



Regional Consultation between  
Indigenous Peoples Organisations  
from Africa and the UN-REDD  
Programme on Free, Prior and  
Informed Consent Processes and  
Recourse Mechanisms for UN-REDD  
Programme activities

**Workshop Report**

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UN-REDD PROGRAMME

## BACKGROUND

The UN-REDD Programme, in collaboration with the Africa regional Indigenous Peoples' and Civil Society Organisations' (CSOs) representatives to the UN-REDD Programme Policy Board, and with support from the UNDP Country Office in Tanzania convened a four-day workshop between 24 and 27 January at the Ngurdoto Rainforest Lodge in Arusha, Tanzania to advance the development of guidelines for Free, Prior, and Informed Consent (FPIC) and Recourse Mechanisms for the UN-REDD Programme. The workshop brought together 53 participants from Indigenous Peoples' (IP) organisations, and local and national civil society organisations, representing UN-REDD Programme pilot and partner countries. Other participants included representatives from UN agencies, the World Bank and international research and civil society organisations. The 11 countries in the Africa region represented were Cameroon, Central African Republic, Democratic Republic of the Congo (DRC), Gabon, Kenya, Nigeria, Republic of Congo, Sudan, Tanzania, Uganda, and Zambia. For a full list of participants, please refer to Annex 1.

### **Purpose and outputs of the consultation**

The consultation was the third step of a four-step process that was initiated with a [regional consultation on FPIC and Recourse Mechanisms for the Asia-Pacific region](#)<sup>1</sup> held in Viet Nam in June 2010. This was followed by [a regional consultation for the Latin American and Caribbean region](#)<sup>2</sup> in October 2010. Following this consultation for the African region, the fourth step of the process will be to synthesise inputs from the three regional workshops and open the resulting draft global guidelines to a public comment and input process. Finally, the guidelines will be added as an annex to the joint draft [Guidelines on Stakeholder Engagement in REDD+ Readiness With a Focus on the Participation of Indigenous Peoples and Other Forest-Dependent Communities](#)<sup>3</sup> developed collaboratively by the UN-REDD Programme and FCPF (from this point on referred to as the "joint draft Guidelines on Stakeholder Engagement"). These will apply to all UN-REDD Programme activities and guide FPIC activities at the national level.

This body of work is a crucial component of the UN-REDD Programme's objectives in the area of stakeholder engagement. As outlined in the joint draft Guidelines on Stakeholder Engagement, the UN-REDD Programme is mandated to support the implementation of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). A key guiding principle of the UN-REDD Programme is that the right to free, prior and informed consent is essential to ensure the full and effective participation of IPs and other forest dependent communities in policy and decision-making processes in UN-REDD Programme activities.

The main output of this consultation will be a set of draft guidelines for FPIC and Recourse Mechanisms for the African region that will be used as input for global guidelines for FPIC and Recourse Mechanisms for the UN-REDD Programme.

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<sup>1</sup> [http://www.unredd.net/index.php?option=com\\_docman&task=cat\\_view&gid=756&Itemid=53](http://www.unredd.net/index.php?option=com_docman&task=cat_view&gid=756&Itemid=53)

<sup>2</sup> [http://www.unredd.net/index.php?option=com\\_docman&task=cat\\_view&gid=860&Itemid=53](http://www.unredd.net/index.php?option=com_docman&task=cat_view&gid=860&Itemid=53)

<sup>3</sup> <http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Nov2010/FCP%20UN-REDD%20Stakeholder%20Guidelines%20Note%20Draft%2011-17-10.pdf>

### **Workshop process**

The workshop was divided into two components:

#### *Component 1 – Overview of REDD+, FPIC and Recourse Mechanisms (Days 1 and 2)*

A series of presentations and question/answer sessions were conducted to give participants an overview of the principles and operational modalities of REDD+, and introduce key concepts, ideas and debates surrounding issues of FPIC and Recourse mechanisms.

#### *Component 2 – Group work to develop detailed guidelines (Days 3 and 4)*

The second half of the workshop was focused on intensive group work to discuss key issues and develop detailed recommendations for the development of guidelines for FPIC and Recourse Mechanisms. Participants formed 6 groups:

- Groups 1 and 5 reviewed the consolidated draft guidelines developed during the Asia-Pacific and Latin America and Caribbean consultations and further elaborated what Free, Prior and Informed Consent meant in practical terms and with regards to the African context;
- Group 2 and 6 developed principles and guidelines for recourse mechanisms;
- Group 3 developed principles and guidelines for consultation processes and drafted a consultation action plan that could be tailored to the national level; and
- Group 4 looked at how the guidelines could be translated into national action, including what kind of enabling conditions would be necessary to support this.

[Note: Groups 1-4 were English-speaking and Groups 5 and 6 were French-speaking].

Each group reported on their initial conclusions at the end of day three, allowing for input and discussion with the broader group. After incorporating these inputs during further group work on day four, the final suggestions for each topic area were presented on the afternoon of the last day of the workshop.

### **SUMMARY OF ISSUES RAISED**

Participants raised a number of questions and concerns during the workshop. These are presented in greater detail in the sections below. Some of the main issues that emerged included the following:

- The specific needs of the African region given the different challenges faced by IPs in this region.
- The need to sensitize and build capacity of government and UN agencies to support IP issues in this region.
- The importance of fully involving and building the capacity of local NGOs and CBOs to support the implementation of the guidelines as well as ensure continuity.
- The difficulty of ensuring proper representation in the African context and the need to develop ways to tackle this problem.
- The need for the UN-REDD Programme to ensure the integrity of standards while pursuing harmonisation and collaboration exercises with other agencies and institutions.
- The importance of protecting and strengthening IP and local community rights through the application of the guidelines.

## OVERVIEW OF SESSIONS

[Please refer to Annex 2 for the full agenda; all presentations can be downloaded from the UN-REDD Programme [online workspace](#)<sup>4</sup>].

