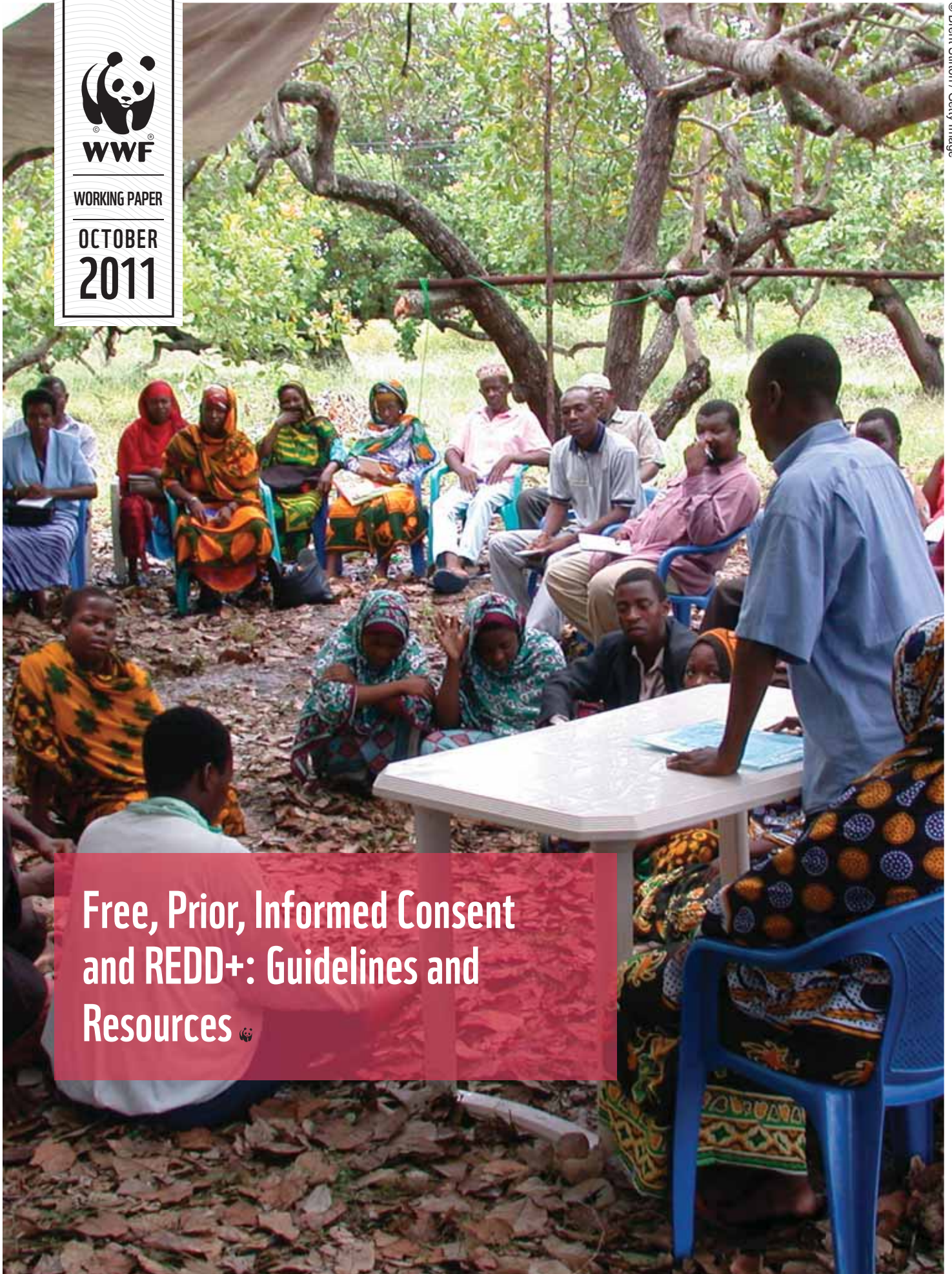




WORKING PAPER

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Free, Prior, Informed Consent and REDD+: Guidelines and Resources

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This document has been produced as a Working Paper to invite comments and feedback. Please send any comments to peopleandconservation@wwfus.org.

