instruments

- 5.1. International Labor Organization Convention on Indigenous and Tribal Peoples No. 169
- 5.2. Convention of Biological Diversity (CBD)
- 5.3. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Session 6 – National and International Policies Relating to FPIC for Indigenous Peoples

- 6.1. Policies at the National Level
- 6.2. Policies of International Financial Institutions and Multilateral Banks on Indigenous Peoples and FPIC

Session 7 (1.5 hours) - Lessons learned from the conduct of FPIC in REDD+

- 7.1 Lessons Learned from the Philippines
- 7.2 Lessons Learned from Vietnam
- 7.3 Initiation of FPIC in Other UN-REDD and FCPF Countries
- 7.4. Lessons Learned by the UN-REDD Programme in the Asia-Pacific Region



SESSION 4: CONCEPT, FRAMEWORK AND PRINCIPLES OF FPIC

Time/Duration: 2.5 hours

Steps

1. Distribute meta cards to the participants and ask them to write down their answers to the question:

What do you understand by Free, Prior and Informed Consent (FPIC)? Collect and cluster the written replies.
2. Based on the level of participants' understanding, additional inputs and explanation should be discussed by the trainer.
3. Present insights and the cases to explain why only indigenous peoples are entitled to consent and not local communities and forest dependent communities, with emphasis on the rights of indigenous peoples over their lands, territories and resources, and to self determination as "peoples," meaning a collective and not as individuals.
4. Present on the key principles and elements of FPIC with key messages and relevant examples.
5. Plenary discussion.

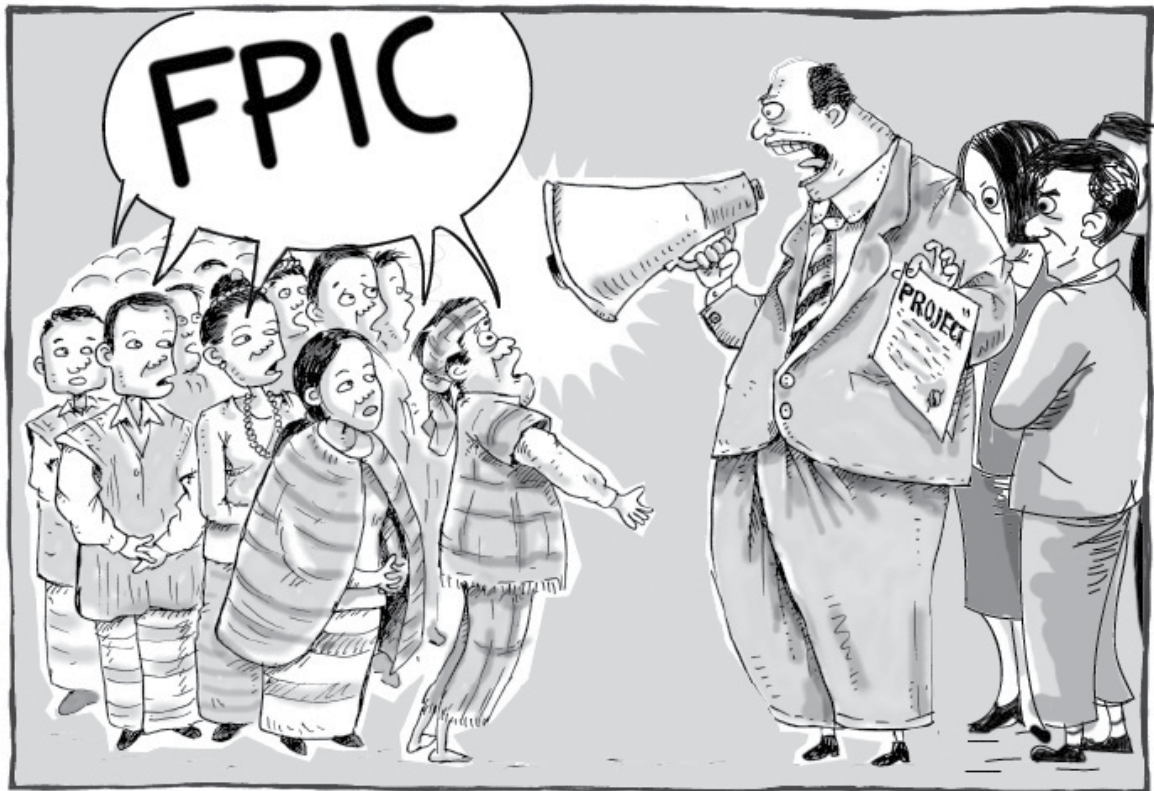
4.1. What is FPIC?

Free, Prior and Informed Consent or FPIC is a mechanism and a process wherein indigenous peoples and communities undertake their own/independent collective decision on the matters that affect them. This collective decision-making process includes programmes and projects that relate to the use of their lands and resources; plans that will have serious implications on their health; activities that may affect their territorial integrity, collective identity, cultural integrity, livelihoods, social cohesion and well being, among others. This principle also applies to policy formulations or adoption of legislative and administrative decisions that directly affect indigenous peoples.

TAKE NOTE: The FPIC process requires:

- the need to provide accurate and complete information in a manner understood by indigenous peoples;
- the conduct of consultations;
- the freedom of indigenous communities to undertake their internal and collective decision-making process; and
- the recognition and respect to their collective decision - including conditions they may provide as part of their decision - and the proper and accurate documentation of the decision.

This collective decision is an essential component in exercising the right of indigenous peoples to their land, territories and resources, and their right to self-determination and to cultural integrity. Conducting FPIC allows indigenous peoples to exercise their control over and management of their territories and the respect to their cultural integrity and self-determination, especially on their own development as distinct peoples (Hill et. al, 2010). Thus, any external entity such as governments, corporations, institutions, organizations, and project proponents need to obtain the agreement and authorization of indigenous communities as rights holders before implementing any project or activities that have impacts on concerned indigenous communities.



In indigenous societies, traditional decision-making systems are often in the form of consensus. In this process, community members actively participate in both formal and informal ways of collective decision-making. Issues and concerns of members of indigenous communities are handled in various ways including continuous deliberations to reach consensus. Likewise, consensus does not mean the absence of dissenting views, but rather allowing the views of the majority to prevail as the collective decision. This collective decision-making process is essential to the exercise of the right to self-determination and self-governance of indigenous peoples

FPIC is a reiterative process that shall be undertaken in good faith to ensure mutual respect and meaningful participation of indigenous peoples in decision-making. It is not merely a procedural process but a substantive mechanism to ensure the respect of indigenous peoples' collective rights especially in relation to the lands, territories and resources, as well as self-determination. FPIC must be adhered to and is essential for ensuring the full and effective participation of indigenous peoples in policy-making and decision-making processes on matters that concern or affect them. FPIC establishes conditions for exercising the fundamental rights of the indigenous peoples to negotiate and define the terms of externally imposed policies, programmes and activities that directly impact their day-to-day livelihoods, cultures and well being.

FPIC is a collective undertaking of the members of community/ies that are involved in the collective decision-making processes (UN-REDD, 2009). Indigenous peoples exist as collectives and therefore rely on each other for their collective survival and development.

4.2. Understanding the Differences Between Consultation and Consent

Consent is the result of an independent and collective decision-making process to a certain proposal or action. It is a mechanism that allows those concerned to undertake their own collective decision-making process that includes access to relevant information, consultations, internal deliberations, and independent decision-making process resulting to collective decision of giving their consent or withholding their consent.

On the other hand, consultation is a mechanism as a democratic right for expressing and exchanging views and opinions on a certain issue, proposal or action to influence its outcome or final decision. Consultations therefore involve another party that seeks to gather the views of a particular stakeholder group and that party is the body to make the final decision. Compared to consultation, in consent, it is the party concerned that will not only share or express their views, but will undertake their collective decision of providing or withholding their consent before a project, programme and action can commence.

Based on the above, consent is an end product or result of a collective but independent decision-making process, while consultation is a process of gathering or expressing views and opinions for consideration in making a decision.

In terms of REDD+, in particular, the consent of indigenous peoples - specifically those that are dependent on their traditional forest as part of their lands, territories and resources - is required before going to actual implementation. Consent should be sought from the affected indigenous peoples based on clear and full agreement as an exercise of their rights to land, territories and resources. The final decision of Yes or No shall be given by the affected indigenous peoples with their thoughtful consideration and perspectives on the implications of the REDD+ policies, strategies and activities to their rights, interest and welfare.

TAKE NOTE: *Consent is the result of an independent and collective decision-making process to a certain proposal or action. On the other hand, consultation is a mechanism as a democratic right for expressing and exchanging views and opinions on a certain issue, proposal or action to influence its outcome or final decision.*

Consent is an end product or result of a collective but independent decision-making process, while consultation is a process of gathering or expressing views and opinions for consideration in making a decision.

The decision-making process for consent or no consent requires series of consultations in order for affected indigenous peoples to gain sufficient information, awareness and knowledge; as well as to seek clarification and express their views and concerns that shall be taken into account in the crafting of policies, strategies, plans and activities prior to undertaking their collection decision. Since a consent process is a reiterative process through series of consultations and deliberations, this allows flexibility and adjustments in consideration of the views and concerns of affected indigenous peoples toward gaining their consent. On the other hand, if the concerns of indigenous peoples are not properly addressed and accounted for especially in relation to the protection of their rights, interest and welfare, a no consent decision must be respected if this will be the outcome of their decision-making process. The consent or no consent decision by concerned indigenous peoples should be given without any force, pressure or conditions from any party.

All concerned indigenous peoples, including women and youth, shall be given opportunities and channels to be consulted, and to fully participate and engage in the decision-making process to reach the final decision/consent.

Consent

- Consent is the result of an independent and collective decision-making process that includes consultations.
- The collective decision must be undertaken independently, and without any conditions to influence the outcome.
- Consent or no consent decision must be based on accurate and sufficient information in order for it to be a well-informed decision. Affected indigenous peoples can thereby seek for additional information in forms and manners understood by them, and for them to deliberate on this information independently if they so require.
- The conduct of the decision-making process shall be defined by the concerned group and shall be inclusive to also account for the views and concerns of women, youth, elderly prior to taking the collective decision of consent/no consent.
- Consent or no consent decision must be properly documented, respected and upheld by all parties. Affected communities should not be pressured, intimidated or given conditions to give a consent decision.

Consultation

- Consultation is a mechanism as part of the democratic right of every citizen to express their views and concerns on matters that concerns/affects them. In this context it is called by any party including different stakeholders to share, receive or exchange information; and/or for stakeholders to express their views, opinions, recommendations, etc
- Consultations shall be done in good faith and with accurate and balance information in forms understandable to the affected peoples and communities for guide them in forming and expressing their views, opinions and concerns. These views and concerns shall be accounted for in any decision relating to the subject of the consultation to make it meaningful
- Consultations shall be transparent and inclusive to allow the expression of views and concerns of different stakeholders including women, youth, elderly, etc., without fear.
- The opinions, views, concerns, and recommendations of stakeholders must be properly recorded and acknowledged. Responses and actions in relation to the result of the consultations shall be provided and made public

4.3. Why are Indigenous Peoples Entitled to FPIC?

The FPIC is a specific right of indigenous peoples in the exercise of their collective rights, which is recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (AIPP, 2010). It is the legitimate rights of the indigenous peoples on matters that affect them. It is directly linked to the respect of their right to land, territories and resources, and their right to self-determination and to cultural integrity. The history of indigenous peoples across the globe has demonstrated the continuous exploitation, discrimination and oppression of indigenous peoples through the violation of their rights to their land and territories, their cultural heritage and dignity, as well as their self-governance.

With the formation of nation-states, states have taken over the land, territories and resources of indigenous peoples. This has resulted to genocide, ethnocide, marginalization, and disempowerment of indigenous peoples. In order to rectify this condition and provide social justice to indigenous peoples, the collective rights of indigenous peoples have to be respected and recognized in order to ensure their collective survival and development as a matter of self-determination.

Along this line, the application of FPIC provides the necessary steps to ensure the right of indigenous peoples to have their collective decision be respected through their consent on matters that affect them, especially in relation to the use of their lands, territories and resources. All activities, projects, programmes and policies that may have serious implications to their land, territories, cultural heritage, identity, survival and collective well being require consent of the indigenous peoples prior to the implementation. Therefore, FPIC underscores the respect for indigenous peoples right to decide on the use, utilization, management, conservation and development of their lands, territories and resources based on their collective ownership and perspectives, interest and welfare as distinct peoples - and not merely as individuals.

Based on the above, the FPIC of indigenous peoples is essential and integral to the exercise of their collective rights. This is acknowledged and incorporated in international instruments in addition to the UNDRIP, such as under the International Labor Convention 169 (ILO 169) and the Convention on Biological Diversity.

4.4. What are the Features of FPIC?

a. Control of their lands territories and resources, and upholding respect to their cultural integrity

The FPIC process allows indigenous peoples to exercise their control and management of their land, territories and the respect to their cultural integrity and self-determination, especially on their own development as distinct peoples. Any external entity such as governments, corporations, institutions, organizations, and project proponents need to obtain the consent, agreement and authorization of indigenous communities as rights holders before implementing any projects or activities that have impacts on concerned indigenous communities. This defines the relationship and level of engagement of indigenous peoples with outside entities that intend to implement activities, projects and programmes in the territories of the indigenous peoples that may impact them.

b. Exercise of the right to self-determination

Indigenous peoples have their own traditional systems of governance in managing their own lands, territories and resources. This includes their socio-political systems, customary laws and practices, resource management systems, and traditional knowledge and cultural practices, which make them distinct from the dominant and mainstream society. The self-governance of indigenous peoples has been seriously eroded and undermined by colonization, subjugation and forced assimilation. In spite of this, indigenous peoples continue to assert, practice and defend their collective identity, lifestyles and traditional systems of governance as part of their collective right to self-determination. This right also includes their right to determine their own path of development that takes into account their cultural and social systems as distinct peoples (IAITPTF and IPF, 2011). Along this line, FPIC provides the mechanism for indigenous peoples to undertake their own collective decision-making as an exercise of self-determination on matters that affect them. This becomes a preventive measure to impositions that may further undermine their self-governance and their own development in managing their lands, territories and resources.

c. FPIC as a safeguard measure

FPIC serves as a safeguard in ensuring potential social and environmental impacts of any project from the perspectives of indigenous peoples, which will be considered in their decision-making process to either allow or reject any project that may affect them. The FPIC process also allows indigenous peoples to voice out their concerns on potential adverse impacts of projects, which should be taken into account. In this process, they can demand for clear information disclosure from the project proponents that shall include results of feasibility studies as well as comparative studies relating to the project. The information disclosure to affected indigenous communities will provide the guidance for indigenous peoples in undertaking their collective decision. It is therefore critical that the conduct of FPIC allows indigenous peoples to be well-informed in all aspects of any project that may affect them, as well as to have the time to deliberate on the implications of the project on their collective well being and their collective interest and welfare. The respect and compliance to the collective decision of indigenous peoples in the FPIC process therefore also upholds and protects the indigenous peoples' interest and well being.

FPIC is not merely a procedural process but a substantive mechanism to ensure the respect of indigenous peoples' right to take decisions, especially in relation to the use, management and development of their lands, territories and resources. FPIC must be adhered to and is essential for ensuring the full and effective participation of indigenous peoples in policy making and decision-making processes. FPIC establishes conditions for indigenous peoples to negotiate and define the terms of externally-imposed policies, programmes and activities that have serious implications on them.

d. FPIC as a collective decision-making process

FPIC is a collective undertaking of the members of community/ies that shall be involved in collective decisions. Indigenous peoples exist as collectives and thereby rely on each other for their collective survival and development. In this context, the collective decision-making of indigenous peoples ensures that their collective interests are fully accounted and become the basis of their decision. The views and concerns of individual members of indigenous communities shall be accounted. What prevails in the process of collective decision is the collective interest of the indigenous communities, and not the individual. Therefore, the collective decision of indigenous peoples is not simply an aggregation of individual decisions but rather an outcome of collective deliberations in upholding the common good and welfare over individual interests and benefits.



e. FPIC as a reiterative process

FPIC is a reiterative process that shall be undertaken in good faith to ensure mutual respect and meaningful participation in decision-making on matters that affect the well being of indigenous peoples as a distinct group/people. As a reiterative process, it requires the conduct of series of consultations, dialogues, exchanges, and interactions between indigenous peoples and those requiring the consent and agreement of indigenous peoples. It also requires continuous engagement of indigenous peoples in the whole project cycle - not only before the project implementation. Thus, FPIC also embodies the full and effective participation of indigenous peoples in all processes.