### **DAY ONE: INTRODUCTORY PRESENTATIONS AND PLENARY DISCUSSION**

The opening address was given by **Dr. Felician Kilahama, Director of the Forest and Beekeeping Division, Ministry of Natural Resources and Tourism** and **Mr. Richard Muyungi, Assistant Director of Environment, Vice President's Office** who welcomed participants to the country and elaborated Tanzania's involvement and interest in supporting REDD+. Further opening comments were provided by **Mr. Elifuraha Laltaika** from **CORDS** (Community Research and Development Services), Tanzania, **Mr. Pacifique Mukumba** from **CAMV** (Centre d'accompagnement des Autochtones Pygmées et Minoritaires Vulnérables), DRC, and **Ms. Gertrude Lyatuu, Team Leader for Energy and Environment, UNDP Tanzania Country Office**, putting the workshop in the context of the UN-REDD Programme's broader mandate.

The rest of the day focused on a series of technical presentations to assist participants in reaching a common understanding of the history and current status of REDD+ and the UN-REDD Programme. The first presentation, delivered by **Tim Boyle, the UN-REDD Programme's Regional Coordinator for the Asia-Pacific** provided an introduction to the Concepts Underpinning REDD+. This reviewed: the attesting science; the institutional history of REDD+ in the UNFCCC process; the institutional structure and implications of REDD+ at every level (e.g., the local, national, regional and global levels); and the relevance of these issues to IPs and civil society.

**Tom Twining-Ward** and **Josep Gari, the UN-REDD Programme's Regional Technical Advisors for the African Region**, gave an Introduction to the UN-REDD Programme's work in the Region, reviewing progress to date in Zambia, Tanzania, DRC and Nigeria. In Tanzania this includes the availability of funds to conduct a study on the status of IPs in Tanzania; planned activities to define the role of IPs in the REDD+ process; and a review of local people's perspectives on the potential of REDD+. Interesting approaches from DRC include an interim commission of civil society and forest peoples' organisations that is engaged in the REDD+ process. Activities on developing stakeholder engagement frameworks and carrying out consultations are being carried out in Zambia and Nigeria. Preliminary REDD+ activities in Sudan, the Central African Republic and Gabon were also introduced. The presenters noted that the need for full consultation with IPs and other forest dependent communities, as well as with a broader range of government departments, remain important challenges for Zambia and Tanzania.

**Haddy J. Sey, Social Development Specialist from the World Bank hosted Forest and Carbon Partnership Facility (FCPF)** complemented the previous presentation with an overview of FCPF's work in the region. This looked at the value of strong partnerships in supporting REDD+ and reviewed the governance structure of FCPF, as well as the status of FCPF's current portfolio and commitment to stakeholder engagement in the African Region. This included a review of the underpinning safeguards and operational policies regarding IPs and other forest dependent communities that guide FCPF's actions, which focused on the role of the Strategic Social and Environmental Assessment (SESA) and Environment and Social Management Framework (ESMF) in strengthening social safeguarding in the

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<sup>4</sup> [http://www.unredd.net/index.php?option=com\\_docman&task=cat\\_view&gid=973&Itemid=53](http://www.unredd.net/index.php?option=com_docman&task=cat_view&gid=973&Itemid=53)

REDD+ Readiness process supported by the FCPF.

**Kanyinke Sena from the Indigenous Peoples of Africa Coordinating Committee (IPACC)**, gave a presentation on Indigenous and Tribal Peoples and other Forest Dependent Communities and REDD+ in Africa: Issues and concerns regarding REDD+ and stakeholder rights. He stated that the content of the presentation was developed through email discussions with other IP focal points. He elaborated a number of important issues, including: the problems of basing REDD+ on market systems that can fail (e.g., the Chicago Carbon exchange); the problems of transboundary management; the link between local-livelihoods and REDD+ as an issue that is not being well examined; the threat of land-grabbing and dismantling systems of community management in favour of private ownership; defining who owns carbon; and the challenge of ensuring proper recourse.

A closing presentation was provided by the **IP and civil society representatives to the UN-REDD Programme Policy Board for Africa, Elifuraha Laltaika and Pacifique Mukumba**, on the Participation of IPs and Other Forest Dependent Communities and CSOs in the UN-REDD Programme. Mr. Laltaika noted that, despite the lack of sufficient government recognition of IP communities and issues, IP groups in Africa were self-organising and actively engaging in REDD+. He also reviewed how the governance structures of the UN-REDD Programme and the FCPF each distinctly approached the issue of IP representation, and reflected on the role and value of IP representatives to these two initiatives in supporting IP interests more broadly. Mr. Mukumba reviewed the specific operational duties of IP and CSO representatives to the UN-REDD Programme Policy Board and provided updates on some of the activities they were engaged in, including national-level consultations in the African region.

Plenary discussion during the first day raised a number of issues. These are summarised below.

- *The recognition of the term “indigenous peoples” in Africa:* There was concern over the standard response of many governments in arguing that most people in Africa could be considered “indigenous.” It was felt that this ignored the situation of groups that self-identify as indigenous and have strong and distinct historical and cultural connections to certain territories, and did not adequately recognise the marginalization of such groups. It is feared that countries that are less progressive may therefore weaken IP involvement in REDD+. The 2005 regional [Report of the African Commission on Human and People’s Rights \(ACHPR\) Working Group of Experts on Indigenous Populations/Communities](#)<sup>5</sup> presents some of the clearest definitions and guidance on this matter and it is suggested that this should be referred to for authoritative guidance. REDD+ has been important in pushing these issues: e.g., in DRC the term “Indigenous Peoples” was not previously accepted but now it is included in national REDD+ documents; in Congo-Brazzaville ILO 169 has been accepted finally, providing new opportunities to promote IP rights. Many participants re-emphasised the fact that it is important not to get stuck on definitions, which can often be limiting, but focus on the main issues of supporting marginalized groups and making the guidelines as practical as possible.
- *Issues of sustainable development for communities and equitable benefit sharing:* There is a need to carry out proper cost-benefit analyses to ensure that communities make the best decision based on their sustainable development goals, whether this entails the extractive use

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<sup>5</sup> <http://iwgia.synkron.com/graphics/Synkron-Library/Documents/publications/Downloadpublications/Books/AfricanCommissionbookEnglish.pdf>

of forests or not; each community/government needs to make a decision based on whether REDD+ revenues will be more beneficial than other uses. Additionally, it is felt that not only groups responsible for deforestation should capture benefits. IPs and other forest dependent communities should not forego benefits because they have little or no negative impacts on forests. A payment mechanism should therefore be developed carefully with clear social and environmental goals.