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Key Points

- FPIC refers to the principle that indigenous peoples have a right to give or withhold consent to actions that will affect them, especially actions affecting their traditional lands, territories and natural resources.
- *WWF's Statement of Principles on Indigenous Peoples and Conservation* recognizes the right of indigenous peoples to FPIC from governments on projects affecting their customary lands and resources, and states that WWF will not promote or support interventions affecting customary lands and resources that have not received FPIC.
- FPIC is highly relevant to REDD+ because REDD+ will involve changes in forest use that can affect the rights and livelihoods of indigenous peoples and local communities. FPIC enables communities to safeguard their rights and interests, and also shape REDD+ initiatives to support communities in ways that will contribute to successful outcomes.
- While WWF will not act as proponent of REDD+ projects, FPIC remains relevant to other roles WWF may play such as capacity-building, project initiating and informing the development of REDD+ policy frameworks.
- Practical methodologies for FPIC are still evolving, and need to be specific to local cultures and contexts. However, a number of recent publications have outlined general procedures for FPIC, as a resource for ensuring that rights to FPIC are respected and supported. This working paper outlines a general set of procedures for use by WWF programs working on REDD+, drawing in particular on recent guidance from RECOFTC/GIZ, Oxfam and the Forest Peoples Program.
- The concluding section of the paper provides an annotated compilation of Additional Resources on which programs can draw for more in-depth information.

Background

The emergence of Reducing Emissions from Deforestation and Degradation, and conserving, sustainably managing and enhancing forest carbon stocks (REDD+) has generated great interest as a possible way to increase support for the forest stewardship activities of indigenous peoples and local communities. Potential benefits associated with REDD+ initiatives include strengthening of community land and resource rights, empowerment of community institutions and increased income through benefit sharing. At the same time, REDD+ has sparked concern about possible adverse impacts on indigenous and community rights and livelihoods, including restrictions on land and resource rights, increased centralization of forest management, and inequitable benefit-sharing.

Free, prior, informed consent of indigenous peoples and other forest-dependent communities is widely recognized as a key foundation for securing the opportunities that REDD+ may provide and addressing its risks, contributing to more equitable, effective and sustainable REDD+ initiatives. At the same time, practical challenges to effective realization of FPIC remain. A number of recent publications and current processes seek to address these, including through development of practical guidelines and procedures. One purpose of this working paper is to distill these practical guidelines into guiding principles and procedures for WWF programs working on REDD+, as a resource for ensuring that rights to FPIC are respected and supported. The paper also provides an annotated compilation of additional, more in-depth resource materials on which programs can draw.

What is Free, Prior, Informed Consent?

Free, prior and informed consent (FPIC) refers to the principle that indigenous peoples have a right to give or withhold consent to actions that will affect them, especially actions affecting their lands, territories and natural resources. FPIC is recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and elsewhere, and is linked to collective rights to property and self-determination. FPIC has evolved as a protection against the often-devastating impacts on communities when they are left out of planning and decision-making processes, especially about large-scale development projects and other land use changes. While most clearly established as a right of indigenous peoples, it is increasingly recognized that the basic principles underlying FPIC are also relevant to non-indigenous communities.ⁱ

FPIC is increasingly recognized as “best practice” in conservation and development, to avoid conflicts and ground activities in equitable agreements with indigenous communities, including to fair benefits from activities on their lands.ⁱⁱ FPIC enables communities to assess the potential benefits and risks of REDD+ initiatives, influence their design to reduce risks and promote benefits, and decide whether or not to approve or participate in them.

What is WWF’s policy on FPIC?

WWF’s Statement of Principles on Indigenous Peoples and Conservation recognizes the right of indigenous peoples to free, prior, informed consent from governments on projects affecting their customary lands and resources. It further states that WWF will not promote or support, and may actively oppose, interventions affecting customary lands and resources that have not received free, prior, informed consent.