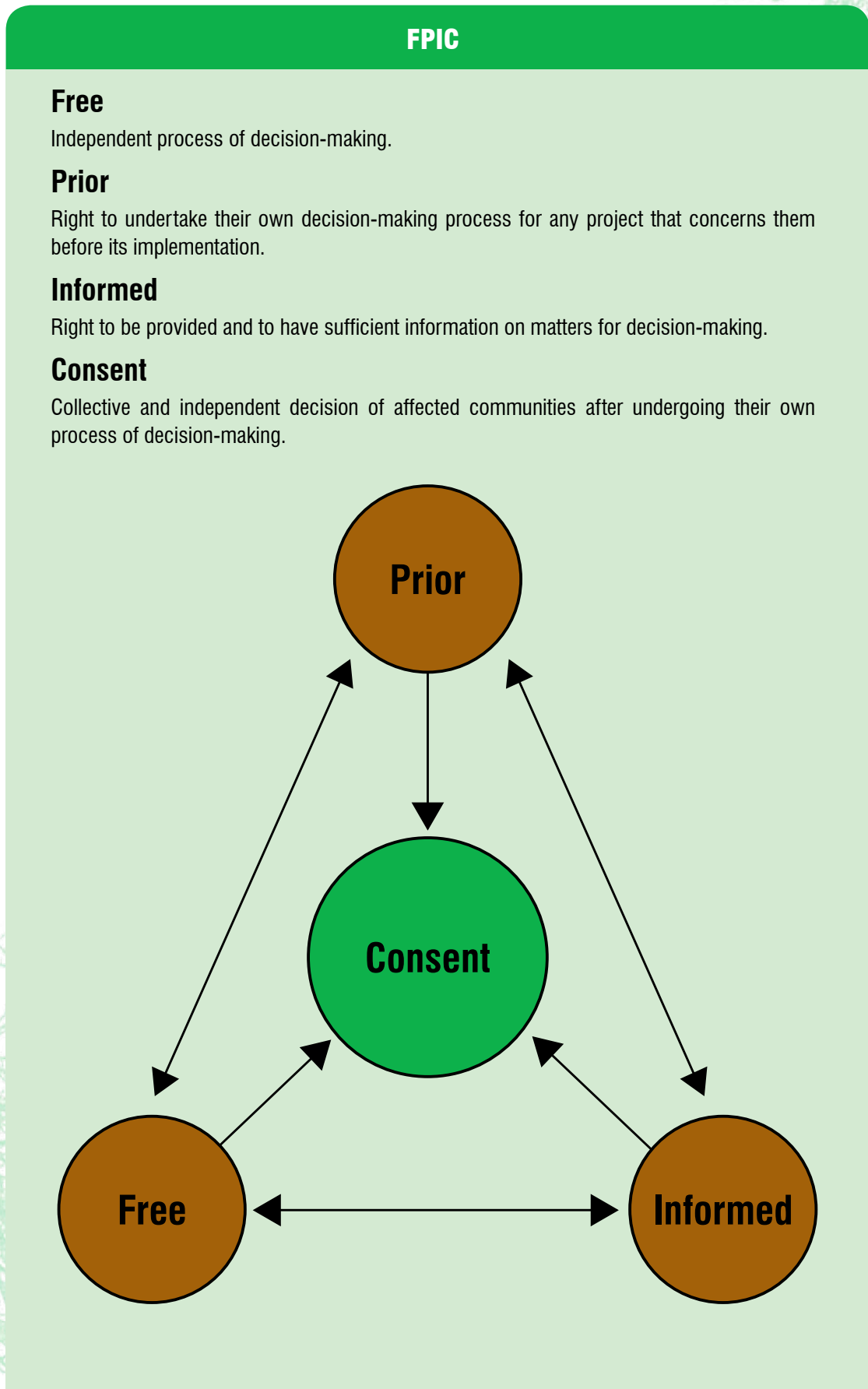
f. FPIC as a process of engagement with governments and other external entities

Along the framework of respecting the rights of indigenous peoples, the FPIC process defines the relation of indigenous peoples with external entities, including governments, in relation to the projects, plans, activities, laws, and policies that affect indigenous peoples. In this context, any plan and activity that impact indigenous peoples need to engage them in mutual trust (where complete and accurate information is shared) and seek their consent through a process of consultations, dialogues and interactions. The engagement of indigenous peoples with external entities is not simply a matter of consultation, but also of accounting for and responding to the views, issues and concerns of indigenous peoples and respecting their collective decision.

4.5. What are the Key Elements of FPIC?

At the outset, FPIC must be understood as one integral process and mechanism that applies specifically to indigenous peoples in exercising their collective decision-making process. The principles and substance of each element of FPIC are interrelated and should not be taken or treated as separate element (Anderson, 2011). In particular, the first three elements (Free, Prior and Informed) qualify and set the conditions of CONSENT as a decision-making process. Thus, CONSENT shall be sought before any project, plan or action shall take place (Prior), independently decided (Free) and based on accurate and sufficient information (Informed) for it to be a valid result or outcome of a collective decision. Thus, the mechanism of FPIC is regarded holistically as one distinct mechanism for the meaningful exercise of collective decision-making of indigenous peoples. Further, its application and implementation should be regarded within the broader framework of upholding the collective rights of indigenous peoples.

Figure: showing that 'Free, Prior and Informed' qualify and set the conditions for CONSENT.



4.6. What are the Key Principles of FPIC in Terms of Substance & Process?

a. What is Free?

Free implies the absence of any manipulation, coercion or intimidation from any other groups, bodies and entities in the decision-making process of indigenous peoples. Any external influence that hinders self-determination in the process of decision-making and the outcome of their decision is a clear violation of this principle. Consent cannot be valid if it is taken from the authority or the group that is not recognized by the indigenous communities or not accountable to them. Further, the independence of their decision-making process and the outcome must be verifiable with the members of the indigenous communities.

TAKE NOTE: Free - independent process of decision-making.

b. What is Prior?

The informed consent must be sought first as a precondition before implementing any activity and project. It is an advanced authorization from affected indigenous peoples' communities before the commencement of any activities or project. It shall respect the time requirements of indigenous peoples' consultation and consensus processes defined by them. The prior consent requires a comprehensive procedure to ensure that indigenous peoples have sufficient time to understand, analyze and discuss the information they receive collectively. The element of prior also denotes respecting the duration of time for indigenous peoples to undertake their decision-making process according to their pace and circumstances. All parties requiring the consent of indigenous peoples must thereby engage them in good faith discussions to reach a mutual agreement on the timeline of the decision-making process.

While national legislations may contain provisions and timeline for the notice of information and the conduct of consultations, this should not preempt the self-defined process of decision-making of indigenous peoples, including the time they need to deliberate the information provided to them. The parties and proponents must be respectful of the time requirements of indigenous peoples in undertaking their own decision-making process based on their own circumstances and requirements.

TAKE NOTE: Prior - right to understand concerns and impacts of any activity/project and undertake their decision-making process for any project before the start of project/programme implementation.

c. What is Informed?

This is a core element of the FPIC decision-making process to reach or achieve a well-informed decision. It is thereby important not only to have access to information, but also to clearly understand the information provided to them. If necessary, information should be translated to the local language and put in a form and manner that is understood by the indigenous communities to facilitate better understanding. Further, indigenous community members must have a level of satisfaction on the level of information provided to them. This includes information to clarify or answer their questions as well as information that shall provide them with a comprehensive understanding especially on the implications of the activity, project or matter for their collective decision. Information provided to indigenous communities is critical in their own deliberations and decision-making process.

Information disclosure for the FPIC process should include full and legally accurate exposure of data pertaining to any activity or proposed developments or projects. This shall include studies on environment and social impacts, project design, implementation plan, budget and sources of funds, and terms of contracts or agreements. The project proponent is responsible for the full disclosure of the information to indigenous communities, including providing the

information in forms understood to them. In this context, there shall be considerations on the level of literacy and language understood by indigenous peoples.

Indigenous communities shall also have the freedom to secure additional information from other sources, besides the project proponent. They have full rights to seek the additional means to verify the accuracy of information provided to them. It is often the case that indigenous communities are provided with information that highlights only the positive aspects of the projects, while potential adverse impacts are not fully disclosed or provided. The decision of the indigenous communities will be based on accuracy of information provided by the project. Indigenous communities have the right to change and/or review their decision, and sanction should be given to project proponents, based on due process.

TAKE NOTE: Informed - right to be provided and to have sufficient information on matters for decision-making.

Information that project/proponent should provide

- Nature, size and scope of the proposed project or activity.
- General and specific objectives, implementation plans, budget, outcomes and impacts of the project and/or activity, and also source of funding in some cases.
- Duration, locality and scale of the project.
- Assessment of possible economic, social, cultural, and environmental impacts, including potential risks and fair and equitable benefit sharing mechanisms.
- Full and clear disclosure of the information based on levels of IPs' understanding.
- Involvement of personnel in the execution of the proposed project (indigenous peoples, private sector staff, research institutions, government employees and others).

d. What is Consent?

It is a collective decision-making process of indigenous peoples that entails several steps. This may include series of consultation as needed and it should allow enough time for indigenous communities to undertake their own internal deliberations prior to making their collective decision. The consultations shall allow community members, including women and youth, to express their views, raise their concerns, seek additional information, if needed, and seek clarifications on their questions and/or concerns.

It should be transparent, inclusive and well-informed with meaningful and accountable participation of the indigenous leaders in the consultation processes and the collective decision-making process. The consultation processes shall be documented properly. The project proponents shall provide for more information, if requested, and respond to the clarifications and conditions set by indigenous communities. In addition, consultations require an effective system of communication and understanding information among indigenous peoples.

For the deliberations of community members, they shall be able to discuss collectively on the implications of the project/activity from their own perspectives, interest, welfare, and aspirations. They shall also be given enough time to discuss and deliberate among themselves before taking a decision. Further, community deliberations shall ensure

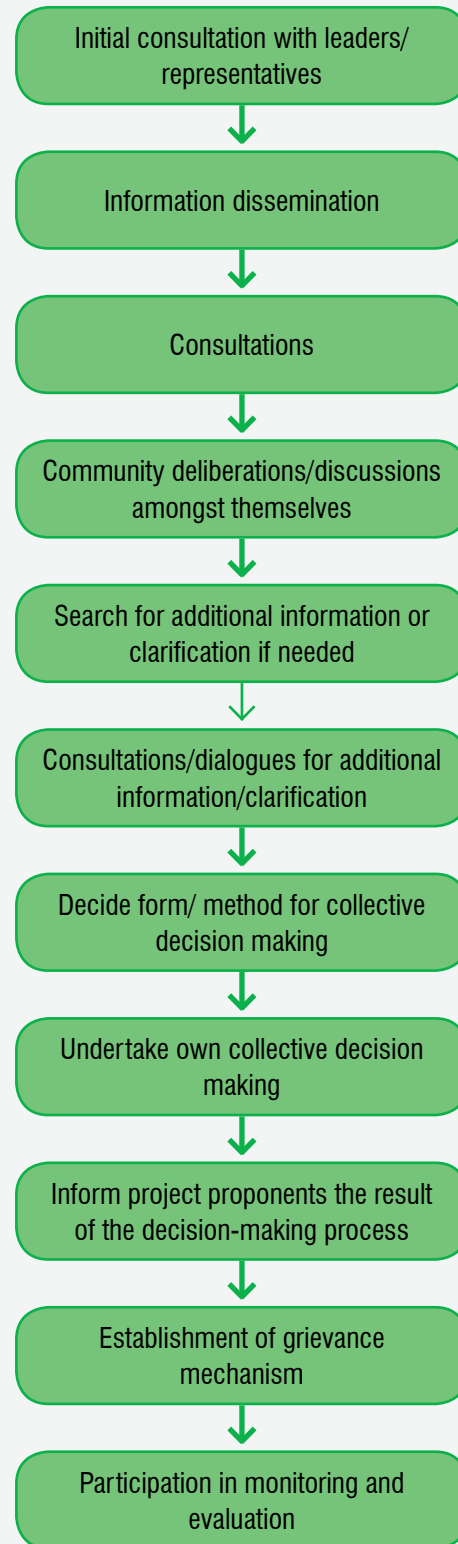
the active participation of women and youth - and to take into account their views, specific concerns and rights.

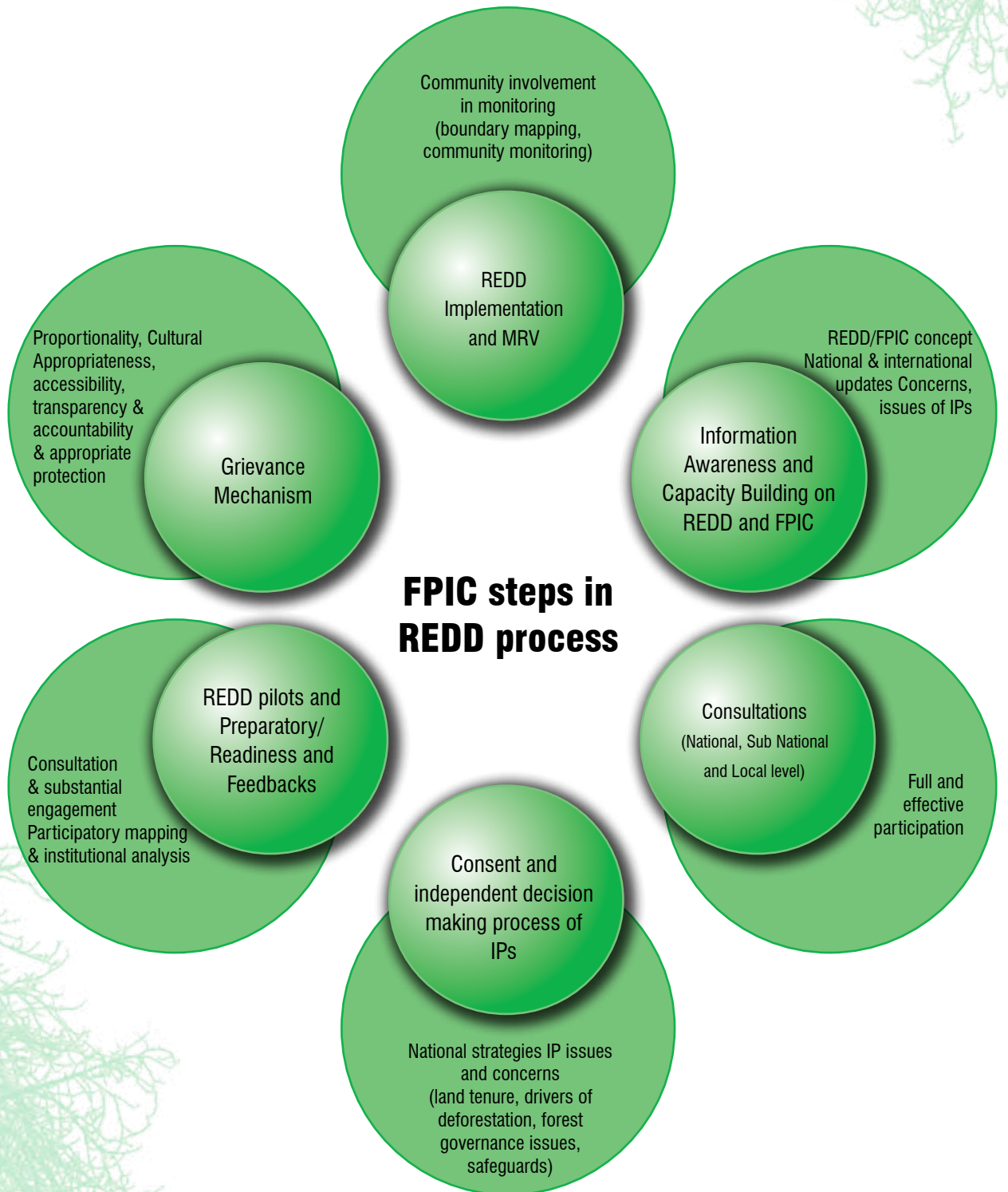
The consensus process should follow their discussions and deliberations of community members, which allow them to define the process of decision-making. If necessary, the capacity of the indigenous peoples should be enhanced for their decision-making process, which includes the option of withholding consent.

Indigenous communities should have the freedom to define their own mechanisms and processes of decision-making. Further, they also have the right to set their terms and condition either to say YES or NO based on their own considerations and decision-making processes. Indigenous communities must have the right to withdraw consent, if conditions are not met. Any agreement reached should be written in a form fully understood by community members and the proponent must respect NO CONSENT decision. Strong division with opposing views within indigenous communities means the absence of consent. On the other hand, consent does not mean unanimity. Based on the traditional systems of indigenous peoples' decision-making, consensus is always the desired outcome of a collective decision-making process in upholding the common good and the collective interest and welfare of the community. Even if there are views or positions that run counter to those of the majority, as long as those with opposing views agree to abide or respect the position of the majority, then this is considered as a consensus and a consent decision. Thus, the outcome still upholds the collective voice, views and interests of the community as one social and collective entity.

TAKE NOTE: Consent - collective and independent decision of affected communities after undergoing their own process of decision-making.

DIAGRAM OF THE PROCESS





SESSION 5: THE PRINCIPLE OF FPIC IN INTERNATIONAL HUMAN RIGHTS INSTRUMENT

Time/Duration – 1.5 hours

Steps

1. Provide a group exercise on international instruments relating to FPIC: UNDRIP, ILO 169, CBD, etc.
2. Each group receives one instrument with the provisions relating to FPIC for their discussion and elaboration based on their insights and experiences.
3. Allocate 30-45 minutes for reading, analyzing and discussion among themselves. Each group needs to identify facilitator, documenter and reporter for the group.
4. Plenary Discussion - Encourage the participants to ask questions and clarifications.

After decades-long advocacy in the negotiation and decision-making processes worldwide, the international community and several international instruments have increasingly recognized indigenous communities in terms of their socio-cultural and economic marginalization, exclusion from benefit sharing of economic growth, and impacts of development and climate change on their cultures, identities and resources. Their roles and contributions on sustainable resource management in social and economic development are gaining recognition and appreciation across the world (AIPP, 2010)

FPIC is a comparatively new mechanism for ensuring the full realization of indigenous people's rights. Some of the international laws and instruments have already incorporated FPIC both as a right and as a principle, while some are in the process of addressing this. Many intergovernmental organizations, international bodies, conventions, and international human rights laws have increasingly recognized indigenous peoples' right to FPIC as an important feature, but at varying degrees. FPIC becomes an obligation for a country that has agreed and ratified relevant international instruments in order to respect indigenous peoples' rights.