- *The protection of IPs and other forest dependent community rights:* Land-grabbing by governments that may be corrupt is seen as a legitimate threat, requiring safeguards to be extremely robust, e.g., in Kenya the government has already shown a heightened interest in forests and is starting to close off forested areas. There is also a need for a solid legal basis to protect IP rights and for REDD+ to be reflected in national legislation.
- *Ensuring that governments and UN agencies in-country support IPs and local communities:* Government and UN staff at the country level often lack understanding and sympathy for IP issues, acting as a barrier to IP participation and inclusion. Though African governments were involved in the drafting of UNDRIP, there is not sufficient inter-agency communication within governments; certain agencies do not realize that they have a strong mandate for supporting IP rights. These actors require capacity building and awareness raising on IP issues, as well as on government and UN obligations, in order to facilitate IP engagement in REDD+. Often REDD+ may be one of many areas that UN country staff may be dealing with; they may not be specialised in the issues. However, it is noted that these issues are cross-cutting and relevant to other priorities in the UN's work.
- *Differences between UN-REDD and the FCPF's standards:* The harmonisation process between the UN-REDD Programme and the FCPF will result in differentiated standards. The FPIC and recourse guidelines will not be applicable to FCPF as it is bound by the World Bank's safeguards which currently don't require "consent." There is some concern over the fact that the FCPF cannot adopt consent formally and over the World Bank's IP policy lacking both acknowledgement of customary rights and definition of "broad community support." It is noted that this policy is now under review and may change; for instance, the World Bank's private sector wing, the International Finance Cooperation (IFC) is considering adopting FPIC fully. It is suggested that having robust recourse mechanisms could be more important than the adoption of "consent"; the example of the effective use of the World Bank's inspection panel in DRC was given.

The UN-REDD Programme and FCPF have made efforts to work closely together in countries where they are both present. DRC is the best example, but other countries include Cambodia, which is a pilot for the Multiple Delivery Partners approach. It is likely that UN-REDD Programme activities will be implemented beside FCPF activities, forming a package of support. When UN-REDD Programme implementers carry out activities to seek FPIC, it will be a single process that is likely to include FCPF activities. The fact that coordination and cooperation between the two initiatives is coming at the highest level makes it likely that this will not be a problem. However, there is a concern that at the community level it is hard to distinguish between the UN-REDD Programme and FCPF, and if joint guidelines are presented there may be confusion and problems.

- *The need to have learning between countries:* It is suggested that a formal platform to support exchange between countries would make REDD+ more synergistic. The UN-REDD Programme is promoting country-to-country learning (e.g., Asia-Pacific regional information exchange workshop in November 2010). The REDD+ Partnership is a separate initiative that the UN-REDD Programme is supporting that has information exchange and learning as key objectives.
- *Supporting capacity building at the grassroots level:* This is an important need and there may be an under-estimation of the resources needed for this. There may be a gap between the activities presented in the Readiness Preparation Proposals (R-PPs) and National Programme documents and the budgets set aside to accomplish this.
- *Norway's position on IP issues:* Mr. Simon Milledge, a representative of the Government of Norway, noted that Norway is interested in supporting safeguards at: (1) the international level through supporting only the UN-REDD Programme and FCPF to create the policy and operational architecture for REDD+, including support to IPs and the development of safeguards; and (2) the national level through supporting the sovereignty of national governments and supporting civil society – 1/3 of Norway's funds (\$32 million) go to civil society in order to work closely with communities to empower them to contribute to policy and governance as well as awareness raising. He noted further that REDD+ is bringing new urgency to many old socio-economic and human rights issues and we need to provide solutions to these issues, rather than identify problems and challenges. This involves providing policy/decision-makers with the right information.

## **DAY TWO: PRESENTATIONS ON STAKEHOLDER ENGAGEMENT IN REDD+ AND FPIC, AND PLENARY DISCUSSION**

The day opened with a presentation on the Background and Legal Context for FPIC and the United Nations System given by **Kristen Hite from the Center for International Environmental Law (CIEL)**. The presentation outlined the legal instruments that form a strong basis for implementing FPIC. It also reviewed potential avenues for recourse, including an appraisal of existing mechanisms, and examined the possible functions of a complaint mechanism, the different forms of remedy as well as precautionary measures that could be taken. The presentation highlighted the wide spectrum of options that could be pursued other than formal legal action.

**Justin Kenrick from the Forest Peoples Programme (FPP)** then presented on Key Issues and Questions to be Resolved in Applying FPIC. This examined some of the operational issues of applying FPIC that need to be taken into account, and used the findings from a study on Free, Prior and Informed Consent and Sustainable Forest Management in the Congo Basin<sup>6</sup> to illustrate these. The presentation emphasised the fact that the term "Indigenous Peoples" should be viewed as a way to focus on issues of power and marginalization; though there may be many ethnic groups, there should be a focus on those that are structurally subordinate to others. In the context of REDD+, groups of interest would be those which have a strong attachment to forest and that are seen by neighbouring communities as being "first peoples." The presentation also reviewed: the importance of recognising the customary rights of these groups, which are established rights, whether recognised formally in law or not; the concern that FPIC

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<sup>6</sup> <http://www.gfbv.ch/pdf/fpic%20congo%20report%20english.pdf>

safeguards may be weakened in the emerging text of the FCPF R-PP template; and issues regarding a community's right of veto.