In the context of REDD+ specifically, WWF’s *Guiding Principles for REDD+* highlight respect for the rights of indigenous peoples and local communities as one of five key principles for REDD+, and include FPIC as a criterion for this. While WWF has determined that it will not act as a proponent of REDD+ projects (i.e., will not own or benefit from carbon credits), understanding of FPIC principles and procedures is also relevant to roles – such as awareness raising (providing information about REDD+) or initiating (co-developing demonstration projects within a national framework) – that WWF may play. In addition, it is important to stay informed of the extent to which consent processes are being upheld by others in areas where WWF may be working on related activities, in order to adhere to WWF policy commitments not to support activities in indigenous lands that have not secured FPIC. Finally, WWF programs can support other stakeholders and partners (government, private sector and other civil society actors) to strengthen their understanding of and commitment to FPIC, and to inform integration of FPIC in REDD+ policies – in order to contribute to more effective REDD+ outcomes.

Why is FPIC important to REDD+?

FPIC has received significant attention in the context of REDD+ because reducing emissions from deforestation will require changes in how forest land is used. Depending on how they are carried out, these changes may support or undermine the rights and livelihoods of indigenous peoples and local communities. For example, there is a risk that governments may restrict activities perceived to be contributing to deforestation and degradation, or re-centralize resource management, disrupting local institutions and management systems. Negative impacts on community rights and livelihoods, in turn, generate missed opportunities to engage the substantial knowledge and capacities of indigenous and local communities to contribute to forest stewardship. FPIC enables communities to guard against negative impacts, and also shape REDD+ initiatives to support traditional knowledge, management systems and livelihoods that will be vital for successful programs.

Recognition of rights to Free, Prior, Informed Consent in relation to REDD+ has been a central part of the platform of indigenous peoples' organizations engaging in UNFCCC policy processes. ⁱⁱⁱ The December 2010 Cancun Agreement (Annex 1) adopted "*Respect for the Rights of indigenous peoples and members of local communities, noting adoption of UNDRIP*" as a safeguard for REDD+ programs. While not explicitly stated, this implies that FPIC is to be applied in the context of REDD+, as FPIC is one of the provisions of UNDRIP. ^{iv}

Among donor initiatives, the UN-REDD Programme has made an explicit commitment to adhere to the UN Declaration on the Rights of Indigenous Peoples, including FPIC. To put this commitment into practice, UN-REDD has carried out a series of regional consultation meetings on FPIC and drafted guidelines for FPIC in the context of REDD+ programs (see the *UN-REDD Programme Materials* section under Additional Resources, below). UN-REDD has also piloted an FPIC process in Vietnam, documented the results, and had the process evaluated externally. ^v

Among voluntary standards, REDD+ International Social and Environmental Standards for government-led programs, developed with support from CCBA and CARE, also call for the *free, prior and informed consent of Indigenous Peoples and local communities for any activities affecting their rights to lands, territories and resources* (1.3). ^{vi} These standards are currently being piloted in a number of national and sub-national programs including in Brazil (State of Acre), Ecuador, Indonesia (Central Kalimantan), Nepal and Tanzania. ^{vii} Similarly, the CCBA voluntary guidelines for REDD projects require documentation of a process for securing FPIC of project-affected communities.

What are guiding principles for FPIC?

Guiding principles for REDD+ include that decision-making processes will be: ^{viii}

- ▶ **Free** from coercion, intimidation or manipulation.
- ▶ **Prior** to allocation of land for particular uses or approval of specific projects. Lead time should reflect respect for time requirements of indigenous consultation/consensus processes.
- ▶ **Informed**, based on full information, at least, about the nature and scope of any proposed project or activity; areas that will be affected; the potential economic, social, cultural and environmental risks and benefits; and organizations/actors likely to be involved in the project. Information should be in a language easily understood by the affected people, delivered in a culturally-appropriate way, and available from independent sources.
- ▶ **Consent** requires time and an effective system for communicating among all affected community members and taking decisions through customary or other community-defined decision-making processes. It requires that affected people are able to say yes or no at each stage of the project. Consent should result in equitable agreements, and should be part of ongoing processes of communication and negotiation, rather than a one-off action.

What are general procedures for FPIC?

As highlighted by Anderson 2011, "Respecting the right to FPIC is, by definition, a locally and culturally specific process in which the affected communities themselves determine the steps involved. It is therefore not possible to produce a universally applicable "how to do it" guideline". However, it is possible to identify a set of key elements or components of an FPIC process, bearing in mind that these will need to be adapted through locally-appropriate processes. This section presents an overall outline of procedures for FPIC, based largely on existing materials (see Additional Resources, below). The procedures presented here focus on the project scale, though FPIC is also relevant to national policy processes, and the UN-REDD Programme in particular is developing guidance on how the principle of free, prior and informed consent (FPIC) should be applied to UN-REDD activities, including at the national level (see Additional Resources).