TAKE NOTE: The International Labor Organization Convention No. 169 (ILO 169), the Convention on Biological Diversity (CBD) & the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) are the major international instruments, which have clearly addressed the issue of right to FPIC & their rights to land & territories. It has also stressed that governments shall recognize the Free, Prior & Informed Consent of indigenous peoples for development activities within their boundaries & territories.

5.1. ILO Convention on Indigenous and Tribal Peoples No. 169

The rights of indigenous peoples to the principle of FPIC have put a stronger requirement on the states to respect the rights of indigenous peoples to FPIC. ILO Convention 169 requires that indigenous peoples shouldn't be removed from their land and territories arbitrarily. The convention has stressed on no relocation without consent; informed participation in the context of development, national institutions and programmes, lands and resources. The following three articles directly stressed on FPIC in the convention⁵:

⁵ <http://www.ilo.org>

- Article 14 (Point 1): The rights to land ownership and land possession of the peoples that they traditionally occupy should be recognized. In addition, measures shall be taken in appropriate cases to safeguard the rights of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.
- Article 15 (Point 1): The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.
- Article 16 (Point 2): Relocation of these peoples is considered, if necessary, as an exceptional measure, which shall take place only with their Free, Prior and Informed Consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries, where appropriate, which provide the opportunity for effective representation of the peoples concerned in the processes and procedures.

5.2. Convention of Biological Diversity (CBD)

The CBD works on Access and Benefit Sharing (ABS) and on the Programme of Work on Protected Areas (conduct of cultural, environmental and social impact assessment regarding developments proposed to take place on sacred sites, lands and waters of IPs). The CBD mentions in Article 8 (j) that the traditional knowledge of indigenous peoples and local communities may be used only with their approval. This has subsequently been interpreted to mean that it can be used only with their prior and informed consent. Likewise, it requires governments (though subject to national legislation) to respect, preserve and maintain the knowledge and innovations of indigenous peoples, relating to biodiversity conservation and management.

5.3. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The UNDRIP has clearly defined FPIC with strong wording regarding the rights of indigenous peoples in the following articles (UN, 2008; AIPP, 2010):

- Article 10: Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the FPIC of IPs concerned.
- Article 11 (Point 2): States shall provide redress through their effective mechanisms, which may include restitution, developed in conjunction with IPs with respect to their cultural, intellectual, religious and spiritual property taken without their FPIC or in violation of their laws, traditions and customs.



- Article 19: States shall consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain their FPIC before adopting and implementing legislative and administrative measures that may affect them.
- Article 26 (Point 1): Indigenous peoples have the full rights to the lands, territories and resources, which they have traditionally owned, occupied or otherwise used or acquired.
- Article 26 (Point 2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use as well as those which they have otherwise acquired.
- Article 28 (Point 1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation for the lands, territories and resources which they have traditionally owned or otherwise occupied or used and which have been confiscated, taken, occupied, used or damaged without their FPIC.
- Article 29 (Point 2): States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their FPIC.
- Article 32 (Point 2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their representative institutions in order to obtain their FPIC to any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.



SESSION 6: NATIONAL AND INTERNATIONAL POLICIES RELATING TO FPIC FOR INDIGENOUS PEOPLES

Time/Duration – 60 minutes

Steps

1. Introduce existing national and international policies relating to indigenous peoples and FPIC.
2. Emphasize lessons learned in the implementation of FPIC in countries where a law/policy on FPIC is provided.
3. Discussion in plenary - Encourage every participant to participate and contribute in the discussion.

6.1. Policies at the National Level

At the national level, several countries including the Philippines, Australia (Northern Territories), Venezuela, Peru and Denmark (Greenland) have enacted legislation requiring consent or similar decision making prior to the approval of any activities in indigenous peoples territories. In 2007 Bolivia incorporated the UNDRIP, including its six provisions requiring FPIC, into its national legislation. Jurisprudence in countries such as Canada and Belize is indicative of the increasing acknowledgement of this universal requirement for consent. The Supreme Court of Canada has clarified that, with regard to consultation, where Aboriginal people hold title to land, the governments' duty to consult is "in most cases significantly deeper than mere consultation" and can extend to the more demanding requirement of "full consent."⁶ Likewise in its October 2007 landmark ruling, the Supreme Court of Belize referenced, inter-alia, the FPIC requirements in the UNDRIP and CERD's General Recommendation XXIII on Indigenous Peoples. The Court ordered the state cease and abstain from any acts, including granting of mining permits or issuing any regulations concerning resource use, impacting on the Mayan indigenous communities "unless such acts are pursuant to their informed consent."⁷

a. Philippines

The Philippines enacted the Indigenous Peoples Rights Act (IPRA) in 1997, which recognizes the right to FPIC of IPs for all activities affecting their lands and territories. These include exploration, development and use of natural resources, bio-prospecting, any displacement and relocation, any policies affecting IPs, and entry of military. In Chapter 2, section 3, FPIC is defined as "the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community."⁸

Also under Chapter VIII, Section 59, FPIC is mentioned while discussing about certification precondition, as:

"... Such certificate shall only be issued after a field-based investigation is conducted by the Ancestral Domain Office of the area concerned. No certificate shall be issued by the National Commission on Indigenous Peoples (NCIP) without the free and prior informed and written consent of the ICCs/IPs concerned. Further, Government department or agency or government-owned or -controlled corporation may not issue new concession, license, lease, or production sharing agreement while there is pending application. Finally, the ICCs/IPs shall

⁶ Doyle, Cathal, 2008, Free Prior Informed Consent (FPIC) – a universal norm and framework for consultation and benefit sharing in relation to indigenous peoples and the extractive sector, Paper prepared for OHCHR Workshop on Extractive Industries, Indigenous Peoples and Human Rights, Moscow. conservation. It is also implementing inclusive REDD+ (reducing emissions from deforestation and degradation) mechanism in Philippines.

⁷ Ibid.

⁸ Gariguez, E. A. based on his presentation on Community perspective on FPIC: experience in Philippines.

have the right to stop or suspend any project that has not satisfied the requirement of this consultation process in accordance with this Act.”

Under Chapter I, Section 5 of the FPIC Guidelines on 2006 developed by the NCIP, FPIC is defined as the consensus of all members of the ICC/IPs, which is determined in accordance with their respective customary laws and practices that is free from any external manipulation, interference and coercion and obtained after fully discussing the intent and scope of the plan/program project activity, in a language and process understandable to the community. The FPIC is given by the concerned ICCs/IPs upon the signing of the Memorandum of Agreement (MOA) containing the conditions/requirements, benefits as well as penalties of agreeing parties as a basis for the consent.

b. Australia

Under Chapter VII, Section 68 of Aboriginal Land Rights (Northern Territory Act 1976) as:

(1) “A road shall not be constructed over Aboriginal land unless the Land Council for the area in which the land is situated consents, in writing, to the construction.

(2) A Land Council shall not give a consent referred to in sub-section (1) unless the Land Council is satisfied that: (a) the traditional Aboriginal owners (if any) of the land concerned understand the nature and purpose of the proposal to construct the road and, as a group, consent to it; and (b) any Aboriginal community or group that may be affected by the construction of the road has been consulted and has had adequate opportunity to express its view to the Land Council.”

c. Peru

In September 2011, Peru passed the law of the Right to Prior Consultation with indigenous or Tribal Peoples in line with the ILO Convention 169 that Peru had earlier ratified. Under this law, several articles address the right to FPIC, participation, good faith negotiations, absence of coercion, and intercultural dialogues.

6.2. Policies of International Financial Institutions and Multilateral Banks on Indigenous Peoples and FPIC

a. European Bank for Reconstruction and Development

The European Bank for Reconstruction and Development Environmental and Social Policy issued in May 2008 recognizes that for the rights of indigenous peoples to be upheld enabling them to engage in partnerships where they so chose, that their FPIC must be obtained. Its policy states:

“Need for Free, Prior and Informed Consent. This Performance Requirement recognises the principle, outlined in the UN Declaration on the Rights of Indigenous Peoples, that the prior informed consent of affected Indigenous Peoples is required for the project-related activities identified in paragraphs 31–37, given the specific vulnerability of Indigenous Peoples to the adverse impacts of such projects.”

Where clients propose to commercially develop natural resources in indigenous peoples lands the client is required to:

“enter into good faith negotiation with the affected communities of Indigenous Peoples, and document their informed participation and consent as a result of the negotiation.” (Doyle, 2008)

FPIC is therefore seen as the necessary framework for any negotiations with indigenous peoples to ensure “fair and equitable sharing of benefits.”⁹

⁹Doyle, Cathal, 2008, Free Prior Informed Consent (FPIC) – a universal norm and framework for consultation and benefit sharing in relation to indigenous peoples and the extractive sector, Paper prepared for OHCHR Workshop on Extractive Industries, Indigenous Peoples and Human Rights, Moscow.

b. Inter American Bank

The Inter American Bank's current policy on indigenous peoples was issued prior to the adoption of UNDRIP in 2006. It mirrors ILO Convention 169's requirement that consultations and "good faith negotiation" have the objective of achieving agreement or consent. FPIC is required under this policy as it identifies "applicable legal norms" as including "international jurisprudence of the Inter-American Court of Human Rights."¹⁰

c. Asian Development Bank

The Asian Development Bank has adopted its Safeguard Policy Statement in 2009, which includes policy principles and safeguard requirements for indigenous peoples.

The objectives of the Indigenous Peoples Safeguards is to design and implement projects in a way that fosters full respect for indigenous peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the indigenous peoples themselves so that they:

- (i) receive culturally appropriate social and economic benefits,
- (ii) do not suffer adverse impacts as a result of projects, and
- (iii) can participate actively in projects that affect them.

The Indigenous Peoples Safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of indigenous peoples or affects the territories or natural or cultural resources that indigenous peoples own, use, occupy, or claim as an ancestral domain or asset.

Under this safeguard, the borrower/client must fulfill requirements to protect the rights of affected indigenous peoples.

The Indigenous Peoples Safeguard Requirements (Safeguard Requirements 3) outlines the requirements that borrowers/clients are required to meet in delivering Indigenous Peoples Safeguards to projects supported by ADB. It discusses the objectives and scope of application, and underscores the requirements pertaining to:

- (i) undertaking the social impact assessment and planning process;
- (ii) preparing social impact assessment reports and planning documents;
- (iii) disclosing information and undertaking consultation, including ascertaining consent of affected Indigenous Peoples community to selected project activities;
- (iv) establishing a grievance mechanism; and
- (v) monitoring and reporting.¹¹

d. The world bank group

The safeguard standards of the World Bank is currently under review and is intended to be completed in 2013. The Operational Policy on Indigenous Peoples 4.10 (OP4.10) provides for the "free prior informed consultation (FPICon)" which is inconsistent to the international human rights standard on Free Prior and Informed Consent under the UNDRIP and other international instruments.¹²

¹⁰ Doyle, Cathal, 2008, Free Prior Informed Consent (FPIC) – a universal norm and framework for consultation and benefit sharing in relation to indigenous peoples and the extractive sector, Paper prepared for OHCHR Workshop on Extractive Industries, Indigenous Peoples and Human Rights, Moscow. conservation. It is also implementing inclusive REDD+ (reducing emissions from deforestation and degradation) mechanism in Philippines.

¹¹ ADB (2009), Safeguard Policy Statement 2009, Asian Development Bank, Manila, Philippines.

¹² Ibid, footnote 12.

Various indigenous organizations, including AIPP, have been strongly lobbying and raising the issue to the World Bank on the replacement of the FPICon to Free, Prior and Informed Consent (FPIC) in its Policy on Indigenous Peoples (OP 4.10).

On a positive note, the International Finance Corporation (IFC) of the World Bank Group updated its Policy and Performance Standards on Environmental and Social Sustainability, and Access to Information Policy. Its Performance Standard No. 7 on Indigenous Peoples has been revised to require that Free, Prior and Informed Consent (FPIC) be obtained in certain circumstances affecting indigenous peoples.¹³ The IFC is the entity in the World Bank that deals with private sector particularly corporations while the World Bank deals with the public sector ie governments/states.

e. The Equator Principles Banks

The Equator Principles Banks adopted a new set of Equator Principles in July 1, 2006 that has been subscribed to by 40 of the commercial banks that are responsible for global private sector finance. There is no specific statement on indigenous peoples in the 2006 Equator Principles but a footnote specifies that, “Consultation with indigenous peoples must conform to specific and detailed requirements as found in Performance Standard 7. Furthermore, the special rights of indigenous peoples as recognized by host-country legislation will need to be addressed.”¹⁴

TAKE NOTE: IFIs and Multilateral Development Banks (MDBs) providing funds to REDD+ are bound to abide by their policies relating to indigenous peoples. Indigenous peoples should be fully aware of these policies, including the gaps, lessons learned and challenges, and to demand its implementation where appropriate.



¹³ International Finance Corporation, 2011. Update of IFC's Policies and Performance Standards on Environmental and Social Sustainability, and Access to Information Policy.

¹⁴ Forest Peoples Programme, 2006. Briefing on Indigenous Peoples and Private Sector Project Financing. http://www.wrm.org.uy/peoples/private_sector_project_financing_aug06.pdf.

SESSION 7: LESSONS LEARNED FROM THE CONDUCT OF FPIC IN REDD+

Time/Duration – 1.5 hours

Steps

1. Ask the participants who have experiences in the conduct of consultations and or FPIC in their areas to raise their hands. Allow sufficient time for them to present their experiences including challenges and lessons learned from the conduct of consultations and or FPIC.
2. Share additional inputs and explanations by the trainer on the lessons learned from the Philippines and pilot case of FPIC in REDD+ in the Lam Dong and Central Sulawesi provinces of Vietnam and Indonesia, respectively.
3. Screen videos of FPIC piloting in Vietnam and Indonesia produced by UN-REDD Programme.
4. End the session with a summary of the lessons learned, gaps and challenges.

7.1. Lessons Learned from the Philippines

In the national REDD+ implementation process in Philippines, CoDe-REDD¹⁵ and the German International Cooperation (GIZ) analyzed key drivers of deforestation and forest policies and are working on clarifying carbon rights, which were found important for robust REDD+. The Government of Republic of the Philippines has developed the Philippines National REDD Plus Strategy (PNRPS) that also ensures social and environmental safeguards for indigenous peoples.



¹⁵ CoDe REDD, Philippines is a loose network of Civil Society organizations that promotes community empowerment and biodiversity conservation. It is also implementing inclusive REDD+ mechanism in Philippines.

CoDe-REDD Philippines and GIZ are one of the pioneers that have implemented FPIC in the country. The Indigenous Peoples Rights Act (IPRA) recognizes FPIC from affected indigenous community as a necessary process for all permits and licenses within ancestral domains. Without FPIC, government and other project proponents cannot implement any project and development work in the territories and ancestral lands of the indigenous peoples.¹⁶

The FPIC implementation process has been undertaken in collaboration with the Department of Environment and Natural Resources (DENR), local government units (LGUs) and various non-government organizations (NGOs). This process mainly focused on assessment of faithful implementation of FPIC as effective safeguards for the indigenous peoples in asserting their rights to self-determination. It also focused on defining FPIC on indigenous community perspectives and development of policy, agenda and recommendation on enhancing FPIC process for effective implementation of the REDD+ in the country. This process, however, had limited monitoring and evaluation of the FPIC.

This is taken as an important initiative as it aims to provide recommendations that would improve the FPIC regulations in the country, which is vital for successful implementation of REDD+ in the ancestral domain areas. It is also crucial for other development projects within ancestral domains.

Key Lessons

- The Philippines has enacted very strong laws on indigenous peoples' rights to FPIC. The implementation of these laws, however, is poor.
- There is bias in the compensation/payment by project proponent of costs of FPIC process.
- Consent is frequently manipulated and subverted by government and project proponents through various means.
- Bias in the FPIC process without providing complete information of the project.
- Creating fake tribal councils that grant favorable FPIC to the project proponents.
- Fast-tracking the FPIC process.
- Outright fraud in the procurement of signatures indicating consent by totally disregarding the requirement for FPIC.
- Capitalizing on government neglect of indigenous peoples.
- Indigenous peoples have had to creatively devise their own systems for requiring resource users to obtain FPIC before access to their biological and genetic resources can be granted.

7.2. Lessons Learned from Vietnam

Among the 42 UN-REDD partner countries, Vietnam has pioneered a milestone in the conduct of FPIC in REDD+ on the ground. The FPIC process was carried out in 78 villages in Lam Ha and Di Linh districts in the pilot province of Lam Dong from January-June 2010. The pilot province is inhabited by 30 ethnic minorities, out of a total of 53 ethnic minority groups in Vietnam. Most of the peoples who were consulted in this process said it was their first time getting involved in any consultation process. The conduct of FPIC in Vietnam suffered from substantial gaps and weaknesses; however, the pioneering work of UN-REDD and the full support from the Government of Vietnam to engage in good faith with ethnic minorities in the pilot districts is commendable (UN-REDD, 2010).