**Gaya Sriskanthan, UN-REDD Programme** presented on the UN-REDD Programme Approach to Ensuring Stakeholder Engagement, FPIC and Providing Recourse Mechanisms. This reviewed: the responsibilities of the UN-REDD Programme to honor international human rights standards, including principles on consultation, representation and FPIC; the UN-REDD Programme's collaborative relationship with FCPF; and the UN-REDD Programme's governance structure, including the provisions for IP and civil society representation on the UN-REDD Programme Policy Board and the provision of the Independent Advisory Group on Forests, Rights, and Climate Change.

A presentation of the Draft FPIC and Recourse Mechanisms Guidelines developed by participants of the Asia-Pacific and the Latin America and Caribbean consultations was given by **Nina Kantcheva, UN-REDD Programme**. This outlined the process by which these guidelines were developed and noted the principles that FPIC and Recourse were based on. The main questions around the component terms 'free,' 'prior,' 'informed,' and 'consent' were highlighted and the next steps for the FPIC and Recourse guidelines development process was outlined.

In the afternoon there were three country presentations on REDD+ Stakeholder Engagement Process and Implications for FPIC in DRC, Tanzania and Zambia. **Adrien Sinafasi Makelo, Dignité Pygmée (DIPY) / Dynamique des Groupes des Peuples Autochtones (DGPA)** and **Roger Muchumba, Groupe de Travail Climat-REDD de la Société civile (GTCR)** presented on DRC noting that the principles of FPIC are not well understood or represented in legal and policy instruments in DRC; this lack of awareness may hamper the incorporation of FPIC nationally. The involvement of civil society in REDD+ to date was reviewed and it was emphasised that indigenous leadership needs to be supported. **Charles Meshack, Tanzania Forest Conservation Group (TFCG)** presented on Tanzania, providing an overview of the status of REDD+ in the country and the participation of stakeholders in the process so far. He outlined some of the most common community concerns over REDD+, including fears of land grabbing and doubts regarding equitable benefit sharing. Based on Tanzania's experience a number of suggestions were made, including: ensuring strong institutional guidance for FPIC processes and good coordination; involving partners with good experience in stakeholder engagement; having a clear stakeholder engagement plan; investing in capacity building and strengthening existing social/institutional structures; and ensuring opportunities and costs are clearly communicated. The presentation on Zambia, given by **Robert Chimambo, Zambia Climate Change Network**, outlined how participatory processes were used in the development of the National Joint Programme (NJP) Document under the UN-REDD Programme, noting that this had helped to build consensus and ownership as well as provide a common understanding of what REDD+ is in the context of Zambia. He noted that though the process was initially government led, implementation would have to be carried out through multiple stakeholders.

This was followed by two presentations on Experiences of Implementing FPIC or Other Similar Processes in Africa. **Gino Cocchiaro, Natural Justice: Lawyers for Communities and the Environment**, gave a presentation on existing approaches that could be applied to REDD+, focusing on Natural Justice's global and regional experiences with Biocultural Community Protocols (BCPs). **Abdon Awono, Center for International Forestry Research (CIFOR)** outlined a comparative study of REDD+ that CIFOR has been conducting, focusing on research carried out in Cameroon and Tanzania that looked at levels of community participation and local perceptions of REDD+.

The final presentation of the day was given by **Tim Boyle, Regional Coordinator for the UN-REDD**

**Programme in Asia and Pacific.** This was on the UN-REDD Programme Pilot FPIC Process in Viet Nam which was carried out in 2010 in order to obtain the consent of communities to engage in UN-REDD Programme activities and provided a learning opportunity on FPIC for the government, communities and the UN-REDD Programme. The presentation provided a detailed overview of the process, tools, techniques and estimated costs for the eight-step process that was used in Viet Nam, and participants saw a short film that documented the FPIC process there. Dr. Boyle noted that one of the lessons learned is that the community needs more time for internal discussion before coming to a conclusion.

The main issues raised in plenary discussion are noted below:

- *To what extent are countries obligated to adhere to the FPIC and Recourse guidelines?:* In cases where the land is owned by the state or customary land rights are not properly recognised, it is unclear what kind of power communities have to truly decide. International courts can be ignored by governments. Though countries that have not adopted UNDRIP may have less impetus to support the right to FPIC, what is clear is that the guidelines clearly apply to UN-REDD Programme activities and would have to be implemented by UN staff and participating government agencies; the UN-REDD project document creates a legal obligation on signatory governments to comply with the guidelines/FPIC and not doing so may endanger their ability to develop viable carbon credits. The guidelines may not be national policy, but they can be used to influence national policy.
- *Need to maintain the integrity of FPIC guidelines:* There is some concern that approaches that seem less robust, e.g., the FCPF's requirement for "broad community support" may erode the strength of FPIC under the UN-REDD Programme. It is clear that despite harmonisation activities with FCPF, the UN-REDD Programme will retain clearly differentiated standards to uphold FPIC, but there is some uncertainty over how these standards will apply when the UN-REDD Programme implements under a multiple delivery partner arrangement.
- *FPIC Guidelines should not just be procedural:* These guidelines should actively support the rights of IPs and local communities and not simply be seen as procedural steps. For instance, the guidelines should strengthen the issue of promoting land tenure security and codifying customary rights.
- *Types of recourse mechanisms that are available:* These include "precautionary measures" (e.g., urgent action/early warning procedure) such as provisions under the International Convention on the Elimination of Racial Discrimination (ICERD) that led the International Finance Corporation (IFC) - in the case of Indonesian palm oil operations - to suspend the project due to concerns. In the Africa context there are two examples of successful recourse: (1) the effective use of the World Bank inspection panel in DRC; (2) the forced eviction of the Endorois community of Kenya where the African Union (AU) endorsed an earlier ruling by the ACHPR legally obliging the Kenyan government to compensate the Endorois and restitute their lands. It is suggested that special tribunals for REDD+ could be created (e.g., mechanisms similar to special tax tribunals in Zambia). Certain legislative changes could support FPIC, for instance claims that are based on customary rights could be supported by the recent codification of customary rights in the high courts of Tanzania and Zambia. Even if countries have abstained from adopting non-binding declarations such as UNDRIP, if these become customary law, they can then become binding.