In the context of REDD+, emerging best practice is to seek consent at multiple stages; for example, at the outset of assessments/planning for a project, to project design documents, and as a requirement for any contractual agreements. This implies that processes will be iterative, and also that **drop-out/no project options** need to be built in at each of these stages in case consent is not secured.

RECOFTC & GIZ's recent guidance on FPIC and REDD+ identifies the following three levels of consent:

- Consent to discuss the idea for a REDD+ project that will affect community lands and resources,
- Consent to participate in developing a detailed plan for a project, and
- Consent to the implementation of the project.

From: Anderson 2011. *Free, Prior, and Informed Consent in REDD+: Principles and Approaches for Policy and Project Development*.

Key Elements of an FPIC procedure include: ^{ix}

1. Identifying customary lands and rights holders.

This step is an essential foundation for FPIC as it establishes who the rights-holders to a given area are, and therefore who needs to give consent to a particular activity. As land claims based on customary rights are often not formally recognized in law, fulfilling this element may require support for a participatory community mapping process to document community-recognized rights over forests. Mapping should include different groups within the community (who may have differences in knowledge, interests and uses of resources) as well as neighboring communities (to validate and agree boundaries).

2. Identifying and engaging with appropriate community decision-making institutions/authorities.

Communities should be represented by institutions they choose themselves through a verifiable process, which may differ from institutions set up under government structures. Appropriate decision-making institutions will vary by the scale of the REDD+ initiative. Communities may also develop or designate new bodies to engage in participatory development of a REDD+ initiative; for example, where the geographical scale of the initiative spans several community institutions, or where structures of representative in relation to outsiders are not yet in place. Representation should be broadly inclusive of all rights-holding communities in the area and of all groups within the community (women, youth); ensuring full representation of diverse interests may require specific attention and activities. Where outside facilitation is provided for a consent process, this should be provided by a neutral body (without vested interests in the outcome) and specifically agreed with the community.

3. Identifying and engaging support organizations.

Engaging with support organizations – such as regional or national representative organizations of indigenous peoples and/or expert or advocacy groups on indigenous/community rights – enables communities to access independent information and advice about the REDD+ initiative from a rights perspective. In addition, support organizations can work with communities to promote enabling policy frameworks for their local activities, where these are not yet in place or need to be strengthened. Engaging with higher-level organizations also helps promote transparency of the REDD+ initiative, and learning about effective consent processes that can be spread to other areas.

4. **Building mutual understanding and agreement on a locally-appropriate FPIC process.**

This element addresses the need for outside actors to understand local community decision-making processes and for communities to define their own process as well as expectations regarding information and support from outside groups. Aspects of the local process may include: who makes decisions, timeframes for community discussions and agreement, how potentially marginalized groups will be involved, requirements to reach a decision, points along a process at which FPIC is needed, and how agreements will be documented. Aspects of outside support that may need to be defined include how and when information about a proposed initiative will be communicated and in what forms, and the types of capacity building communities may need to understand and make decisions about the proposed initiative (see also “Providing Information” and “Supporting Decision-making,” below). Information-sharing, engagement and/or capacity building activities with other entities (government, private sector) may also be needed to build support and respect for the FPIC process. The Guiding Principles for FPIC, outlined above, provide a useful standard against which to assess specific processes.

5. **Providing information.**

Information provision addresses the principle that decision-making and consent should be informed. Specific relevant information will vary depending on the stage of the work – e.g., initiating a process, designing a project and developing a project implementation agreement. Indicative examples of the types of information that may be relevant at different stages of a local REDD+ initiative are outlined in the box below.

Stage 1 (Initiating process): Information on climate change and its impacts, on REDD+ and how it is developing in the national context, on the international and national context of rights - including to FPIC, assessment plans, who will be involved.

Stage 2 (Project design): Proposed changes in land/resource use, results of assessments of potential impacts and costs, benefit sharing arrangements, legal implications, etc.