¹⁶ www.ntfp.org.code-redd

Key Lessons

- The inclusion of indigenous facilitators in the FPIC team is appreciable; however, they lacked the substantive knowledge and understanding of REDD+, FPIC, IP rights, and their livelihood systems. Therefore, it is crucial that facilitators should be well-trained and insightful enough to deliver consistent information to the communities.
- The implementation of the FPIC in the pilot province used effective forms of communication like posters, booklets and brochures, among others. The information provided to the villagers, however, was not sufficient, particularly as there is lack of substantive information on the rights and natural resource management of the indigenous peoples and benefit sharing.
- The information was mainly focused on the forest conservation and the economic benefits of REDD+. The general question asked for the consent of the communities was whether they want their forests to be conserved through REDD+. Therefore, the information shared to the communities lacked the potential risks and implications associated with the land tenure, livelihood systems, and identity of indigenous peoples, among others, which are vital to reach a consensus on whether to give or withhold consent.
- There was no time and opportunity for the community members to independently process and compare the information from alternative sources and then discuss and deliberate on their understanding, views and concerns collectively prior to the decision-making. This is one of the substantial gaps identified in the FPIC process, which hindered communities from making a prudent and collective decision. The allocation of sufficient time for the communities to internally discuss to reach a decision should be guaranteed in the conduct of FPIC process in the future in Vietnam and beyond.
- The mechanism to review any complaint lodged by the communities was starkly lacking. Similarly, the village reports prepared by the local facilitators lacked the issues and concerns raised by the communities in the course of the meetings. It is, therefore, essential to check whether there are any complaints and concerns on the issues of climate change and REDD+, and also on the conduct of the FPIC process as a whole. Also, proper steps should be taken accordingly to address them.

The UN-REDD in Vietnam is planning to implement the FPIC phase 2 incorporating the lessons learned from phase 1.

7.3. Initiation of FPIC in Other UN-REDD and FCPF Countries

The policy guidelines on the rights to FPIC developed by the National Forestry Council and UN-REDD Programme Indonesia based on the multi-stakeholder consultation process has already been submitted for consideration of the Indonesia REDD+ Task Force in developing and implementing the REDD+ policy in Indonesia. Central Sulawesi, which is the pilot province of the UN-REDD Programme in Indonesia, has 77 members in the REDD+ Working Group, including provincial government, universities, indigenous peoples, local communities, civil society organizations, and the private sector. The REDD+ Working Group is further divided into four sub-working groups. One of its four sub-working groups is developing a suitable approach for implementing FPIC in Central Sulawesi. AMAN, which is a national umbrella organization for the indigenous peoples of the Indonesian Archipelago, is represented as one of the members of that sub-group.

Likewise, Lao PDR, with the support from GIZ-Climate Protection through avoided deforestation, is also piloting FPIC in several villages in the pilot province of Sayaboury. Similarly, the Cambodian government is also showing willingness to undertake FPIC in the country in relation to REDD+.

TAKE NOTE: Indigenous peoples' movements have always been asserting the recognition of their collective rights to their land, territories and resources and the implementation of the provisions enshrined in the UNDRIP. In this regard, the implementation of FPIC in some of the pilot province, the development of FPIC guidelines in some countries, and the willingness of other countries to undertake FPIC are positive developments for indigenous peoples. At the same time, it is very important for indigenous peoples to further strengthen their movements and capacities to actively engage in ensuring the proper conduct and implementation of FPIC in line with the recognition and protection of their collective rights, interest and welfare.

7.4. Lessons Learned by the UN-REDD Programme in the Asia-Pacific Region

The UN-REDD Programme has learned significant lessons in the implementation of various REDD+ activities through their partner countries. Some of the lessons learned in the Asia-Pacific region are highlighted below:

Free, Prior and Informed Consent (FPIC)

The piloting of the FPIC process by UN-REDD Programme, Vietnam for REDD+, with the full support of the Vietnamese government, has generated substantial lessons for the next phase and beyond. The lessons learned are:

1. The allocation of time sufficient to conduct a number of events focusing on issues essential for the communities to understand are vital for awareness-raising and capacity building
2. The engagement of the governments' local authorities should be managed prudently to ensure that their involvement do not in any way violate the principle of "Free" consent
3. The recruitment of local facilitators and the conduct of intensive training to educate and sensitize them with the complex issues associated with REDD+ are essential for effective awareness-raising and discussions
4. FPIC for REDD+ is an ongoing process, rather than a single event
5. The documentation of the consent upheld by the communities, perhaps, may need a written record of the verbal decision. This is because communities may hesitate to submit written statements of their decision, especially if their signatures are attached on one hand, while on the other hand, only the verbal transmission of a decision leaves the door open for future conflicts over the decision.
6. The local decision-making processes of the communities, including the time needed for sufficient internal deliberations to foster common understanding either to say "yes" or "no," should be respected. The engagement of external actors should be avoided, except to clarify issues of uncertainty, if requested by the communities.

Accounting for Multiple Benefits in REDD+ Planning & Implementation

There is a prevailing apprehension that policy makers might become oblivious towards the multiple benefits of forests while planning and making decisions on REDD+. The lessons learned in looking forests beyond carbon are listed below:

1. There are concerns expressed on the cost and complexities associated with the planning, implementation and safeguarding of the multiple benefits in REDD+ activities. However, UN-REDD Programme work in Cambodia and Indonesia has confirmed that producing overlays of spatial information do not need to be costly.
2. The carbon density and the alternative land-use options determine the opportunity cost of reducing emissions. The carbon incentive and the potential income from other benefits from the forests can make a difference, which demonstrate the need to integrate multiple benefits of forests into decision-making for REDD+.
3. The resilience to the impacts of climate change is greater in the carbon stored in intact, natural forests than the carbon stored in degraded forests.
4. The decision-makers need sufficient information to change the existing plans or to make multiple benefits a more prominent element in planning.
5. There is a dire need that the multiple values and benefits from the forests are taken into consideration while making decisions on REDD+. The UN-REDD Programme's work in Cambodia and Indonesia is exploring ways that REDD+ can bring about benefits beyond carbon to clarify issues of uncertainty, if requested by the communities.

Source: UN-REDD Programme, Lessons Learned (Asia Pacific)

Developing a REDD+ Strategy

The lessons learned by the UN-REDD Programme from the experience of developing a National REDD+ Strategy are as follows:

1. The prerequisite for successful consultation is the enhanced understanding of indigenous peoples, women and other vulnerable groups on various aspects of REDD+. This can be achieved by providing accurate, relevant, up-to-date and complete information prior to consultation.
2. The predetermined deadlines hasten the consultation process, which ultimately affects indigenous peoples and parties with limited access to information and experience in decision-making. This kind of process may lead to premature decisions.
3. The fostering of trust in the process among stakeholders is crucial for their genuine participation in the formulation of strategy. The facilitation of the consultations by a mutually agreed partner also maintains the stakeholders' interest and trust in the process.
4. National REDD+ strategies need to be nested within broader national development strategies to develop and maintain strong political commitment, as well as to promote multisectoral support for a National REDD+ Strategy.
5. The formal review and endorsement of a National REDD+ Strategy is essential to ensure support and sustainability. However, this does not prevent immediate action to implement critical activities.

Source: UN-REDD Programme, Lessons learned (Asia-Pacific)

The above-mentioned lessons learned by UN-REDD Programme affirm the concerns and perspectives that indigenous peoples have been experiencing and advocating for the welfare of their communities.

Further Readings

AIPP, 2010. *Training Manual on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP): A Community Training Manual, Asia Indigenous Peoples Pact (AIPP).*

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Doyle, Cathal, 2008, *Free Prior Informed Consent (FPIC) – a universal norm and framework for consultation and benefit sharing in relation to indigenous peoples and the extractive sector, Paper prepared for OHCHR Workshop on Extractive Industries, Indigenous Peoples and Human Rights, Moscow.*

Hill, C., S. Lillywhite and M. Simon. 2010. *Guide to Free, Prior and Informed Consent.* Oxfam Australia

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IAITPTF and IPF. 2011. *Handbook on Free, Prior and Informed Consent for Practical Use by Indigenous Peoples' Communities.* The International Alliance of Indigenous and Tribal People of the Tropical Forests (IAITPTF), South East Asia region and the Indigenous Peoples' Foundation for Education and Environment (IPF).

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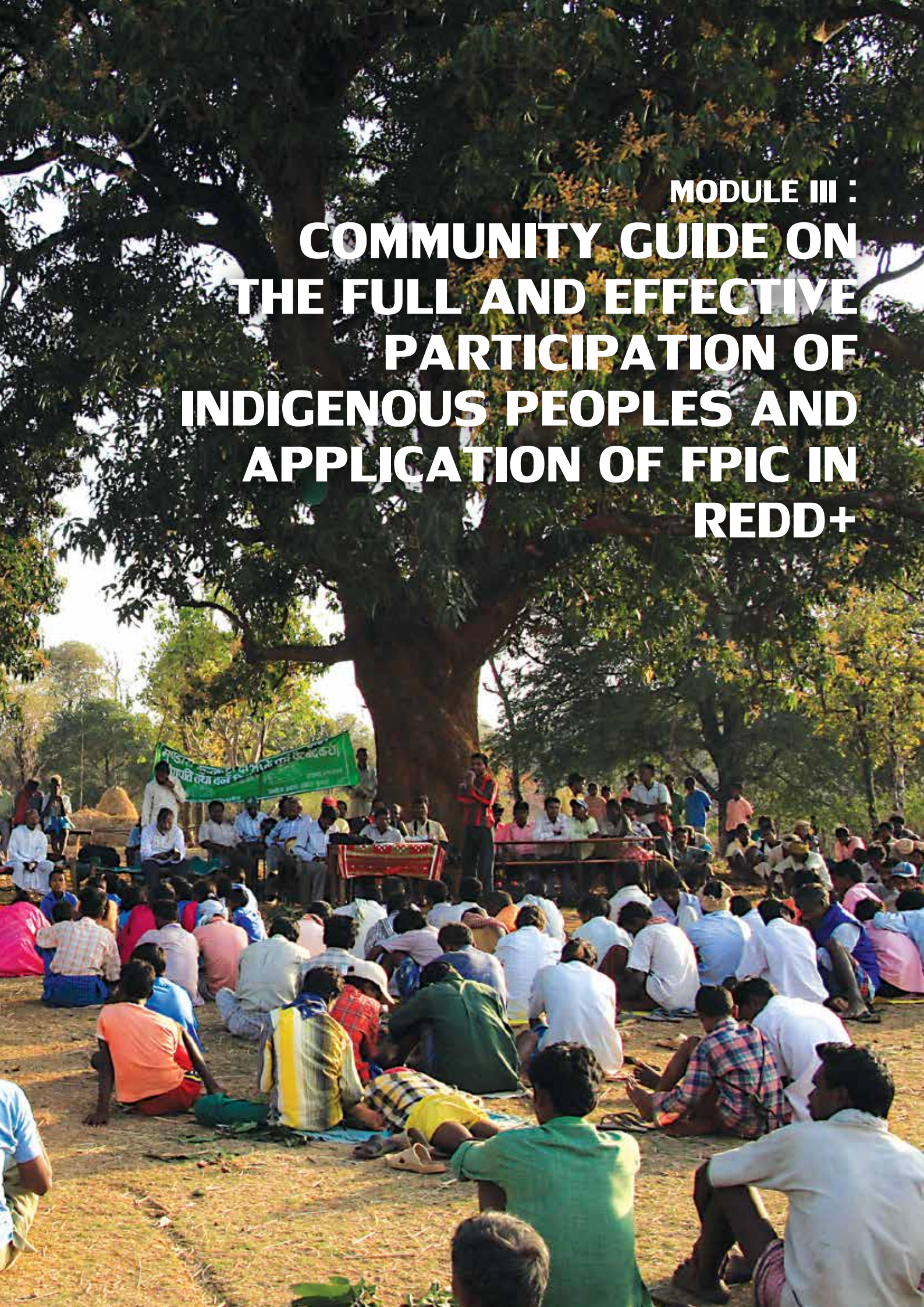
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www.ntfp.org/coderedd



MODULE III :
COMMUNITY GUIDE ON
THE FULL AND EFFECTIVE
PARTICIPATION OF
INDIGENOUS PEOPLES AND
APPLICATION OF FPIC IN
REDD+



MODULE III: COMMUNITY GUIDE ON FULL AND EFFECTIVE PARTICIPATION OF INDIGENOUS PEOPLES AND APPLICATION OF FPIC IN REDD+

This module provides a general guide for indigenous peoples, communities and organizations to enhance their full and effective participation in the FPIC process in REDD+. This general guide, however, is based on the Cancun Agreement on REDD+, which is only preliminary as the international negotiations for a comprehensive agreement on REDD+ is still ongoing. Additional guide and tools may be necessary at a later stage, depending on the outcome of the REDD+ negotiations and the development of safeguard policies and guidelines.

From the perspective of indigenous peoples, the full and effective participation of indigenous peoples in REDD+ shall be defined by indigenous peoples in the context of ensuring the respect of their rights, welfare and entitlements. This provides rights holders the avenue to raise their views and concerns that shall be taken into account in decisions that affect them. Inclusive representation and effective participation of women and youth are important and critical.

This module focuses on elements that are important for the full and effective participation of indigenous peoples and the application of FPIC in the activities relating to REDD+, particularly in the current readiness phase. The full and effective participation of indigenous peoples in REDD+ includes the respect for their rights and traditional knowledge that are clearly referred to in the REDD+ Cancun Agreement. As a guide for indigenous communities, it provides an elaboration on how indigenous peoples can effectively engage in REDD+ processes in ensuring that their collective rights, interests and welfare are promoted and protected. This community guide also includes the pre-conditions for the effective participation and application of FPIC of indigenous peoples.

At the end of this module the participants should be able to:

- Engage indigenous peoples in FPIC process in REDD+ implementation at local and national levels.
- Understand practical knowledge and skills of effective engagement, consultation, representation and FPIC processes in REDD+ phases/activities.
- Understand preconditions for effective engagement of the indigenous peoples in FPIC processes.

Required Materials:

- Whiteboard
- Flipcharts/brown or white paper
- Meta cards/colored cards
- Masking tape
- Marker pens (board and permanent)
- LCD projector with pointer
- Laptop computer

Time/Duration:

5 to 7 hours

Sessions

Session 8 (1.5 hours) – Forms/levels, Preconditions and Activities Relevant for the Full and Effective Participation of IPs in REDD+

- 8.1. Forms and Levels of Full and Effective Participation of IPs in REDD+
- 8.2. Preconditions for Effective Engagement/Participation
- 8.3. REDD+ Activities Relevant for Indigenous Peoples' Full and Effective Participation and FPIC

Session 9 (1 hour) - Participation of Indigenous Peoples in Relevant Bodies and Mechanisms Relating to REDD+

- 9.1. Participation of Indigenous Peoples Through Their Self-Selected Representatives
- 9.2. General Guiding Principles of Self-selection Process for Representatives
- 9.3. Consultations at All Levels

Session 10 (2.5 hours) - Conducting Free, Prior and Informed Consent (Process, application and measures of FPIC in REDD+)

- 10.1. Areas for Full Application of FPIC in REDD+
- 10.2. Key Steps in the FPIC Process
- 10.3. Key Processes of FPIC in REDD+

Session 11 (1.5 hours) – Grievance Mechanisms

- 11.1. What is a Grievance Mechanism?
- 11.2. Preconditions for the Full and Effective Participation in FPIC Process



SESSION 8: FORMS/LEVELS, PRECONDITIONS AND ACTIVITIES RELEVANT FOR THE FULL AND EFFECTIVE PARTICIPATION OF INDIGENOUS PEOPLES IN REDD+

Time/Duration: 1.5 hours

Steps

1. Pose the following questions, written on cards, and distribute to the participants:
 - What are the forms of full and effective engagement of participation, its preconditions and the REDD+ activities that indigenous peoples should be engaging with?
2. Collect and cluster the written replies, and synthesize the ideas of the participants.
3. Additional inputs and explanation to be shared by trainer.
4. Discussion in Plenary

8.1. Forms and Levels of Full and Effective Participation of IPs in REDD+

The full and effective participation of indigenous peoples in REDD+ can be in different forms and at different levels. Below are some forms of participation of indigenous peoples in REDD+. The general description and scope of participation are provided here in this section. The elaboration on how to enhance full and effective participation is included in the subsequent sections of this session.

TAKE NOTE: What is most important for indigenous peoples is to ensure the respect to their rights and their collective views and perspectives in REDD+ processes at all levels. In addition, it is also important to have proper indigenous peoples representation in relevant bodies and mechanisms at all levels to include women and youth.



Box 7: Forms of participation

Indigenous peoples always demand full and effective participation in relevant REDD+ bodies and mechanisms, which is important for consent. Generally, forms of participation can be categorized into 5 forms. They are:

1. Information sharing – this is an inactive form of participation. It is mostly 1-way information sharing from REDD+ proponent, government and others in the form of factsheets, press releases, presentations and info-sharing, etc. Since, it is a 1-way information flow, transparency and legitimacy are less as compared to other forms of participation.
2. Consultation – this is a 2-way information flow with an exchange of opinions, views and feedback. It can be both formal and informal. In general, formal consultations are done through meetings, public meetings, workshops, and feedback sessions, etc.
3. Joint decision-making – this can be done with collective decisions of the indigenous communities and REDD+ proponent and government based on knowledge, capacity and experience of the communities, and information disclosure and consultation processes.
4. Consent – this is a freely given decision by the indigenous communities based on clear, understandable information given to them, which will determine the further actions to be taken in the indigenous communities' land/territories.
5. Empowerment – when indigenous communities are able to make a decision by themselves with full and effective participation and representation at all levels, then that will be empowerment.

a. Participation through representation of indigenous peoples in relevant bodies and mechanisms; where appropriate at the local, sub-national, national, regional and international levels

Representation means that a certain group/constituency selects their own representative that shall be responsible for presenting their collective views, issues, concerns, positions, and/or agreements. Representatives are therefore accountable to their constituents in terms of his/her actions in line with his/her representation.