- *Involving IPs and local communities more actively in REDD+*: The guidelines could support IPs and local communities to initiate and control REDD+ processes themselves. There are some instances when indigenous communities have done this (e.g. in Bolivia) and designed REDD+ strategies even before REDD+ was officially adopted by countries. In Paraguay indigenous networks were directly involved in the development of the UN-REDD National Programme Document. It is suggested that the option of supporting IP and local community-led REDD+ initiatives should be more actively explored.
- *Identifying appropriate representation*: Ensuring true representation, particularly on national committees is a challenge; how do we select the correct representation and ensure that information goes back to the communities? At the grassroots level it is clear who true representatives are, but in the cities/capitals this is more difficult. Need to work closely with organisations at the local levels who know the reality on the ground and collaborate with local structures; this will contribute to better representation at the national level as well. It is noted that in Tanzania self-selection processes are being used. The UN-REDD Programme and FCPF's joint [Guidelines on Stakeholder Engagement in REDD+ Readiness](#)<sup>7</sup> has some guidance on the selection of representatives and characteristics of appropriate representatives.
- *The use of Information Technology (IT)*: IT can be used to help with information needs, accountability, and transparency – need to examine experiences linking IT with some of the principles of FPIC. It is highlighted that the use of IT depends on the type of target audience. Sometimes national radio may not cover the whole country. Other techniques, such as the use of local drama groups, can be used. In Zambia there are efforts to use the national phone system to support REDD+ and stakeholder engagement.
- *The use of community protocols*: It is envisioned that community protocols could be used in synthesis with other techniques, working with a CBO/NGO prior to an initiative like the UN-REDD Programme. As a document that is developed from a bottom up process, community protocols could be a useful technique and function at the level at which FPIC should be applied: the community level. There is a need to ensure legitimacy of these protocols via official recognition at the national level. The recently negotiated Nagoya protocol may provide a good foundation for this as governments must recognise community practices. Community protocols should be part of a bigger context and could support related areas of work, such as: building capacity; supporting traditional knowledge; and developing recourse mechanisms.
- *Need to support the involvement of local agents*: Local CBOs/NGOs are the best agents to support communities to build their capacity to understand and become involved in REDD+ and should be actively included instead of depending on external consultants. Research agencies need to integrate the community more meaningfully into their research activities. These agents are also important in FPIC to ensure a level of independence from the project proposers to ensure impartial advice is provided to the communities. In cases where there is not a strong civil society presence, e.g., Viet Nam the use of hired interlocutors was seen as an effective way

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<sup>7</sup><http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Nov2010/FCPF%20UN-REDD%20Stakeholder%20Guidelines%20Note%20Draft%2011-17-10.pdf>

around this. Ensuring gender balance and adequate representation of different ethnic and social groups in involving local agents/interlocutors is important.

- *Differences between the regions:* Unlike the Latin American and Caribbean region, in certain parts of Africa, e.g., the Congo Basin, it is difficult to find a forested area with only IPs; there are many communities sharing the same area. Therefore there is a need to specify the differentiated positions of the various communities in an FPIC approach. In Africa there may not be existing IP representative institutions at the national level as there are in other regions and it should not be assumed by the guidelines that such structures are available. It should also be noted that in some countries in Africa certain IP communities are not recognised by authorities; village chiefs that are officially recognised may not represent certain IP groups who don't have a clear status (e.g., pygmy communities are recognised only as "camps" not "villages" and don't have the political representation that accompanies the latter category). Certain communities may be lacking in appointed leaders or representatives and it could be counterproductive to put too much emphasis on the use of appointed leaders/representatives in seeking FPIC; some communities may be disadvantaged and excluded by this approach.

### **DAY THREE AND FOUR: GROUP WORK AND DEVELOPMENT OF GUIDELINES**

The following sections summarise some of the discussions and outputs from the group work sessions during the last two days of the workshop. The presentations from each of the working groups are available on the [UN-REDD Workspace](#)<sup>8</sup>.

#### **Groups 1 and 5: Guidelines for Free, Prior and Informed Consent**

Conclusions from these two groups include:

- Suggested revisions to strengthen the existing definitions and principles presented in the draft guidelines.
- The inclusion of text pertaining to IP land rights.
- The need for the guidelines to specifically recognise the contribution of IPs to conserving and safeguarding forests.
- Specific reference to the 2005 Report of the ACHPR Working Group of Experts on Indigenous Populations/Communities for guidance on identifying relevant IP and community groups to whom these guidelines should apply to.
- The need to extend the scope of the guidelines to apply to potential private sector implementers of REDD+ activities.
- The value of developing mechanisms to assist communities to periodically review whether agreements are working and confirm that they still agree to give consent accordingly.
- The need for follow up and evaluation at all stages and to ensure that the appropriate information was transmitted and discussed and to verify that people have understood it.
- Guidance on Africa-specific amendments that should be made to the text.
- The French translation of the guidelines has many issues and would require revision.