Stage 3 (Project implementation): Specific terms of the implementation agreement, based on the results of negotiation.

General guidelines on how information should be provided include that it should be:

- Open and transparent
- In locally-appropriate languages and forms
- Delivered in culturally-appropriate ways

General guidelines on what information should be provided include:

- Balanced treatment of potential positive and negative impacts of an initiative
- An assessment of costs and benefits, and their distribution
- Alternatives and outcomes of different scenarios
- Information on community’s legal rights and legal implications of the proposed project (e.g., implications for land/resource rights, status of carbon rights)

- 6. Engaging in negotiation and supporting decision-making.**

Negotiation consists of a two-way dialogue between communities and project proponents or facilitators (government, private sector, NGO) on proposals, interests and concerns. In the context of REDD+ initiatives, key issues are likely to include the nature and extent of any changes to forest use, roles of communities in forest management and monitoring, and how communities will secure and manage anticipated benefits. Interactive dialogue is likely to be interspersed with periods of time for community leaders and members to freely discuss their concerns and proposals among themselves. Communities may also need additional technical advice on specific aspects of proposals under discussion, and have rights to independent advice as needed. Ample time should be allowed for a conclusion to this process, which may not conform to standard project timelines.
- 7. Documenting consent-based agreements.**

One distinction between FPIC and more general consultation processes is that specific agreements should be documented in a mutually-agreed form among all parties. The content of agreements will vary according to the stage of the work; REDD+ project implementation agreements, for example, would likely include specifics of the agreed costs and benefits to the community, resource management requirements and any regulations on use. An agreement may also document forms of capacity-building or technical support to be provided by outside actors to enable communities to fulfill obligations, for example in relation to resource management or distribution of benefits. It will be useful to define the general content of REDD+ agreements as part of participatory development of broader (national or sub-national) policy and legal frameworks.
- 8. Supporting and monitoring implementation of agreements.**

As noted above, community implementation of consent agreements may require ongoing technical or capacity-building support. Furthermore, monitoring the implementation of agreements enables parties to hold each other accountable to agreed results as well as to adaptively manage where actual outcomes may diverge from projections (e.g., of community costs or benefits). Community rights-holders should be substantively involved at all stages of designing and carrying out monitoring of consent agreements (rather than just carrying out paid data collection).
- 9. Establishing and operating a conflict resolution mechanism.**

A conflict resolution mechanism provides a process for resolving differences that may arise in the course of implementation of agreements. Defining in advance how differences will be communicated and resolved helps to ensure that they do not grow into broader conflicts that derail the agreement and project. Best practices for conflict resolution (or “grievance”) mechanisms developed from private sector experience provide useful guidelines that can be drawn on in REDD+ initiatives. ^x
- 10. Verifying Consent.**

Verification by a third party that community consent has been free, prior and informed guards against manipulation of FPIC processes and enables REDD+ proponents and facilitators to demonstrate that they have respected this right in relation to specific initiatives. In the context of REDD+, third-party verification of FPIC is currently being tested by UN-REDD, for example in Vietnam (see UN-REDD Programme Materials under Additional Resources).

Additional Resources

► On FPIC and REDD+

Free, Prior, and Informed Consent in REDD+

Patrick Anderson, February 2011 - *RECOFTC and GIZ* | Using relevant examples from a range of locations and sectors, this manual provides a basis for developing country-specific guidance on securing FPIC in REDD+ processes. It offers guidance on procedures for respecting the right to FPIC and details 12 elements that need consideration in REDD+ projects to effectively prepare for rights-holder engagement, implement a consent process, and maintain consent.

UN-REDD Programme materials

Guidelines for Seeking the Free, Prior, and Informed Consent of Indigenous Peoples and other Forest Dependent Communities

UN-REDD Programme, August 2010 | These draft guidelines - based on recommendations made by participants at the Asia regional consultation on FPIC and Recourse Mechanisms (Vietnam, June 2010) respond to the demand from participating countries for concrete guidance on how to seek free, prior, and informed consent and provide effective recourse within the context of the UN-REDD Programme.