TAKE NOTE: REDD+ is a complex concept associated with technical knowledge and skills. While it is ideal that indigenous leaders have comprehensive grasp of REDD+, including technical issues relating to carbon measurement, among others, it may be difficult to make this as a requirement for all indigenous representatives in REDD+ mechanisms. At the minimum, indigenous representatives need to fully understand and grasp the basic concept of REDD+ and related processes and its implications on indigenous peoples, and be able to articulate their concerns. This is a requirement for IP representatives, in addition to general requirements of being responsible and accountable to their constituents.

b. Conducting consultations at different levels

Consultation is the continuous process that allows indigenous peoples to express their views, concerns and issues, and also seek clarification of information provided to them and inquire about additional information as needed. Consultation also serves as a mechanism for continuing exchange and interaction between indigenous peoples and other entities to engage in REDD+ towards gaining common understanding, resolving issues and conflicts, and defining terms of engagements and/or agreements in certain cases.

All the parties involved in consultation process with indigenous peoples must engage in good faith and in a transparent and inclusive manner. It should also take into account the language and level of literacy of indigenous peoples to ensure effective exchange. The venue for consultations must be culturally sensitive and should take into account the accessibility and comfortability of indigenous peoples. Provision for sufficient time in notifying and arranging consultations must also be ensured and respected in consideration of the activities of indigenous peoples and their own requirements for them to be prepared. This will ensure greater and more effective participation of indigenous peoples during the consultation.

The forms and levels of consultations may vary depending on the nature, scope, objectives, and manageability of consultations required. In this context, the level of consultations for the preparation of national strategies will be at the national level; and sub-national/local level, in pilot or demonstration areas in particular. At the national level, the consultations shall be conducted with representatives of indigenous peoples selected according to their self-selection process. The number and level of representation shall be discussed and agreed upon in the initial consultation meeting with key indigenous peoples' representatives, prior to the official process of consultation.



c. Conducting Free, Prior and Informed Consent (FPIC)

Conducting FPIC in REDD+ takes two forms:

- One is the FPIC process on the national strategy plan with the duly-selected representatives of indigenous peoples;
- The second can be through the FPIC process with indigenous communities in designated pilot and/or demonstration areas. The community level FPIC process involves all the members of the concerned communities, including elders and women.

In both these forms of processes, it is important to disseminate accurate information through awareness-raising activities in simple and understandable languages. This can take the form of a series of consultations and community seminars as required by indigenous peoples' representatives and communities. Only after most of the indigenous peoples are informed and an independent process of collective decision-making by the bodies and concerned indigenous communities are undertaken shall a collective decision be made. The collective decision agreed shall be respected and upheld. Likewise, sustained engagement with indigenous communities shall be established based on the decision of the community/ies.

8.2. Preconditions for Effective Engagement/Participation

Preconditions for full and effective participation of IPs

All these forms of full and effective participation of indigenous peoples in REDD+ require thorough information dissemination and awareness-raising in a manner and form understood by indigenous peoples. This also entails sustained capacity building for indigenous organizations, institutions and communities to enable their effective engagement in REDD+. Governments and other entities involved in REDD+ must engage with indigenous peoples in good faith and in the context of respecting their rights, and sensitive to their cultures, ways of life and specific circumstances.

a. Information dissemination as precondition for the full and effective participation and FPIC of indigenous peoples in REDD+

Since REDD+ has very serious implications on indigenous peoples, effective information dissemination and awareness-raising and capacity-building are necessary and critical. REDD+ is a technical concept with complex terminology of emission reduction, enhancement of forest stocks, carbon measurement, monitoring, and verification process, among others. Thus, information disclosure and awareness-raising on REDD+ and related issues shall take into account the level of literacy and language understood by indigenous peoples. This also implies a sustained process of building the knowledge and understanding of indigenous peoples that is crucial for their representation and full and effective participation in REDD+ processes and mechanisms.

b. What key information should be provided to IPs by parties involved in REDD+?

Indigenous peoples' representatives, indigenous leaders and communities should be provided with all information related to the REDD+ including its phases, international agreements, possible impacts and benefits of REDD+, benefit sharing mechanisms, national processes, etc. Details of information that need to be disseminated to indigenous communities are given below:

PHASE I

READINESS PHASE

Background on Climate Change, REDD, REDD+

- International agreement on REDD+ and its context on climate change
- Key elements of REDD+ in terms of its phases
- Elements and processes in preparing the national REDD+ strategies
- Potential adverse impacts and opportunities for indigenous peoples
- Mechanisms, bodies and actors involved in REDD+
- Contents of R-PP, R-PIN, SESA and R-Package
- Applications of safeguards based on the Cancun Agreement, especially on the full and effective participation of IPs, and respecting the rights and traditional knowledge of indigenous peoples
- Plans and activities in REDD pilot/demonstration areas
- Bilateral and multilateral funding/ agreements on REDD and their requirements
- Results of studies/research done on drivers of deforestation and forest degradation, community forest conservation, etc.
- Other information required by indigenous peoples

PHASE II

IMPLEMENTATION PHASE

- Contents of national REDD+ strategies and its implementation plans
- The plan for further capacity-building
- The kind of technology development and transfer that will be implemented
- Measures to be implemented in addressing drivers of deforestation and forest degradation
- Application of safeguards
- Funding arrangements/agreements
- The role of traditional knowledge
- Result-based activities and how they are implemented

PHASE III

MONITORING, REPORTING AND VERIFICATION (MRV)

- Forest carbon accounting methods and tools
- The safeguards in MRV
- Methodology and standards of carbon accounting
- Terms of payment
- Benefit sharing mechanisms/ arrangements for IP communities
- Timeline of MRV

Box 8: Forms of information dissemination on REDD that are most effective to the level of understanding of the indigenous communities:

- Info-posters
- Songs/role plays/dramas
- Comics/illustrations
- Video documentaries
- Booklets/briefing papers/leaflets
- Community radio
- Websites
- Country reports

Information should be in their local languages (simple and understandable to indigenous communities). In addition, sufficient time should be provided to them for better understanding.



c. How can communities access information other than that provided by government/REDD+ funders/project proponents to verify the correctness of information provided?

After information disclosure, indigenous communities have the right to understand the nature and impacts of REDD+ project on them. For better understanding of it, they can seek additional information from other sources than the information provided by government/REDD funders/project proponents. They can seek independent consultation and technical advice, if required. Sometimes, project proponents and government officials may try to explain the project in an attractive manner to the communities as they are intended to gain their consent. They may hide negative impacts of

the project or they may get consent of few members in the communities. Therefore, it is important to find and access to additional information relating to the project to fully understand the impacts by indigenous communities. It also supports on verification of the information provided, which will certainly contribute decision-making process of the indigenous peoples.

Generally, indigenous peoples can seek independent consultation and technical advice from following reliable sources before deciding on the consent:

- Indigenous peoples' organizations;
- Civil society organizations;
- Village meetings (including the collection of valid information for reference);
- Local authorities;
- Expert assistance;
- Neighboring communities;
- Newspaper and TV news;
- Community media like radios;
- Community-friendly websites.

8.3. REDD+ Activities Relevant for Indigenous Peoples' Full and Effective Participation and FPIC

REDD+ is still in the readiness phase. Most of the REDD countries are not at the same stage within the readiness phase, as the countries' contexts are different. But the phases and major activities of REDD+, in general, are the same for all REDD countries. The table below presents an overview of key activities of REDD+ by phases and also the forms of full and effective participation and FPIC of indigenous peoples in these activities.

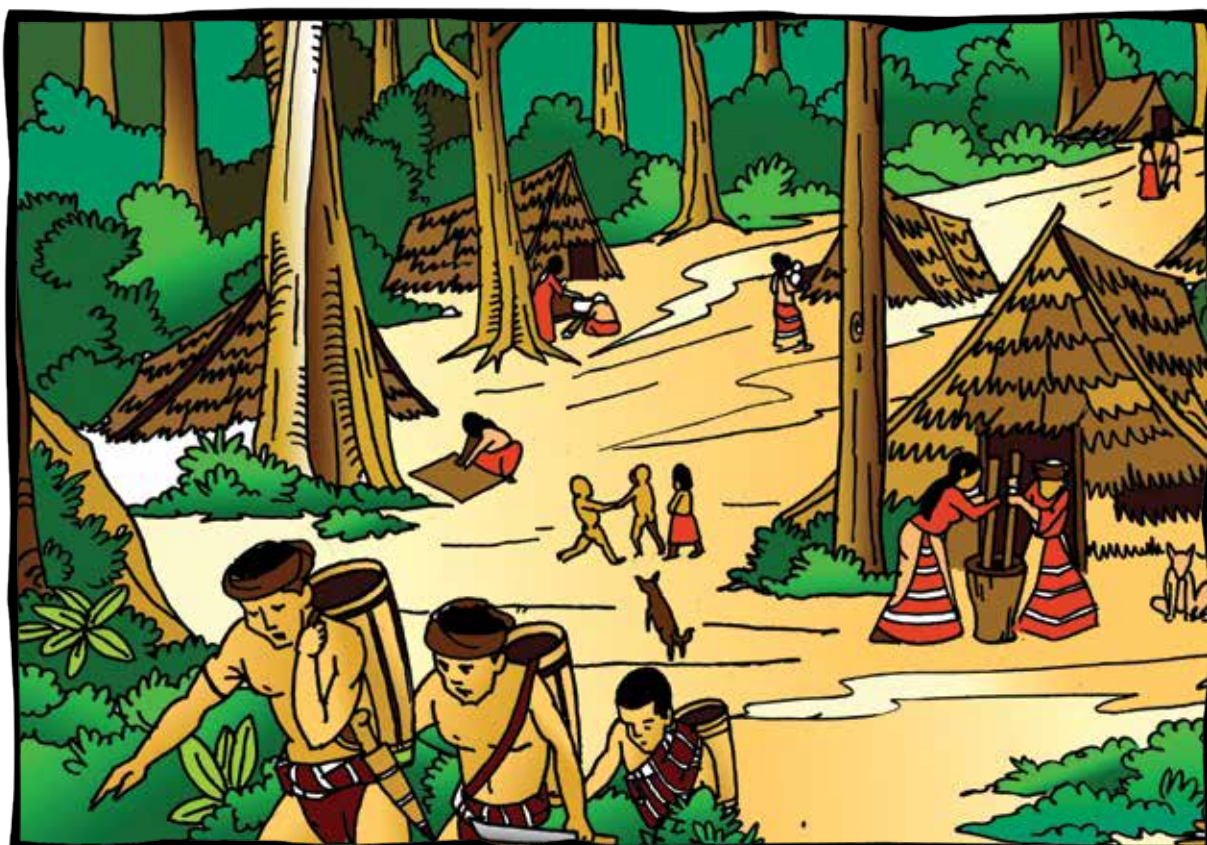


Phase 1: Readiness Phase

Main activities	Forms of Full & effective Participation & FPIC of IPs
<p>1. Preparation of national strategies</p>	<ul style="list-style-type: none"> • Representation and effective participation in relevant bodies, mechanisms and processes • Awareness-raising and disclosure of information • Consultations • FPIC for activities in pilot areas • FPIC on the draft national REDD+ strategies (through duly selected indigenous peoples representatives) • Establishment of grievance mechanisms at the local/sub-national, national and, where appropriate, at the regional level
<p>2. IP concerns on REDD+</p> <ul style="list-style-type: none"> • Land tenure issues (may include review and reforms of laws) • Identification of drivers of deforestation and forest degradation • Forest governance issues (also, benefit sharing) • Gender consideration • Safeguards that ensure full and effective participation of IPs and local communities 	<ul style="list-style-type: none"> • Consultations and effective participation in processes, bodies relating to legal and policy review • Consultations and participation in bodies and processes (i.e., research, documentation) • Consultations, information dissemination, and FPIC and on the terms of benefit sharing • Consultations, specifically with indigenous women, and participation of indigenous women in bodies processes and mechanisms • Consultations and participation in designing how safeguards are addressed, implemented, monitored and reported
<p>3. Defining national and sub-national (where appropriate) emission reference levels</p> <ul style="list-style-type: none"> • Baseline research • Carbon stock measurement • Technical and scientific studies 	<ul style="list-style-type: none"> • Information disclosure
<p>4. Establishing a “robust and transparent national forest monitoring system,” that means, a measuring, reporting and verification (MRV) system at national and sub-national (where appropriate) level</p> <ul style="list-style-type: none"> • Pilot areas for demonstration • establishment of forest monitoring system • establishment of systems for MRV 	<ul style="list-style-type: none"> • Consultations • Representation in relevant bodies • Participation of indigenous peoples in MRV processes
<p>5. Establishing a system for providing information on how safeguards are addressed and respected in all REDD activities</p> <ul style="list-style-type: none"> • Designing the information system • Data gathering and reporting 	<ul style="list-style-type: none"> • Consultation and participation

Phase 2: Implementation Phase

Key activities (Phase 2)	Forms of full & effective participation & FPIC of IPs
1. Implementation of national strategies: policies, measures, action plans, etc.	<ul style="list-style-type: none"> • Representation in relevant bodies at local and national level
2. Monitoring and recording of carbon stocks	<ul style="list-style-type: none"> • Representation in relevant bodies, participation of community members • Information dissemination
3. Transfer of technology for carbon measurement.	<ul style="list-style-type: none"> • Information dissemination • Consultations
4. Capacity-building of implementing agencies	<ul style="list-style-type: none"> • Information dissemination • Consultations • Exposure
5. Monitoring of safeguard implementation, and feedback (grievance mechanism)	<ul style="list-style-type: none"> • Representation in relevant bodies • Participation by indigenous communities
6. Results-based demonstrations	<ul style="list-style-type: none"> • Representation in relevant bodies • Information dissemination • Consultations and participation



Phase 3: Accounting Phase

Main activities (Phase 3)	Forms of full & effective participation & FPIC of IPs
1. Monitoring and Measurement of carbon stock	<ul style="list-style-type: none"> • Representation in relevant bodies • Participation
2. Implementation of benefit sharing arrangement	<ul style="list-style-type: none"> • Representation/participation in relevant bodies • Consultations • Participation
3. Reporting and Verification	<ul style="list-style-type: none"> • Representation/participation in relevant bodies, processes



SESSION 9: PARTICIPATION OF INDIGENOUS PEOPLES IN RELEVANT BODIES AND MECHANISMS RELATING TO REDD+

Time/Duration: 1 hour

Steps

1. Start the session with question in plenary:
 - What are the self-selection processes in your communities?
 - What are the experiences of your communities relating to consultations at different levels?
2. Split the participants into groups and allow 20-30 minutes for discussion. Assign one moderator and one reporter per group.
3. Lecture on the full and effective participation/engagement of indigenous peoples and FPIC in REDD+.
4. Discussion in Plenary.

9.1. Participation of Indigenous Peoples Through their Self-Selected Representatives

a. What are the existing REDD+ bodies relevant to indigenous peoples for their full and effective participation?

REDD+ countries have established their specific bodies relating to REDD+. These includes, among others, national REDD+ Task Force, National REDD Cell, and/or mechanism for stakeholders engagement in REDD+ known as REDD+ Working Group, REDD Stakeholders Forum, REDD + Consultation Group, and other related bodies or working groups.

TAKE NOTE: Key Demand/Advocacy: As part of the implementation of the Cancun Agreement on REDD+ referring to the full and effective participation of indigenous peoples, it is important for indigenous peoples' organizations and communities to demand for their representation in REDD+ bodies where appropriate; likewise, in mechanisms for the sustained engagement with indigenous peoples through a series of consultations at the national, and at the local levels and, where appropriate, at the sub-national level.

b. How can we select IP representatives at the national level?

The selection of IP representatives in relevant REDD+ bodies at the national level and also for national consultations may vary from country to country, depending on the level of capacity of indigenous peoples, existing agreed arrangement for representation if any, required and/or desired level of representation, and other factors and considerations of indigenous peoples.

The concept of self-selection of indigenous peoples' representative/s means that indigenous peoples - through their

organizations, institutions and/or community members - select their own representative/s based on their own agreed mechanism or process, criteria and other considerations, as well as in defining the roles, tasks and responsibilities of their selected representative/s. The selection process shall be conducted without any interference by other groups/parties to ensure the independence of the self-selection.

TAKE NOTE: The selection process of representatives can be a combination of, but not limited to, self-selection mechanisms defined or agreed upon by indigenous peoples such as:

- Through the selection of established organizations;
- Through the selection of representatives by ethnic groups;
- Through the selection of representatives by geographical area - regions/province, island, etc.