Discussion points raised by the wider group are summarised below:

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<sup>8</sup> [http://www.unredd.net/index.php?option=com\\_docman&task=cat\\_view&gid=995&Itemid=53](http://www.unredd.net/index.php?option=com_docman&task=cat_view&gid=995&Itemid=53)

- The definition of consent in the guidelines is good, but it has to elaborate more practical steps of reaching decisions by the community.
- If the right to withhold consent is not guaranteed it devalues the entire process of FPIC.
- On the issue of “informed” – the party doing the informing has to be impartial and not present biased information.
- What happens when consent is not given? If some villages agree and others do not, this will lead to leakage. It may be useful to try to understand why consent is withheld in order to resolve issues, but in the Asia-Pacific consultation some argued that a community decision should not be questioned.
- Consent processes require adequate time and there should be a proper community protocol to oversee the process.
- The diagram presented in the guidelines makes consent look like a one-off process; the diagram should actually be cyclical.
- It is noted that the term used by the group “conditional consent” – which indicates that consent is conditional upon the agreed conditions being met – does not have a clear legal meaning and should be re-considered, e.g., it could be referred to as consent on the basis of contract or agreement that should be honored. This led to the proposed additional drafting: “FPIC will remain valid as far as the conditions under which it was granted are respected.” It was also suggested that the words “should” be changed to “shall” in the document, to strengthen the intent.
- There is a risk that certain groups could be left out. The 2005 Report of the ACHPR Working Group of Experts on Indigenous Populations/Communities should be used as an authoritative list that should inform FPIC in the African Region.
- The issue of traditional representation not adequately representing certain IP groups is an area that should be carefully examined. This is precisely why defining and understanding the concept of “Indigenous Peoples” in the African context is so important, as notions of power and marginalization are the issue. These issues have a bearing on associated activities, such as participatory mapping.

## **Group 2: Guidelines for Recourse Mechanisms**

Conclusions from this group include:

- Recommendations on how recourse mechanisms could function at the local, national, regional and international levels.
- The provision of legal aid and support targeted at IPs and local communities to strengthen recourse processes and make them more accessible.
- Prevention/surveillance activities to provide alerts, avoid violations, as well as manage and solve conflicts without formal recourse, if possible.
- The need for tools to monitor activities (e.g., indicators).
- The need to ensure the impartiality of recourse bodies and their independence from REDD+ activities, free of individuals with vested interests/biases.
- The need to involve multiple stakeholders in recourse committees/structures, including those who have the trust of the communities.

Discussion points raised by the wider group are summarised below:

- What will be the legal status of these bodies? Will they be protected by the government? Will they be covered by legal texts? Will these be recognised by authorities? The legitimacy and

power of recourse bodies needs to be supported somewhat like the DRC decree that supports the DRC REDD+ Committee.

- There is a general concern that national courts may often be ineffective, time consuming and biased towards the government.
- The need for supporting mechanism to monitor, highlight and report issues/transgressions.
- The need to distinguish between issues that can and cannot be dealt by different mechanisms, e.g., land grabbing is criminal and should be dealt with in a formal court, not community arbitration; issues with REDD+ activity implementation could be resolved through UN-REDD Programme staff without having to go to a formal body.
- The need to clarify how binding decisions will be and how transgressions will be penalised, e.g., will funding be withheld?
- The UN-REDD Programme Policy Board could act as a recourse mechanism; the IP and CSO Board members have the authority to influence decisions.

### **Group 3 and 6: Guidelines for Consultation**

This group examined some key questions regarding consultation, reviewing the main steps that need to be taken in order to have full and effective engagement on every level and how to ensure a two-way information flow both to and from the community level.

Conclusions from these two groups include the need to:

- Ensure inclusivity of different groups (e.g., gender, age, indigenous peoples etc.).
- Use indicators to measure the effectiveness and inclusivity of the consultation (e.g., composition of consultative group; number of consultations; outcomes of meetings; number of review/feedback sessions after meetings).
- Identify the appropriate agent who should be responsible for conducting consultations.
- Define and agree upon the scope of issues that need to be consulted on and the appropriate timing of different consultative steps.
- Ensure that information on all relevant issues is provided.
- Ensure the relevance of consultations to the national REDD+ process in effectively informing policies and activities.
- Ensure that consultation costs are clearly budgeted.
- Support consultation processes that are initiated by the community as well as by the UN-REDD Programme.

The group developed a 10-step consultation action plan that could be adopted by UN-REDD Programme countries. This was underpinned by 2 cross-cutting issues:

1. Building ownership and developing relationships with stakeholders for the implementation of actions and in order to reduce potential for future conflict.
2. Ensuring technical feedback and input throughout the process, at every step.

Discussion points raised by the wider group are summarised below:

- The guidance presented by the group emphasises that there will be important country-specific differences (e.g., in mapping stakeholders).
- Need to think about how the consultations are being carried out, who is carrying them out and who is responsible for this (e.g., national/local government; NGOs; the UN-REDD Programme). There could be a committee/taskforce representing different stakeholders overseeing consultation activities. For instance, in the case of the Viet Nam consultation plan, the UN-REDD

Programme Management Unit will be responsible for implementation and there is a national REDD+ network of 40-50 represented groups who also provide advice on the consultation plan. Ultimate responsibility should lie with the UN-REDD Programme.

- It is important to distinguish where consultation is required and where consent should be sought.
- Meaningful consultation must be supported from the beginning.
- Governments are asking for assistance on this issue, making it a very important area of work.

#### **Groups 4: FPIC and REDD+ readiness activities, and creating an enabling environment to support FPIC**

Conclusions from this group include:

- There is a need for an overview of enabling conditions and corresponding actions that should be taken in order to create these conditions at the local, sub-national, national, regional and international levels.
- Suggestions of cross-cutting issues such as gender.
- An emphasis on capacity building of relevant actors (e.g., communities, government, UN agencies) working with existing networks, organisations and institutions.
- The need to support and work with local IP organisations and CSOs.
- The need to obtain wider endorsement outside the government and UN-REDD Programme (e.g., other regional, international and bi-lateral institutions and networks).
- The need to publicise UN-REDD Programme experiences with FPIC more widely.

Discussion points raised by the wider group are summarised below:

- The UN-REDD Programme should look at how it can translate the FPIC principles into actions. UN agencies can have a lot of influence over governments' views, but there is a need to build the capacity of the UN agencies first.
- Regional and inter-governmental organisations could be very useful to work through and they need to have their capacity built and involved accordingly.
- There is a need to develop clear indicators to help monitor progress in implementation of the guidelines.
- Donors are a key component of the enabling environment; if more donors require similar guidelines to be adhered to, it will strengthen the overall enabling environment for FPIC in REDD+.
- Supportive legislation will certainly strengthen the process and enabling environment.
- It is important to differentiate between when it is necessary to specifically obtain consent for an activity using FPIC and when it is necessary for a more general consultation/participation process.