UN REDD Vietnam workshop

UN-REDD Programme, Hanoi, Viet Nam, 16-18 June 2010 | Report of the Asia regional consultation on FPIC, the first of three regional workshops convened to elaborate how the principle of free, prior and informed consent (FPIC) should be applied to UN-REDD activities and in the context of REDD+ readiness more broadly.

UN-REDD FPIC Workshop in Panama

UN-REDD Programme, Panama, 4-7 October 2010 | At this second of three regional workshops, participants stressed that UN-REDD guidelines should be able to accommodate the specific legal frameworks and historical context of Indigenous Peoples in Latin America and the Caribbean, which may be quite distinct from other regions.

UN-REDD Free, Prior and Informed Consent Consultation in Tanzania

UN-REDD Programme, Arusha, Tanzania, 24-27 January, 2011 | As the third of three regional consultations, this consultation provided the opportunity for indigenous peoples and civil society representatives from Africa to review the consolidated guidelines and provide inputs to reflect their views and regional priorities.

Applying the Principle of Free, Prior and Informed Consent in the UN-REDD Programme in Viet Nam

UN-REDD Programme, 2010 | This report documents a process to seek FPIC in two pilot districts, as part of Vietnam's formal preparations for field-based REDD+ activities.

Evaluation and Verification of the Free, Prior and Informed Consent Process under the UN-REDD Programme: Lam Dong Province, Vietnam

Nguyen Quang Tan, Luong Thi Truong, Nguyen Thi Hai Van and K'Tip, November 2010 | RECOFTC. This report presents results of the FPIC evaluation and verification process conducted by RECOFTC as part of the UN-REDD Programme's + pilot project in Vietnam.

The Forest Dialogue: The Forest Dialogue, based at Yale University, is sponsoring a series of dialogues on FPIC as it relates to forest management, which have the main aim of exploring how - in practice - government agencies, commercial enterprises and non-government organizations can respect the right of indigenous peoples and local communities to give or withhold their free, prior and informed consent to activities that may affect their rights. Associated publications include:

[Free, Prior and Informed Consent – Making FPIC Work for Forests and Peoples](#)

Marcus Colchester 2010 - The Forest Dialogue | This publication was developed as a scoping paper for the Forest Dialogue FPIC process.

[Scoping Dialogue on Free, Prior, and Informed Consent](#)

13-14 April 2010 - New Haven, CT, USA | This report documents discussions at a two-day Scoping Dialogue for the Free, Prior, and Informed Consent series held by The Forest Dialogue in New Haven, CT, USA on 13–14 April 2010.

[Field Dialogue on FPIC in Indonesia](#)

11-15 October 2010 - Pekanbaru, Riau Province, Indonesia | This report documents the first field dialogue in the TFD series on FPIC, held in Riau Province on the island of Sumatra in Indonesia, in October 2010.

[Guide to Free Prior and Informed Consent](#)

Christina Hill, Serena Lillywhite and Michael Simon 2010 -, Oxfam | This guide is an introduction to Free, Prior and Informed Consent (FPIC), developed for use by communities and support organizations. It provides basic information about the right to FPIC and how this right can help people to have a say about development projects, such as dams, mines and, logging and other large infrastructure projects, which affect them in some way.

[Free, Prior, Informed Consent and the Roundtable on Responsible Palm Oil \(RSPO\): A Guide for Companies](#)

Forest Peoples Programme, October 2008 | This report provides guidelines for communities and companies, and also local governments, on procedures to secure FPIC - focused on responsible palm oil but with broader relevance.

[Making FPIC - Free, Prior and Informed Consent - Work: Challenges and Prospects for Indigenous People](#)

Marcus Colchester and Maurizio Farhan Ferrari 2007 - Forest Peoples' Programme | This report summarizes progress made by indigenous peoples' and supportive organizations seeking to assess and apply the right of indigenous peoples to FPIC, drawing on case studies from Suriname, Guyana, Malaysia, Peru, Indonesia, Papua New Guinea and the Philippines.

[UN Permanent Forum on Indigenous Issues, Report of the International Workshop on Methodologies regarding FPIC and Indigenous Peoples \(New York, 17-19, 2005\)](#)

UN Economic and Social Council, 17 Feb 2005 | This workshop identified elements of a common understanding of free, prior and informed consent and indigenous peoples, and provided recommendations to promote better methodologies for free, prior and informed consent.