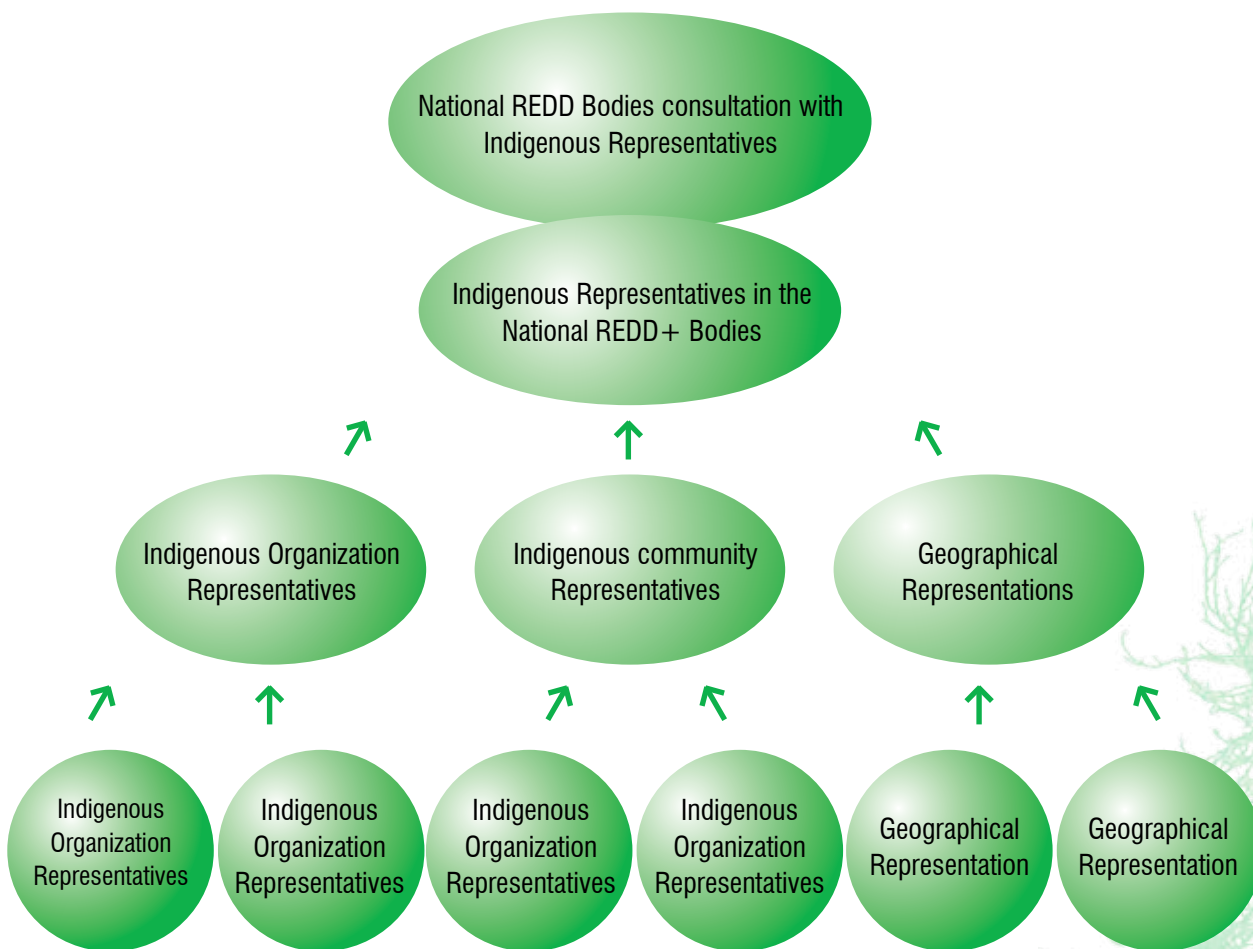
Those representatives chosen in the self-selection mechanisms, through formal and/or informal process, will then come together as delegates to finally choose the indigenous representatives to relevant REDD+ bodies and mechanisms. The self-selection process of indigenous peoples shall also include agreements on criteria or qualifications, as well as the mandate and/or authority and the tasks and duties of their selected representative/s. These are very important in ensuring the accountability of selected representatives. On the other hand, the needed support and assistance to selected representatives shall also be fully discussed and addressed, i.e., communication, travel and translation support, etc.



Since representation in relevant national bodies on REDD+ is very limited (i.e., 1-2 persons), it is important for indigenous peoples to have their own consultation process in defining the self-selection process of their representatives.

The selection process should also include the selection of alternative representatives and should define the terms of the alternative representative and their tenure/duration. This is important because there might be some basic criteria and/or responsibilities defined by REDD+ bodies for IP representatives, which they should be able to assume and perform. Likewise, terms for recall of duly-selected representatives shall also be clearly agreed in cases of violations or non-performance/abandonment of duties and responsibilities, among others, which would undermine effective IP representation in these bodies.

A diagram of the self-selection process of indigenous peoples is given below. This is an example of indigenous peoples' and communities' representation at the national level through collective discussion and decision.



9.2. General Guiding Principles of Self-selection Process for Representatives at the National and Sub-national Levels and in Selecting Community Representatives

a. What are these principles?

- **Adequate Information:** adequate, simple and clear information shall be provided to those involved in the selection process. The information shared to them shall include purpose/objectives, procedures of the selection process, the criteria/ qualifications needed, the profile of candidates or nominees, the tasks and duties of the representatives, among others.
- **Equal opportunity and inclusiveness:** consultation on the self-selection process of representatives shall be conducted as broadly and inclusively as much as possible, taking into consideration the different ethnic groups, geographical location, participation of men, women, youth, and the elderly.
- **Transparency:** The self-selection process must be transparent and open. This means the process is open and accessible to all related persons - not secretive; and the result should be made public immediately with the concurrence of those that have participated in the process.
- **Independence and ownership:** The selection process must be conducted independently without the intervention of other parties, or manipulation by anyone. It should also be conducted based on the agreement of indigenous peoples. Likewise, the criteria, qualifications, tasks, and mandate of the selected representatives shall be collectively defined and agreed upon, taking into account any specific considerations and factors deemed important and critical in the selection process.

The carrying out, schedule and venue of the selection process shall take into account the availability of chosen delegates. The venue shall also take into consideration the access and its suitability or appropriateness based on the participants expectations and suitability.

b. What are the qualifications or requirements for IP representatives in REDD+ bodies, mechanisms and processes; and representatives to national consultations?

- Knowledge and/or experiences on forest management, REDD+ and FPIC
- Knowledge of customary/traditional laws
- Knowledge of indigenous peoples' rights
- Good communication skills
- Knowledge of IP ancestral land/domain areas
- Ability to speak both local and national languages
- Well-respected and credible to indigenous peoples
- Strong influence, networks and linkages with state and non-state organizations
- Innovative, creative, and trustworthy
- Knowledge in mediating/settling disputes
- Good standing in his/her own community/organization and good and proven track record of good performance
- Good/excellent leadership skills
- Time and commitment to perform the tasks as representative
- Other qualifications and considerations as defined by IP organizations communities

c. How do we ensure accountability and transparency of IP representatives at all levels?

Accountability means being/making oneself answerable for one's actions, and taking full responsibility for its consequences and implications. He/she should therefore be trustworthy in the sense that he/she upholds the interest and welfare of his/her constituents above his/her personal interest and benefit. Transparency refers to taking action in an open manner that can be easily checked and verified by others. This is against secretive actions or decisions intended for personal benefit. Transparency also includes the immediate disclosure of information on any action or decision taken or on activities that one has participated in as part of these tasks or duties.



Below are the key conditions that are important to ensure the accountability and transparency of IP representatives. These conditions shall be part of the terms of reference (TOR) in the selection process and oath of commitment to be undertaken by selected IP representatives:

- Representatives shall consult with and take the views and suggestions from indigenous organizations/communities to guide his/her actions or decisions as the representatives;
- Representatives shall share his/her activities and information to his/her constituents in a timely manner;
- Representatives shall take full responsibility for the consequences and implications on his/her actions relating to his/her tasks and duties;
- Representatives shall defend the interests, rights and welfare of indigenous peoples at all times;
- Representatives shall present all related income and expenses to his/her constituents.

d. What are the duties and responsibilities of IP representatives?

The key role of the IP representatives is to engage with relevant bodies or mechanisms to present the views, concerns, positions, and recommendations of indigenous peoples. At the same time, he/she shares the information, results and matters needing the attention and action of indigenous peoples in these relevant bodies or mechanisms. It is therefore a 2-way process of engagement, ensuring the accountability and transparency of IP representatives in order to achieve effective representation.



Below are the key duties and responsibilities of IP representatives in relevant REDD+ bodies and mechanisms:

- To consult with indigenous organizations and communities to gather and consolidate their views, positions, concerns, and recommendations relating to REDD+ and FPIC on REDD+ on a regular basis;
- To present and articulate the views, concerns, position and recommendations of indigenous peoples relating to REDD+ to relevant government bodies and mechanisms clearly;
- To ensure active participation in meetings, activities, delegations, and negotiations as the IP representatives;
- To report to IP organizations and communities on the results of meetings and activities that he/she has participated in and provide advice/recommendations regularly;
- To provide simple, easily understandable and effective information to the indigenous organizations and communities;
- To coordinate with IP organizations and communities on the matters that needs their attention, response and contribution.

e. What mechanisms are effective for reporting back and consultations?

- Regularly reporting updates on REDD+ in the community meetings
- Sharing information to the communities and the organizations, e.g., in a regular newsletter
- Sharing materials, documents relating to REDD+ and FPIC to the community members during meetings
- Use of indigenous community friendly media (e.g., community radio) for sharing information and getting feedback regularly
- Conducting of regular consultations to get the views and opinions of community members and/or deliberate their concerns and issues

Box 8: Consultation Requirements Under ILO Convention 169 on Indigenous and Tribal Peoples**Article 6**

1. In applying the provisions of this Convention, Governments shall:

(a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures, which may affect them directly;

(b) Establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programs which concern them;

(c) Establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

Article 15

1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programs for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

Source: ILO Convention 169, www.ilo.org.

9.3. Consultations at All Levels

Consultation serves as a mechanism for continuous exchange and interaction between indigenous peoples and other entities relating to REDD+ for a more accountable, transparent and inclusive decision-making process. It is a constant process that allows indigenous peoples to express their views, concerns and issues; seek clarification on the information provided to them; or gather more information related to REDD+, if needed. It also serves as a forum to discuss and reach common understanding on REDD+ processes and mechanisms. At the same time, it addresses the issues and concerns of indigenous peoples as well as defines terms of engagements and or agreements in certain cases.

All the parties must do consultations with indigenous peoples in good faith and in a transparent and inclusive manner. It should also take into account the language and level of literacy, as well as the venue and the time. The consultation should take place based on the specific requirements of indigenous peoples' representatives or communities involved in the consultation process. But the forms and levels of consultations may vary depending on the nature, scope, objectives, and manageability of consultations. In this context, the level of consultations for the preparation of national strategies will be at the national level and sub-national/local level, in pilot or demonstration areas.

At the national level, the consultation shall be conducted with duly-selected (self-selection process of indigenous peoples) representatives of indigenous peoples. The number and level of representations shall be discussed and agreed upon in the initial consultation meeting with key indigenous peoples' representatives, prior to the official process of consultation.

Box 9: Engagement of Indigenous Peoples and Other Forest Dependent Communities in Consultation in the UN-REDD Programme

Consultation is the continuous process or mechanism that facilitates dialogue and coordination among the concerned parties, which should not be seen as an ultimate goal within it. Generally, consultations are done for awareness-raising, information dissemination, capacity building of the stakeholders, participation and engagement in design, implementation, review and monitoring of the activities. In the UN-REDD Programme, consultation has provided the opportunity for indigenous peoples and other forest dependent communities to express their common views, experiences and concerns, which have also strengthen their networks.

Effective consultation ensures the participation of core stakeholders with sharing of information among themselves for informed decisions, which is inclusive, transparent and accountable. Moreover, it could avoid "top down" approaches and also prevent possible conflicts within the communities, among various stakeholders and/or the government. The operational guidance of the UN-REDD Programme has clearly mentioned that it is important to ensure the effective participation of indigenous peoples and other forest dependent communities in the programme for long-term capacity building and for dialogue on all sides with the involvement of men and women, youth and elders.

It is stated in its framework document that it will:

- engage IPs and forest dependent communities in stakeholder consultation and awareness-raising, especially among resource owners, groups with traditional rights and economic agents;
- ensure participation of IPs and forest dependent communities in the establishment of REDD+ payment distribution structures at the local level.

Consultation is one of the key areas of support under the UN-REDD Programme at the national level, which includes design and formulation of programme activities; building capacities of all stakeholders; developing land and forest policy with indigenous peoples and forest dependent local communities; and creating mechanisms for inclusion and participation of these groups and engaging these groups in activities to address the drivers of deforestation.

Source: UN_REDD, 2009. Operational Guidance: Engagement of IPs and other forest dependent communities

a. What is the content of consultations?

The table below lists the key issues and key concerns of indigenous peoples specifically under the readiness phase of REDD+ in relation to the preparation of the national REDD+ strategies:

What are the issues in the preparation of national strategy?	What are the key concerns of indigenous peoples?
1. Identification of drivers of deforestation and forest degradation	<ul style="list-style-type: none"> • Protection of traditional livelihoods • Policies and measures that may have serious implications for indigenous peoples • Access to information
2. Addressing land tenure issues	<ul style="list-style-type: none"> • Identification and mapping of IP territories for legal recognition
3. Governance issues and benefit-sharing	<ul style="list-style-type: none"> • Ensuring equitable benefits to indigenous peoples, i.e., formulation of clear terms and forms of payments/compensation • System of transparency and accountability in forest governance • Participation of indigenous peoples in forest governance • Recognition and protection of traditional knowledge, sustainable forest management systems of IPs
4. Gender considerations	<ul style="list-style-type: none"> • Effective participation of indigenous women • Incorporation of rights and welfare of women • Recognition of the role of women in forest management systems, traditional knowledge, etc.
5. Implementation of Safeguards	<ul style="list-style-type: none"> • Legal recognition of indigenous peoples • Legal protection of their collective rights consistent with the UNDRIP • Establishment of mechanisms and processes for their full and effective participation

b. How should consultations be arranged?

Community level

The consultations at the community level shall be arranged through their existing traditional governance structures, if any, or through recognized community leaders and/or selected representatives. These can also be arranged through government local officials. The initial consultation meetings with community leaders shall only focus on coordination in terms of sharing information, defining the objectives and the content/issues for the consultation and preliminary arrangements to the process of the consultation. After this initial or preliminary meeting by outside parties, the concerned community leader must organize a meeting with other community leaders and representatives to discuss and agree on the details of the process of the consultations.

In this context, the community leaders and representatives shall determine the time, location, and requirements as appropriate, taking into account the availability of community members including youth, women and the elderly, considering other activities and priorities of the community. Prior notification to the members of the community shall be given through word of mouth, community radio and other effective channels for communication. It should also be the channel to get feedback from community members before the details of the consultation can be finalized. For small communities, there can also be an internal community meeting to discuss how the consultations with outside parties shall be conducted. Sufficient time should be allocated in notifying members of indigenous peoples on the schedule, agenda and carrying out of the consultation.

Sub-national and national levels

At the sub-national and national levels, consultations shall be arranged through a group of indigenous peoples' leaders and representatives. Information on the objectives of the consultation and the agenda shall be shared with them. The schedule, venue and processes of the sub-national or national consultation shall be arranged in consultation with a wide number of indigenous leaders in order to ensure an appropriate schedule and venue based on the availability of target participants, access and suitability of the venue, and recommendations on the processes of the consultation. The final agenda, participants and processes of the consultation must also be designed together with a group of indigenous peoples' representatives/leaders. Likewise, sufficient time should be allocated for notification and preparation of participants.

c. How should consultations be conducted?

Consultations shall be conducted in an open, comprehensive and transparent way. It should be conducted in the language understood and spoken by indigenous participants. This will not only facilitate their understanding but will also allow them to freely and comfortably express their thoughts, ideas, views and concerns. The objectives and agenda shall be clear to everyone. Likewise, the carrying out of the consultation shall be a 2-way process in which information is presented to them and indigenous participants are given adequate time to understand and ask questions and clarifications, to share their opinions and views, and to receive responses. There should also be adequate time to deliberate on the issues and concerns of indigenous peoples and to come up with common understanding on these concerns and how they will be addressed by identifying key steps of further engagements, if required. At the end of the consultations, there should be a summary on what has been discussed and key steps to be undertaken as follow-up or for further engagements.

The environment and procedures of consultations shall be conducive to allowing the active participation of indigenous representatives, leaders and community members. It should be free from any form of intimidation or harassment and no form of condition shall be imposed on indigenous participants. Likewise, accurate recording of the content and process of the consultations must be ensured. This should be verified and attested to by indigenous peoples before it is finalized and transmitted or shared to others.

d. What are the requirements for effective consultations with indigenous people?

- Community members based on their schedule, priorities and other considerations, will decide time and venue of the consultation.
- Inclusive participation of women, youth and the elderly in the consultation.
- Respect for the local indigenous cultures, values and sensitivity to the cultural issues, values while doing consultations.
- Open and transparent process that allows indigenous participants to freely express their ideas, views, opinions, suggestions and recommendations.
- Use of simple languages/forms in presentations and discussions based on the level of understanding and literacy of community members.

- If necessary, use of local language understood by community members, and opportunity for them to articulate their views and concerns.
- Sufficient time needs to be provided for discussions focused on community issues, concerns and recommendations.
- Questions and queries raised by community members need to be responded to adequately.
- Recommendations of community members are taken into account, including in follow-up consultations, issues to be discussed and addressed, among others.
- Proper documentation and recording of discussions affirmed by community members in terms of accuracy and copies are to be provided to the community.

e. How do we ensure proper recording and documentation of consultations?

Accurate documentation and recording of consultations are very important to ensure that the process and content of the consultations are properly reflected. Indigenous leaders should be assigned the task of documenting the whole process and outcome of the consultation process in their local languages and sharing the information to the community members. This shall also be used for reference to matters relating to the issue/topic of the consultation and to recommendations and decisions reached in the consultations. The documentation can be done in different forms, which indigenous communities are familiar with. Some forms of documentations that indigenous peoples can use based on their knowledge and availability are given below:

- Audio/video recording;
- Photo documentation;
- Written documentation.

TAKE NOTE: In order to ensure proper recording and documentation of both process and content, there should be an agreement on who will do the official documentation and copies of the documents need to be given to the communities for validation and approval based on consultation. The official documentation, if done by an outside party, shall be consistent with the documentation made by members/leaders of the community. This is to avoid any misunderstanding or confusion on the result/outcome of the consultation.