#### **Comments provided remotely by IPs from Kenya**

The Kenyan participants to this workshop liaised with other Kenyan IP colleagues to receive their comments on the guidelines. These were provided separately and read out during the proceedings of the meeting. The key issues included:

1. The exclusive focus on forest dependent communities in the guidelines overlooks the links between other IP groups and forests, e.g., pastoralists, who also depend on forest goods and services, such as water. There may be conflicts of interest (e.g., forest dwelling communities saying yes to REDD+ but pastoralists may have a different perspective). It is understood that

certain groups may be targeted specifically for capacity building, but the perspective of other groups need to be fully considered.

2. The need to strengthen out of court mechanisms of recourse rather than depending on in-court solutions. Traditional IP structures should be included in this.
3. The need for dedicated funds for capacity building in REDD+ for IPs.
4. The need to elaborate what fora/institutions will oversee FPIC, particularly at the national level.
5. The need to verify that communities provide consent.

## **NEXT STEPS**

The guidance provided by participants from the Africa regional consultation will be synthesised and shared with the participants for their review and approval. These inputs will then be incorporated into the final global guidelines, which will be synthesised from recommendations made by participants from all three regions and made available for public comment before they are annexed to the Joint Guidelines on Stakeholder Engagement. In late 2011, it is anticipated that regional or national level trainings/workshops will be carried out with government officials, relevant UN agency staff, IP representatives and civil society to facilitate capacity building for implementation of the guidelines.

**ANNEX 1: LIST OF PARTICIPANTS**

**1- Indigenous, CSO and Local-level  
 Representatives**

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**5- Opening Speakers**

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## ANNEX 2: Agenda

Monday, 24 January 2011

<b>08.30: Registration of Participants</b>	
<b>Opening Session</b>	
09:00	Opening Remarks and Welcome Address <i>Dr. Kilahama, Director of the Forest and Beekeeping Division, Government of Tanzania; Mr. Elifuraha Laltaika and Mr. Pacifique Mukumba, UN-REDD Programme Policy Board Members; Ms. Gertrude Lyatuu, Team Leader Energy and Environment, UNDP Tanzania</i>
09:30	Overview of Purpose, Agenda, Introduction of Participants <i>Josep Gari, UN-REDD Programme</i>
<b>Key Theme: An introduction to REDD+ and an overview of REDD+ in Africa</b>	
10:15	An Introduction to REDD+: <i>REDD+ and the Climate Change negotiations; REDD+ institutions and funding; and the REDD+ Partnership.</i> <i>Tim Boyle, UN-REDD Programme</i>
11:00	<i>Coffee Break</i>
11:15	UN-REDD Programme Activities in Africa: Overview of Programmes, Issues and Stakeholders <i>Josep Gari and Tom Twining-Ward, UN-REDD Programme</i>
12:00	Forest Carbon Partnership Facility in Africa: Overview of Programmes, Issues and Stakeholders <i>Haddy Sey, FCPF</i>
12:30	Facilitated Discussion
13.15	Lunch
<b>Key Theme: Stakeholder Engagement in REDD+</b>	
14:30	Indigenous and Tribal Peoples and other Forest Dependent Communities and REDD+ in Africa: <i>Issues and concerns regarding REDD+ and stakeholder rights</i> <i>Kanyinke Sena, IPAAC</i>
15:00	The Participation of Indigenous Peoples and other Forest Dependent Communities from Africa in REDD+: <i>Role and participation in the UN-REDD Programme and FCPF; and in the REDD+ Partnership and continued negotiations</i>

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	<i>Elifuraha Laltaika and Pacifique Mukumba, UN-REDD Programme Policy Board Members</i>
15:30	Facilitated discussion
16:15	<i>Coffee Break</i>
<b>Key Theme:</b> Review– process and next steps	
16:30	Review desired outcomes for day 2, 3 and 4 of the workshop. Determine tasks and process. Introduction to the draft guidelines on FPIC and Recourse Mechanisms produced in the Asia-Pacific, and Latin America and Caribbean Consultation and dissemination of the guidelines for study by participants.  <i>Josep Gari, UN-REDD Programme</i>
<b>17.30 Closing</b>	
<b>18:00</b>	<b>Reception</b>

**Tuesday, 25 January 2011**

09:00	Opening of Day's Proceedings Review issues and questions identified during day 1, overview of day's agenda, review issues/questions to be addressed by working groups  <i>Tom Twinning-Ward, UN-REDD Programme</i>
<b>Key Theme:</b> UN-REDD Programme Operational Guidance on Engagement of Indigenous Peoples and other Forest Dependent Communities: Focus on ensuring Free, Prior, and Informed Consent (FPIC) and Recourse Mechanisms	
09:20	Background and Legal Context for FPIC and the United Nations system  <i>Kristen Hite, Center for International Environmental Law</i>
09:50	Key Issues and Questions to be Resolved in Applying FPIC  <i>Justin Kenrick, Forest Peoples Programme</i>
10:20	Facilitated discussion
10:40	The UN-REDD Programme Approach to Ensuring Stakeholder Engagement, FPIC and Providing Recourse Mechanisms  <i>Gaya Sriskathan, UN-REDD Programme</i>
11:00	Presentation of Draft Guidelines recommended by participants of the Asia/Pacific and LAC Consultation on FPIC and Recourse Mechanisms  <i>Nina Kantcheva, UN-REDD Programme</i>
11:20	<i>Coffee break</i>
11:40	Facilitated discussion