► Geographically focused - including Case Studies

Free, Prior, Informed Consent: Surui Carbon Project (Brazil)

Forest Trends, ACT Brasil, Metareila Association of the Surui People, Kaninde, IDESAM and, FUN-BIO, August 2010 | This publication describes, in English and Portuguese, the process used by the Surui people of Brazil and project partners to secure free, prior, informed consent of the Surui to a payments for ecosystem services (PES) project, focused on the marketing of carbon credits.

Free, Prior and Informed Consent and Sustainable Forest Management in the Congo Basin

Jerome Lewis, Luke Freeman and Sophie Borreill, July 2008 | This document is the result of a study into how free, prior and informed consent (FPIC) can be put into practice in forestry concessions in the Congo Basin.

A Guide to Establishing Free, Prior, and Informed Consent for REDD+ Projects in Papua New Guinea has also been drafted by the PNG Office of Climate Change and Development, to support the work of the National Government to ensure that rights of landowners in forest areas are protected in relation to REDD+ projects.

ⁱ Hill, Lillywhite and Simon 2010, Guide to Free Prior and Informed Consent Oxfam:3. “Non-indigenous, project affected peoples have the right to consultation and negotiation in decision-making processes in ways that are consistent with the principles underlying the right to FPIC.” “The right to give or withhold consent is the most important difference between the rights of Indigenous Peoples and other project-affected peoples.”

ⁱⁱ Colchester 2010, Free, Prior and Informed Consent – Making FPIC Work for Forests and Peoples. The Forest Dialogue.

ⁱⁱⁱ See, for example, the statement of the International Indigenous Peoples Forum on Climate Change, as reported in IUCN 2010, *Briefing Document on Indigenous Peoples and Climate Change/REDD: An overview of current discussions and main issues*. IUCN.

^{iv} Anderson 2011, Free, Prior and Informed Consent in REDD+. RECOFTC and GIZ.

^v Nguyen et al. 2010, Evaluation and Verification of the Free, Prior and Informed Consent Process under the UN-REDD Programme: Lam Dong Province, Vietnam, RECOFTC

^{vi} REDD+ Social and Environmental Standards Version 1, June 2010. www.redd-standards.org/files/pdf/lang/english/REDD_Social_Environmental_Standards_06_01_10_final-English.pdf.

^{vii} www.redd-standards.org

^{viii} These widely-cited framework principles were developed at the 2005 UNPFII Workshop on Methodologies Regarding Free, Prior and Informed Consent and Indigenous Peoples. (Document E/C.19/2005/3).

^{ix} The key elements summarized here draw in particular on Anderson 2011; Hill, Lillywhite and Simon 2011, and Forest Peoples Programme 2008, Free, Prior, Informed Consent and the Roundtable on Responsible Palm Oil (RSPO) Forest Peoples Programme - see Additional Resources.

^x See, for example: Harvard Kennedy School 2008. *Rights-Compatible Grievance Mechanisms: A Guidance Tool for Companies and Their Stakeholders*, CSRI Working Paper No. 41 (January 2008); and International Finance Corporation 2009. *Addressing Grievances from Project-Affected Communities – Guidance for Projects and Companies on Designing Grievance Mechanisms*. Good Practice Note. Washington, DC.

WWF believes the following are key to equitable and effective REDD+ initiatives:

SECURE COMMUNITY TENURE

Recognizing and respecting customary rights to forests enables more effective stewardship and will significantly influence who receives benefits from REDD+ initiatives.

FULL AND EFFECTIVE PARTICIPATION

Full and effective participation of indigenous peoples and local communities in developing, implementing and monitoring REDD+ initiatives will require investments in capacity building and inclusive decision-making processes.




EQUITABLE SHARING OF REDD+ BENEFITS

Incentives for forest communities and good governance of financial mechanisms can help ensure that REDD+ initiatives provide benefits to communities, many of whom are the historic stewards of forest resources.

FREE, PRIOR, INFORMED CONSENT

FPIC enables community rights and interests to be taken into account in REDD+ initiatives, resulting in more effective and equitable REDD+ outcomes.

	<p>Why we are here To stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature. www.panda.org/forestclimate</p>
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