SESSION 10: CONDUCTING FREE, PRIOR AND INFORMED CONSENT

Time/Duration: 2.5 hours

Steps

1. Pose the following questions, written on cards, and distribute to the participants:
Group Exercise:
 - What are the steps and ways for the conduct of FPIC in REDD+ at the community level?
 - What are the experiences and lessons learned of the communities so far?
2. Collect and cluster the written replies, and synthesize the ideas of the participants.
3. Cite the cases of UN-Programme approaches of FPIC piloting in REDD+ in Vietnam and Indonesia.
4. Discussion in plenary.
5. Role Play after the discussions above - It would be interesting to do a role-play on the conduct of FPIC in REDD+ by dividing the participants into 3 groups; first group acting as a community (participants should wear their traditional dress if possible), second group acting as a REDD+ project proponent, and the third group acting as government that tries to convince the community to give their consent for the project.

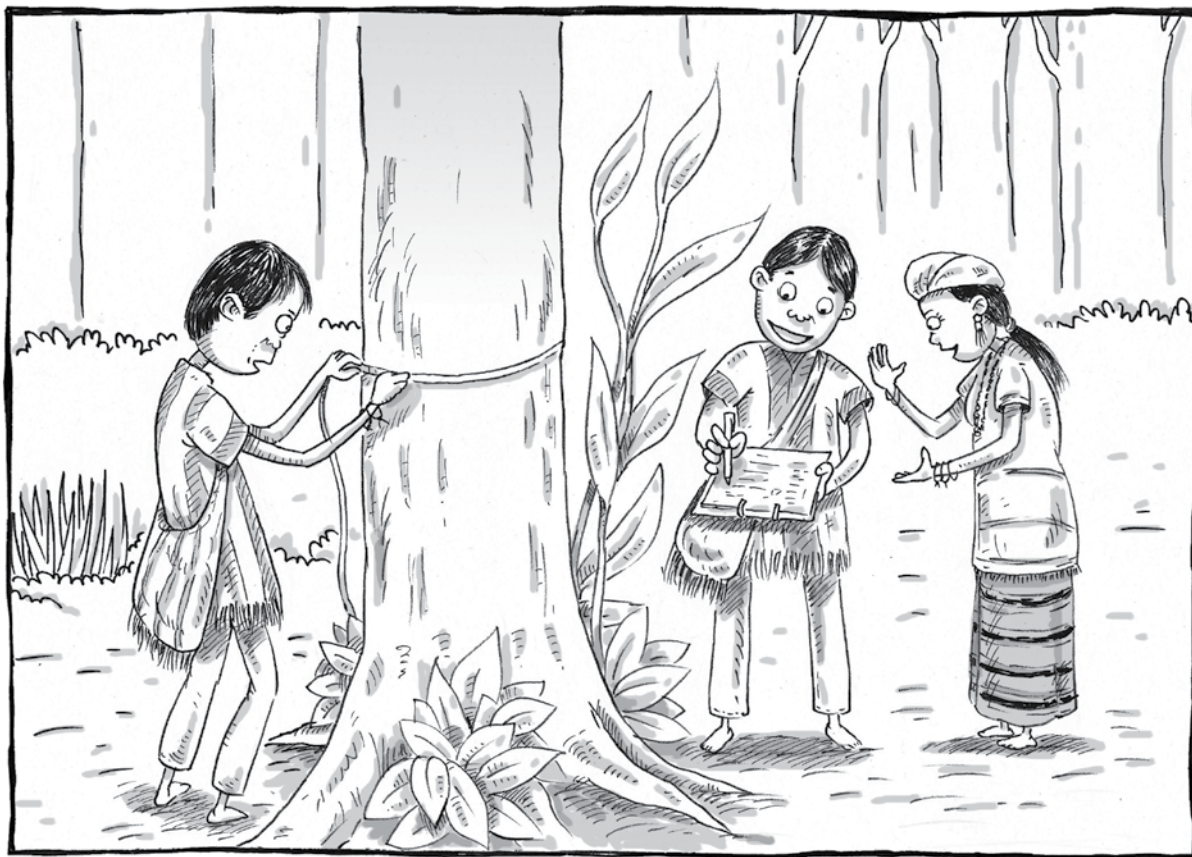
The concept, principles, features, and elements of FPIC have already been provided in Module II. This section will therefore focus on the process and substance of application of FPIC in REDD+ and provide guidelines for conducting FPIC at the community level.

10.1. Areas for Full Application of FPIC in REDD+

a. National REDD+ Strategies

The national REDD+ strategies provide the overall framework and guidance on the implementation of REDD+. Below are the key elements relating to IP issues and concerns that shall be included in the national REDD+ strategies:

1. Land tenure issues (may include review and reforms of laws);
2. Drivers of deforestation and forest degradation;
3. Forest governance issues;
4. Fair and equitable benefit sharing mechanisms;
5. Gender consideration in all stages of REDD+ implementation;
6. Safeguards that ensure full and effective participation of IPs and local communities;
7. Emission reference levels
 - Baseline data
 - Stock measurement;
8. Robust and transparent national forest monitoring system: measuring, reporting and verification (MRV) system at a national and – where appropriate – sub-national level;
9. System for providing information on how safeguards are addressed and respected in all REDD+ activities to include design of the information system, data-gathering and preparation of the report.



1. What should be the process for FPIC on the national REDD+ strategies?

The FPIC process on the national REDD+ strategies should follow these important steps:

1. Information dissemination/disclosure to indigenous peoples organizations and communities on the contents and processes of the national REDD+ strategies. It is duly important that there should be mechanisms to engage indigenous peoples' representatives in all processes in the national REDD+ strategies to ensure full and effective engagement and also assurance of above-mentioned IP issues and concerns in the strategies;
2. Consultation through the self-selected representatives of indigenous peoples, and indigenous communities in pilot areas;
3. Internal consultation of indigenous peoples through their organizations and in indigenous communities, especially those living or dependent on the forest;
4. Independent decision-making processes of indigenous peoples through their self-selected representatives and IP communities in REDD+ pilot and demonstration areas;
5. Respecting the outcome of the collective decision-making process of indigenous peoples;
6. Establishment of mechanisms for continuing engagement, as appropriate;
7. Establishment of grievance/recourse mechanisms.

2. What are the effective measures for the conduct of FPIC of the national REDD+ strategies?

1. Independent and credible process of self-selection of representatives of indigenous peoples.
2. Thorough information dissemination on the draft national REDD+ strategies in manner and forms understood by indigenous peoples.
3. Conducting consultation and dialogues for clarification of issues identified by indigenous peoples.

4. Sufficient time for internal consultations and deliberations of indigenous peoples of the draft national REDD+ strategies.
5. Conducting a collective decision-making process of indigenous peoples that is independent and inclusive.
6. Provision for financial, logistical and technical support and assistance to indigenous peoples in the information dissemination, conducting consultations and dialogues, and the collective decision making process.

b. Pilot/Demonstration areas:

The FPIC for indigenous communities in pilot/demonstration areas shall be on the following:

1. Information disclosure relating to REDD+ in a simple and understandable way (including possible impacts to their livelihood both in terms of positive and negative aspects);
2. Provision of sufficient time and information for discussion and consultation among themselves and with indigenous organizations, experts, if necessary;
3. The full authority of the indigenous communities to decide on the project without any coercion and distress;
4. Indigenous peoples' representation in national REDD+ processes and strategies;
5. The conduct of activities relating to REDD+ that shall be implemented in their area with the involvement of indigenous peoples;
6. The specific elements of the national REDD+ strategies that directly concern indigenous peoples, i.e., identification and measures relating to drivers of deforestation and forest degradation with implications to their livelihoods; land tenure, benefit sharing scheme/arrangement, conduct of MRV;
7. The draft national REDD+ strategies with inclusion of indigenous peoples' issues, concerns, views, and recommendations.

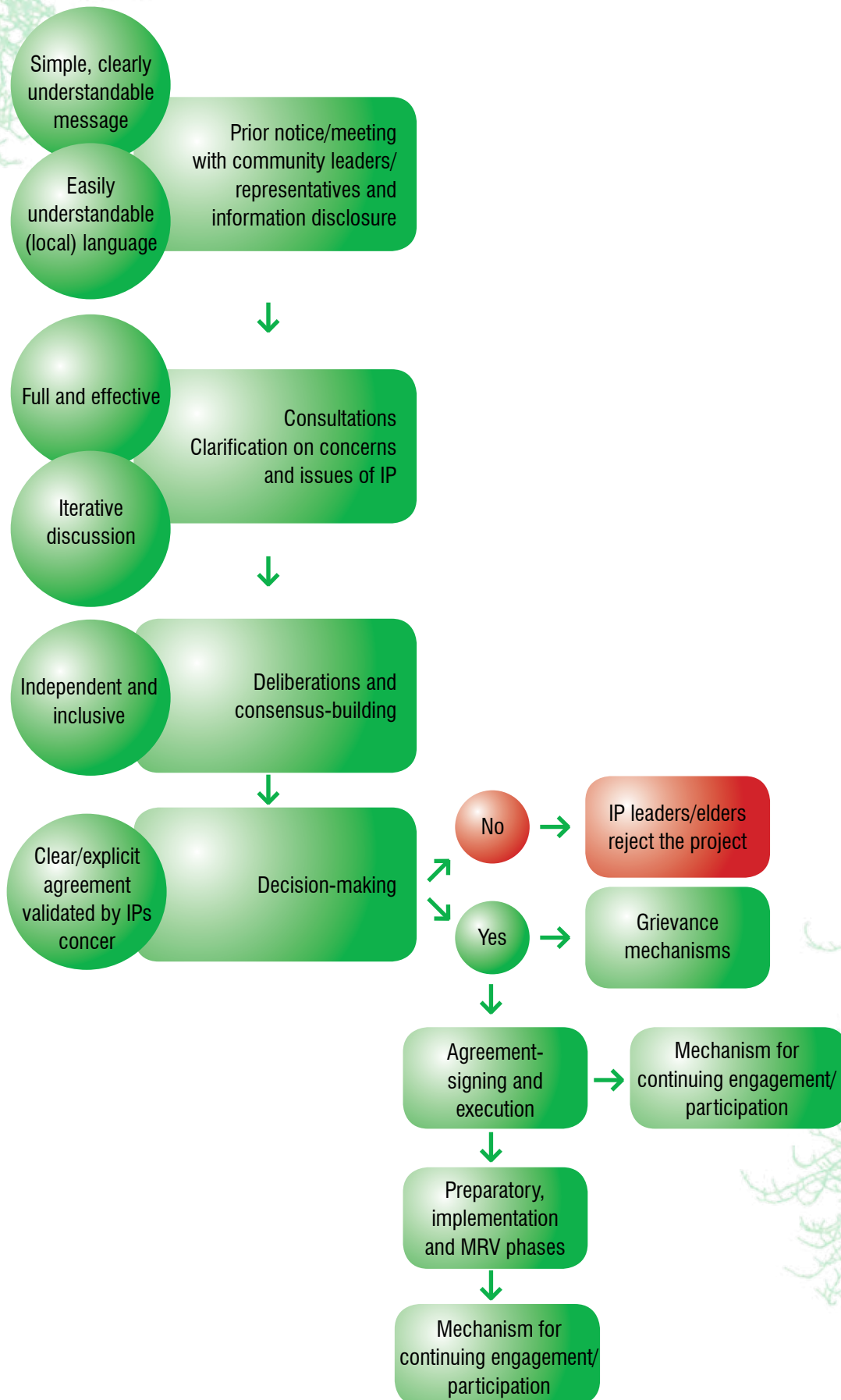
10.2. Key Steps in the FPIC Process

The key steps and processes of FPIC have already been discussed in Module II.

The key steps and elements in the conduct of FPIC in the pilot/demonstration areas of indigenous peoples are presented below. This is one general guideline on conducting FPIC. This can be contextual, based on the situation and priorities of indigenous peoples in the demonstration areas.

TAKE NOTE: The most important aspect in this process is understanding the REDD project, its implications on indigenous peoples' livelihoods, rights, and ownership to land, territories and resources so that they can decide either to go with REDD+ or deny the project - without any influence from the REDD+ proponent and government.

The Key Elements of FPIC



10.3. Key Processes of FPIC in REDD+

a. Information dissemination/awareness-raising

Information dissemination and awareness-raising are essential in the FPIC process. It is the first important step related to strategic implications on the collective decision of indigenous communities. Giving wrong or unclear information to indigenous communities will affect their deliberations and considerations as well as their collective decisions. So, clear and easily understandable information for indigenous peoples is mandatory. In this context, indigenous communities should demand complete, accurate information to be delivered to them in a manner and form they can clearly understand.

1. How should information dissemination and awareness-raising be conducted?

Information dissemination and awareness-raising activities should take into consideration the level of literacy and language that indigenous communities use and understand. Audio-visual and printed media in a language familiar to them can be used for better understanding of the concept and implications to their rights, ownerships and livelihoods. This also needs to take into consideration the appropriate time to conduct these activities in relation to the activities and priorities of communities.

Since REDD+ is a complex concept, especially in relation to carbon emission, measurement and accounting and benefit sharing mechanism, aside from other related technical matters, information must be simplified to the level of understanding of community members. In this context, information dissemination shall include innovative and creative means to ensure this.

Since indigenous peoples must gain a clear understanding of REDD+ and its implications, they must be able to request simpler presentations until community members gain a common understanding and a level of satisfaction on REDD+ and its implications to them. If they are not satisfied with the information provided and/or it is not understood well, they can seek further information and ask for more time to understand it or simpler explanation (without losing the essence) of concepts related to REDD+ and its implications on their rights, livelihoods, welfare, and collective interests.

2. What information shall be provided to IP communities in the conduct of FPIC in REDD+ Readiness phase?

- Basic information related to climate change and REDD in simple language, possibly in local language.
- The implications of REDD+ to IP communities (opportunities and risks) in relation to their rights, ownerships, welfare, interests, and aspirations.
- What and how safeguards will be implemented according to the Cancun decision and other UNFCCC declarations.
- What the activities to be implemented in the pilot/demonstration areas are, how they will happen and by whom.
- How the full and effective participation of IP communities will be ensured in the activities being implemented in the pilot/demonstration areas.
- How their concerns will be addressed, i.e., land tenure, protection of livelihoods and their traditional forest management systems, benefit sharing, etc.
- Other information requested by community members.

Below are some examples of popular forms of information dissemination for indigenous communities:

Box 10: Forms of information dissemination on REDD that are most effective to the level of understanding of the indigenous communities:

- Posters
- Role plays
- Websites
- Video documentaries
- Community radio
- Songs
- Comics
- Country reports
- Booklet/briefing papers/leaflets

Information should be in their local languages (simply and intelligible).

3. If indigenous communities are not satisfied, based on the information provided to them, what can they do?

In this situation, indigenous peoples can request/demand from the REDD + project proponents/governments/ institutions/ NGOs additional information or more awareness-raising activities that are appropriate to their level of understanding, using their local language. In addition, indigenous peoples' representatives should be involved in all REDD+ activities in their communities that will ensure transparency and accountability and also build capacity of the indigenous peoples. They can also request information from NGOs they can trust.



Indigenous communities have full rights to demand information they need in a manner and form that is satisfactory to them. Likewise, they should also be allowed adequate time to process the information provided to them and seek more clarification and additional information.

b. Consultations

(refer to the earlier section on consultations) – Page 97



c. Process of collective decision-making of indigenous communities

The form and manner of the collective decision-making of indigenous peoples/communities vary from community to community based on their social norms and values in the territories and countries. The basic principle of a collective decision is that indigenous communities or peoples should collectively decide how they would conduct their decision-making process in relation to REDD+ based on information available to them and the consultation process, and determine the terms and conditions.

For indigenous communities that do not have any form of collective decision-making, they need to build their capacity first to ensure their decision-making will strengthen their unity and cooperation. Community members must be provided with adequate time and resources to build their capacities to be more organized and knowledgeable in undertaking collective decisions in the FPIC process.

1. How do we undertake collective and independent deliberations of indigenous communities?

Prerequisite to the process of collective decision-making is the undertaking of independent and thorough deliberation by members of indigenous communities after disclosure of the information. This is in order to ascertain and discuss

the following in relation to their rights, welfare, interest and aspirations:

- What is the level of IPs' understanding on REDD+? This includes activities in pilot areas and its concrete and specific implications to them.
- Are they satisfied with the information provided to them? If not, what additional information do they need and in what forms should this information be presented to satisfy their level of understanding?
- What are their common concerns in relation to their rights, livelihoods, entitlement of benefits, welfare, collective interests and aspirations?
- What do they consider as the risks? How are these going to be addressed satisfactorily and safely?
- What do they consider as the opportunities? How are these going to materialize satisfactorily and safely?
- Are all the concerns and questions of members of the community addressed satisfactorily?
- What do they consider as advantages and disadvantages?
- What conditions are needed to secure their rights, welfare and benefits?

These key questions and considerations must be thoroughly discussed and all the views, opinions, and recommendations of the community members must be addressed. Thus, adequate time for community deliberations must be provided until members have gained enough confidence to undertake their collective decision. Accordingly, the decision-making process should not be rushed or boxed into a pre-set time frame. Their collective and independent deliberations will create a common understanding and process their concerns, issues, views, and opinions prior to taking their collective decisions.

2. How should indigenous communities conduct their independent and collective deliberation to guide their collective decision-making process?

Indigenous peoples can conduct their own deliberations and gather with active participation of all members and groups of the community. It is important that women and youth are able to participate in these deliberations to express their specific concerns and views, as well as to seek clarification. Within indigenous communities, women and youth groups can deliberate as part of the wider process of community deliberations. Community discussions and deliberations should take into account views and opinions expressed by the community members, including women and youth, within the framework of upholding the rights, common interest and welfare of the community - as opposed to individual interest or agenda.