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<b>Key Theme:</b> The UN-REDD Programme and Indigenous and Tribal Peoples and Forest Dependent Communities in Africa: Sharing pilot country experiences and key issues to focus on when developing FPIC and Recourse guidelines	
12:00	Stakeholder Engagement Process in DRC (lessons learned, implications for FPIC, next steps) <i>Adrien Sinafasi Makelo , Dignité Pygmée / Dynamique des Groupes des Peuples Autochtones and Mr. Roger Muchuba, Groupe de Travail Climat-REDD de la Société civile</i>
12:20	Stakeholder Engagement Process in Tanzania (lessons learned, implications for FPIC, next steps) <i>Charles Meshack, Tanzania Forest Conservation Group</i>
12:40	Stakeholder Engagement Process in Zambia (lessons learned, implications for FPIC, next steps) <i>Robert Chimambo, Zambia Climate Change Network</i>
13:00	Facilitated discussion
13:20	<i>Lunch</i>
<b>Key Theme:</b> Operationalising FPIC: Identifying key challenges and good practices for implementation	
14:20	Experiences of Implementing FPIC or Other Similar Processes in Africa <i>Gino Cocchiaro, Natural Justice</i>
14:40	Experiences of Implementing FPIC or Other Similar Processes in Cameroon <i>Abdon Awono, Center for International Forestry Research</i>
15:00	Piloting FPIC for the Activities of the UN-REDD Programme in Viet Nam: Overview of Process and Results <i>Tim Boyle, UN-REDD Programme</i>
15:45	Facilitated discussion
16:15	Coffee Break
<b>Key Theme:</b> Developing guidelines for FPIC processes and Recourse Mechanisms and the UN-REDD Programme – process and next steps	
16.30	Review agenda and desired outcomes for day 3 and 4 of the workshop. Review process used in previous regional workshops, key issues and lessons learned. Determine working groups, tasks and process for reporting and consolidating outcomes. <i>Tom Twinning-Ward, UN-REDD Programme</i>
<b>17.30 Closing</b>	

**Wednesday, 26 January 2011**

<b>Opening Session</b>	
09:00	<p>Opening of Day's Proceedings Review issues and questions identified during day 2, overview of day's agenda, review issues/questions to be addressed by working groups</p> <p><i>Tim Boyle, UN-REDD Programme</i></p>
<p><b>Key Theme:</b> Working Group Session on the elements of FPIC and Recourse Mechanisms to inform guidelines for the UN-REDD Programme</p> <p>Preliminary working group topics:</p> <ul style="list-style-type: none"> <li>• FPIC: Review of the synthesised draft guidelines and further elaborate what Free, Prior and Informed Consent means in practical terms, how it should apply to the UN-REDD Programme, taking in account the unique African context.</li> <li>• Recourse: Review and improve recommendations on Recourse Mechanisms in the synthesised draft guidelines, providing further detail and elaborate processes for an effective recourse mechanism</li> <li>• Consultation: Define guidelines and processes for full and effective consultation at the national, provincial and local/community level, building on recommendations in the synthesised draft guidelines.</li> <li>• FPIC and REDD+ Readiness: Review how the guidelines could be translated into national action, including what kind of enabling conditions would be necessary to support this.</li> </ul> <p><i>Each group will be asked to present their recommendations twice: Once as preliminary thoughts at the end of day 3, and again as formal recommendations during the afternoon of day 4. Each group will be asked to provide as much detail as possible on how to achieve each topic under consideration, so as to make the guidelines as operational as possible.</i></p>	
09:30	<p>Break into Working Groups Working Group Sessions</p>
10:30	Coffee Break
11:00	Working Group Sessions Continue
13.00	Lunch
<p><b>Key Theme:</b> Preliminary report back and exchange of views from working groups</p> <p><i>Facilitators' Note: The number of group presentations will depend of the number of groups necessary to accommodate language needs (English and French).</i></p>	
14:00	<p>Report back from working group 1 (presentation, discussion)</p>

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14:30	Report back from working group 5 (presentation, discussion)
15:00	Report back from working group 2 (presentation, discussion)
15:30	Coffee Break
16:00	Report back from working group 6 (presentation, discussion)
16:30	Report back from working group 3 (presentation, discussion)
17:00	Report back from working group 4 (presentation, discussion)
<b>Key Theme:</b> Next steps for developing guidelines on FPIC and Recourse Mechanisms for the UN-REDD Programme	
17:30	Summarise main points from working group presentations, issues raised during discussion, review agenda for day 4, determine tasks and process for developing draft FPIC and Recourse guidelines for the UN-REDD Programme  <i>Tim Boyle, UN-REDD Programme</i>
<b>18.00 Closing</b>	

**Thursday, 27 January 2011**

<b>Opening Session</b>	
09:00	Opening of Day's Proceedings  Review of working group outcomes and issues raised during day 3, review process for developing draft guidelines for the FPIC and Recourse Mechanisms for the UN-REDD Programme.  <i>Ralf Ernst, UN-REDD Programme</i>
<b>Key Theme:</b> Inputs to draft guidelines on FPIC and Recourse Mechanisms for the UN-REDD Programme  <i>Tim Boyle, UN-REDD Programme</i>	
09:30	Working Group Sessions continue to revise guidelines in response to feedback on day 3
11:00	Coffee Break
11:15	Final report back from working group 1 (presentation, discussion)

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12:00	Final report back from working group 5 (presentation, discussion)
12:45	Lunch
13:45	Final report back from working group 2 (presentation, discussion)
14:30	Final report back from working group 6 (presentation, discussion)
15:15	Final report back from working group 3 (presentation, discussion)
16:00	Coffee Break
16:15	Final report back from working group 4 (presentation, discussion)
<b>Key Theme: Final</b> steps for developing guidelines on FPIC and Recourse Mechanisms for the UN-REDD Programme	
17:00	Summarise agreed inputs, flag main issues for further elaboration, agree to process for recording inputs from the open public review process to the draft guidelines (UN-REDD will draft report from meeting, participants will be invited to provide written comments)  <i>Tim Boyle and Nina Kantcheva, UN-REDD Programme</i>
17:45	Closing remarks  <i>Elifuraha Laltaika and Pacifique Mukumba, UN-REDD Programme Policy Board Members</i>
<b>18.00 Close of Meeting</b>	