Community deliberations must be free from intimidation and conditions that undermine their free expression and collective discussions of their issues and concerns. If community members require more information to guide their collective deliberations, the required information must be provided promptly and in a manner that satisfies their level of understanding. Likewise, if community members feel the need to have more consultations in order to seek clarification to their concerns, this should also be conducted prior to their collective decision-making.

3. How is collective decision-making conducted?

These community deliberations are conducted to the level of satisfaction to the community members that give them a confidence to take a decision collectively. The conduct of the collective decision-making shall allow all members of the community to express their views and positions in a manner or form agreed by the community.

For indigenous communities or groups with strong or functioning systems of self-governance, they can use their traditional system of decision-making (i.e., consensus decision-making). The other forms of collective decision-making are in the form of casting individual votes through a referendum — this can be through ballots or open vote of raising hands during a community gathering (Hill et. al, 2010). Indigenous communities may include terms and conditions as part of their collective decisions. These terms and conditions must be clear, measurable or quantifiable and provide measures on how it will be implemented or achieved. This is to prevent misinterpretation or confusion on how it will be implemented.



In addition, it must be conducted in the atmosphere and the environment that is suitable to all members of the indigenous communities. If communities feel that their collective decision-making process is being undermined or manipulated, they should immediately stop and file a complaint. Alternatively, they can deny the project immediately.

TAKE NOTE: The collective decision-making process of the indigenous communities must be properly documented and recorded by the community themselves, and to be validated by them before it is submitted to any party or made public. It is therefore important that members of the community be assigned to do the documentation and recording of the decision-making process - and not only the outcomes. The community should ensure the proper safekeeping of the record of their collective decisions. If this record is in the local language, trusted translators of the community should be tasked with translating it accurately to the national language and English and subject to validation in terms of accuracy.

SESSION 11: GRIEVANCE MECHANISM

Time/Duration: 1.5 hours

Steps

1. Present on the overview of the grievance mechanism.
2. After presentation, provide the following questions among the participants:
 - Do you have any customary laws and or traditional institutions on conflict resolution or addressing community concerns?
 - How accessible, transparent, effective and just is the complaint mechanism of the local government in your communities?
3. Collect and cluster the written replies, and synthesize the ideas of the participants.
4. Provide the following question for group exercise:
 - Based on your own issues and concerns relating to REDD+, what do you think are appropriate grievance mechanisms that should be provided to address/resolve your concerns?

11.1. What is a Grievance Mechanism?

A grievance is an actual and/or perceived issue, concern, problem, or claim of indigenous peoples and communities on REDD+ that needs to be addressed and resolved. There should be a local, simple and formal channel to express the grievances; and a mechanism to accept, assess and resolve the problems, issues and complaints concerned with REDD+. It is possible to develop a set of standards for complaint mechanisms based on risks and impacts of REDD+ on the indigenous communities. Grievance mechanisms are increasingly important to address the risks and adverse impacts anticipated in REDD+ (Anderson, 2011). These mechanisms will provide ways and options to prevent and address the communities' issues and concerns, reduce risks and encourage wider positive changes in the indigenous societies.

Steps

1. Present on the overview of the grievance mechanism.
2. What a grievance mechanism should follow
 - Assessment of the risks and impacts of REDD+ on indigenous peoples through the process of fact finding.
 - Engagement of indigenous communities in informed consultation and participation of the REDD+.
 - Assessment, compliance and recommendations based on actual and possible risks and impacts of REDD+ on indigenous peoples.
 - Development and implementation to minimize the risks as well as aid the identification of benefits from REDD+ implementation.
 - Dispute resolution, grant remedies and compensation mechanism.



a. Why is the grievance mechanism necessary for indigenous peoples in REDD+?

The grievance mechanism in REDD+ is the channel to resolve the issues of indigenous peoples and REDD+ proponents. Some of the reasons for its importance are:

- The need for resolution of the issues and concerns of indigenous peoples on land tenure, drivers of deforestation and sustainable livelihoods, forest governance, carbon rights, and benefit sharing, among others;
- There are limited policies and regulations on safeguards in the Readiness Phase of REDD+;
- Many governments, donors, companies, conservation NGOs, and other REDD+ proponents do not recognize and/or respect the rights and perspectives and views of indigenous, and may not engage effectively with indigenous peoples in good faith.

b. What is a national grievance mechanism under UN-REDD and FCPF?

The national consultation process should define specific grievances and grievance redress mechanisms that should be included in national REDD+ strategies with the engagement of indigenous peoples in the process. The national grievance mechanism should include:

- Analysis of the issues, concerns and gaps in harmonization of the Cancun safeguards and national/international obligations, laws, policies and mechanisms, and options for grievances and complaints by indigenous communities;
- Full and effective participation and respect of the rights of indigenous peoples on multi-stakeholder readiness processes (including UNDRIP and FPIC):

- Ensuring of rights to land tenure and to land, territories and resources, self-determination and FPIC of indigenous peoples,
 - Design of conflict resolution and recourse mechanisms at local and national levels,
 - Strategies to address drivers of deforestation and protect indigenous livelihoods;
- Development, revision or social improvement and environmental management systems to handle the risks and implement the corrective actions and resolution options.

11.2. Preconditions for the Full and Effective Participation of Indigenous Peoples in the FPIC Process

The successful engagement of indigenous peoples in REDD+ mechanisms hinges on critical external and internal factors and conditions. These include the political and social environment (external) and the capacities and cohesion of indigenous people's organizations and communities (internal). From the perspective of indigenous peoples, the key external players in their engagement in REDD+ include the governments, donors and funders, corporations, and civil society organizations, among others. As regards internal conditions, these shall focus more on the capacities of indigenous peoples at different levels. This section shall present first the preconditions needed by indigenous peoples for their effective engagement in REDD+. It is important, however, to conduct a capacity needs assessment of indigenous peoples' organizations, leaders and communities. The result of which shall be a main reference for developing a more customized and targeted capacity-building plan and activities in order to facilitate their effective engagement, as well as in strengthening their organizations and institutions.

a. Among IPs at the community level

The capacities of indigenous peoples at the local level are critical and essential in ensuring their effective engagement in REDD+. Experiences have demonstrated that indigenous communities that have weak capacities are vulnerable to misinformation, manipulation and bribery, among others. They also become easy targets for divide and rule, undermining their unity and cohesion to collectively take action and effectively address their concerns and issues (IWGIA and AIPP, 2011). Accordingly, below are the preconditions or required capacities of indigenous communities for their full and effective participation, including the implementation of FPIC in REDD+.

1. Communities have to be well-organized with accountable leaders

While indigenous peoples have their systems of self-governance that are important for ensuring the cohesion and cooperation of indigenous peoples as a collective, these forms of self-governance have been seriously undermined, eroded and weakened in many indigenous communities. It is vital that indigenous communities revive and strengthen their self-governance and keep this attuned to the present day realities. They can form or strengthen their organizations and institutions to work for the respect of their rights and promote their collective interests, welfare and aspirations. In addition, indigenous leaders should demonstrate accountability towards their communities by making oneself responsible for one's actions, and taking full responsibility for its consequences and implications. He/She should uphold the collective interest and welfare of his/her constituents above his/her personal interest and benefit.

i. Features of well-organized communities

- Strong unity and cooperation in working together to address the common issues, needs, welfare, interests and aspirations.
- Well-oriented to the particular situation of the forest and related issues and concerns to their communities.
- Supporters and practitioners of collective actions and decision-making processes.
- Democratic in the process of consultation and selection of indigenous leaders, with the active participation of women and youth.
- Developed programme of actions, plans and collective activities.

- Collective leadership and interpersonal relationship between members.
- Mutual understanding and respect between the members of the community.
- Reliant on own strengths, capabilities for collective decisions.
- Accountable and responsible leaders.

ii. Requirements for leadership to be accountable

Indigenous Peoples' leaders should demonstrate accountability and good leadership by articulating, asserting and upholding the collective interests and welfare of the communities over their personal interest or interest of other groups or parties. The requirements for the leadership to be accountable are as follows:

- The leader shall be committed, determined, industrious and farsighted to fulfill the collective well-being of his/her constituency and always execute his/her responsibilities based on his/her mandate agreed by his/her constituency
- The leaders be willing to accept criticisms from others and serious in rectifying his/her errors
- The leaders shall uphold at all times the welfare and interest of his/her constituents. Any decision undertaken by the leader shall be based and or subjected to the views, position and concerns of his/her constituents in relation to their overall or common interest, welfare and aspirations
- The leaders shall be able to facilitate broader unity, conflict resolution in relation to the concerns and issues of his/her constituents
- The leaders shall establish and effective communication mechanisms with his constituents for consultations, exchange of information and views and for collective decision making
- The leaders shall always promote and respect the collective decisions based on the consensus of the community members. He/she shall not be indifferent to the concerns raised by women, youth and elders but instead facilitate meaning consultation by encouraging them to participate actively in the process.
- The leaders should always be wary of the possible conflicts and misunderstandings within the community members and the bait that project proponents keep throwing among the communities to fast-track the decision making process that will ultimately create a division within community members. Therefore leaders should be alert, knowledgeable and sensitive to intervene at the appropriate time through the appropriate methods to resolve such possibilities.
- The leaders should not try ever to coerce or force community members in making decision but instead should consult, explain and accept the collective decision of the community. Therefore his/her actions should always generate trust from the communities.

TAKE NOTE: *The collective decision-making process of the indigenous communities must be properly documented and recorded by the community themselves, and to be validated by them before it is submitted to any party or made public. It is therefore important that members of the community be assigned to do the documentation and recording of the decision-making process - and not only the outcomes. The community should ensure the proper safekeeping of the record of their collective decisions. If this record is in the local language, trusted translators of the community should be tasked with translating it accurately to the national language and English and subject to validation in terms of accuracy.*

iii. Resolution of inter-community disputes and conflicts

- There is a requirement for a high level of awareness of their rights and related national and international legal framework, REDD+, climate change and other relevant issues.
- Communities should have relevant skills in negotiation, facilitation, documentation, presentation, lobbying, and advocacy.
- Inter-community conflicts need to be resolved by discussion and negotiation among communities.
- Communities need to understand and undertake community mapping for them to identify their forest boundaries.
- Accurate comprehensive information needs to be available and should be easily accessible in a simple, understandable language.
- Communities need to understand climate change and REDD+ issues:
 - o Communities have to know national and international agreements, policies and instruments related to REDD+ and indigenous peoples;
 - o Communities need to understand MRV (i.e., capacity-building of IPs for MRV).
- Communities need to understand FPIC.



b. Among IPs working at the national or sub-national level

- IPs should have strong and accountable representative organizations and/or leaders.
- IPs need to have their own self-selection mechanisms.
- IP representatives/leaders have to know and understand their rights (including their right to carbon).
- IP representatives/leaders need the relevant skills in negotiation, facilitation, documentation, presentation, lobbying and advocacy.



- IP representatives/leaders need access to accurate and comprehensive information relating to REDD.
- IP representatives/leaders need to thoroughly understand climate change and REDD+ issues, particularly in relation with the following:
 - o National and international agreements, policies, programs, projects, and instruments related to REDD;
 - o The key issues, such as forest monitoring systems (MRV), land tenure, identification of drivers of deforestation and forest degradation, forest governance (benefit sharing etc.), gender considerations, safeguards.
- IP representatives/leaders need a thorough understanding of FPIC.

Further Readings

Anderson, P. 2011. *Free, Prior and Informed Consent: Principles and Approaches for Policy and Project Development*. RECOFTC – The Center for People and Forests and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH Sector Network Natural Resources and Rural Development – Asia.

Hill, C., S. Lillywhite and M. Simon. 2010. *Guide to Free, Prior and Informed Consent*. Oxfam Australia.

IWGIA and AIPP. 2011. *Understanding Community based REDD+: A Manual for Indigenous Leaders and Communities*. Asia Indigenous Peoples Pact and International Work Group for Indigenous Affairs.

UN-REDD. 2010. *Applying Free, Prior and Informed Consent in Vietnam, April, 2010*. United Nations Collaborative Programme on Reducing Emissions from Deforestation and forest Degradation in Developing Countries.

UN-REDD, 2009. *UN-REDD Programme Operational Guidance: Engagement of Indigenous Peoples and other Forest Dependent Communities, Working document*.

TRAINING ON FREE, PRIOR AND INFORMED CONSENT IN REDD+ FOR INDIGENOUS PEOPLES

Date:

Venue:

EVALUATION AND FEEDBACK FORM

Please score from 1 to 5 (poor to excellent) in each session based on your understanding and clarity on the session: Please fill the form independently.

Modules and sessions	Topics	Participants' observations				
		New to me Still to understand	Clear to me	Useful to my work	Need more simplification and clarification	Need more cases and examples
Day 1						
Module 1:	The REDD + Agreement					
Session 1	What is REDD + ?					
Session 2	Key Concerns and Implication of REDD + to Indigenous Peoples					
Session 3	REDD + Safeguards					
Provide general comments and suggestions on MODULE 1						
1.						
2.						
3.						
4.						
5.						
Day 2						
Module 2:	Free, Prior and Informed Consent					
Session 4	Concept, Framework and Principles of FPIC					

Session 5	The Principle of FPIC in International Human Rights Instruments								
Session 6	National Policies relating to FPIC for Indigenous Peoples								
Session 7	Lessons learned from the conduct of FPIC in REDD+								
Provide general comments and suggestions on MODULE II									
1.									
2.									
3.									
4.									
5.									
Day 3									
Module 3:	Community Guide on Full and Effective Participation of Indigenous Peoples and Application of FPIC in REDD+								
Session 8	Forms/levels, Preconditions and Activities Relevant for the Full and Effective Participation of IPs in REDD+								
Session 9	Participation of Indigenous Peoples in Relevant Bodies and Mechanisms Relating to REDD+								
Session 10	Conducting Free, Prior and Informed Consent (Process, application and measures of FPIC in REDD+)								
Session 11	Grievance Mechanisms								
Provide general comments and suggestions on MODULE III									
1.									
2.									
3.									
4.									
5.									

Day 4

Field visit to REDD + pilot areas

Provide general comments and suggestions of FIELD VISIT

- 1.
- 2.
- 3.
- 4.
- 5.

Provide overall comments and suggestions on the training

- 1.
- 2.
- 3.
- 4.
- 5.

Overall Evaluation

sn	Particulars	Impressive	Clear	Needs Improvement	Remarks and comments
1	Flow of module's Contents				
2	Clarity on the objectives of training and each module				
3	Logic and Cohesiveness of the presentations' contents				
4	Competence and skills of the facilitators				
5	Group works				
6	Field visit				

Please comment on the logistic arrangement and the conduciveness inside the training hall.

- 1.
- 2.
- 3.
- 4.

Under international human rights instruments, which include the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), indigenous peoples have the right and entitlement to Free, Prior and Informed Consent – FPIC. This is essential to the exercise of their collective rights to their lands, territories and resources, as well as to self-determination and cultural integrity. FPIC provides the recognition of the rights of indigenous peoples to undertake their own collective decision of giving or withholding their CONSENT on certain programmes, projects and actions that affect or concern them, based on their own perspectives and considerations. This is in line with achieving social justice and equality for indigenous peoples who have suffered from centuries of systematic oppression, discrimination, exploitation, and abuse. It also provides the basis for establishing genuine partnerships of indigenous peoples with states and other parties within the framework of recognizing and respecting the rights of indigenous peoples, including their own perspectives on sustainable development.

In addition to international instruments relating to the recognition of FPIC for indigenous peoples, international financial institutions and multilateral development banks have also put in place their specific policies relating to indigenous peoples that include FPIC. These are very positive steps in the long journey of indigenous peoples for the recognition of their rights by development actors. The World Bank is currently reviewing its safeguard policies, including the IP Policy that remains inconsistent with international standards.

Since REDD+ (Reducing Emission from Deforestation and forest Degradation, including conservation, sustainable management of forest and enhancement of forest carbon stocks/sequestration) is very much linked with indigenous peoples living in or close to the forests, it is important that indigenous peoples are fully aware of their rights and entitlements for them to be able to undertake their own collective decision-making to protect their interests and welfare. REDD+ has very serious implications and challenges for indigenous peoples. These include, among others, the critical issues of land tenure security and forest rights as part of their right to lands, territories and resources; protection of their livelihoods and food security; sustainable resource management systems; enhancement of traditional knowledge; and the recognition of the role, contributions and concerns of indigenous women.

With the active engagements of indigenous peoples and NGOs at various levels including in the international negotiations on REDD+, social and environmental safeguards have been put in place in the REDD+ Cancun Agreement. These include the respect for the rights and traditional knowledge of indigenous peoples and local communities, as well as for their full and effective participation in all stages of REDD+. Likewise, multilateral channels for funding REDD+ Readiness, such as the UN-REDD Programme and the Forest Carbon Fund Facility, have formulated policies and guidelines for stakeholders' engagement of indigenous peoples and local communities, among others.

This manual has been prepared by AIPP and its partner organizations that are directly involve in REDD+, as a tool for indigenous peoples to gain more knowledge on REDD+ and indigenous peoples' concerns on REDD+; the principles, concept, substance and process of FPIC; experiences and lessons learned on FPIC; and how FPIC shall apply to REDD+. This manual was prepared using the perspective of indigenous peoples as rights holders - and not merely as stakeholders. It addresses key issues relating to REDD+ and indigenous peoples from a human rights framework that takes into account the role and contributions of indigenous peoples to sustainable resource management and conservation.



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