

FPIC for REDD+ in the Asia Pacific region: Lessons learned, challenges and recommendations

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Executive summary

The interpretation and application of the right to Free, Prior and Informed Consent (FPIC) is still evolving and continues to present both opportunities and challenges for those developing countries who are preparing to engage with REDD+. Given that many countries are still at a very early stage of understanding what FPIC is and how it can be integrated into their national REDD+ strategies, it is timely for countries to share their experiences with one another in order to facilitate learning on FPIC.

The main purpose of this Report is to share some recent lessons learned on FPIC for REDD+, based on the emerging experiences of the UN-REDD Programme partner countries in the Asia-Pacific region. The Report draws significantly on the proceedings of the *Second UN-REDD Programme Regional Workshop on FPIC Shared Learning*. This workshop, held in Bogor, Indonesia, from 19 – 20 April 2012, was attended by nearly 80 participants, drawn from 14 partner countries across the Asia-Pacific region and 2 partner countries from the Latin America and Caribbean region.

Section 1 of the Report contains an overview of the status of FPIC activities in the UN-REDD Programme countries in the Asia-Pacific region. Of these countries, two have direct experience with piloting FPIC processes: Indonesia (in Central Sulawesi province) and Viet Nam (in Lam Dong province). Section 2 provides a description of some of the lessons learned from these two pilots.

Section 3 identifies some observations concerning these early attempts of countries to develop national or sub-national FPIC guidelines, and provides a suggested process for countries to follow.

Section 4 contains some of the lessons emerging from early attempts to operationalize FPIC in REDD+. It also contains some observations from discussions during the FPIC Workshop in Bogor, such as how to explain REDD+ to low literacy communities, the importance of documenting the whole FPIC process, and the need for effective grievance mechanisms.

Some future opportunities and challenges for REDD+ are identified in section 5, such as the need for countries to develop FPIC processes for policies, programmes and planning-approaches, and not only for projects.

The Report concludes (section 6) with three recommendations for future action on FPIC by the UN-REDD Programme, namely:

- To develop an FPIC toolbox
- To make targeted assistance available to help countries develop their FPIC processes
- To develop the business case for FPIC.

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Introduction

Free, Prior and Informed Consent is the collective right to participate in decision making and to give or withhold their consent to activities affecting lands, territories and resources or rights in general. Consent must be freely given, obtained prior to implementation of activities and be founded upon an understanding of the full range of issues implicated by the activity or decision in question; hence the formulation: free, prior and informed consent.¹

This right of FPIC applies to REDD+ discussions regarding potential changes in resource uses that could impact the livelihoods of Indigenous and other Forest Dependent Communities. Under these circumstances, consistent with international human rights instruments and other treaty obligations, potentially impacted peoples have the right to participate in and consent to or withhold consent from a proposed action. FPIC applies to proposed actions (decisions, activities, projects, etc.) that have the potential to impact the lands, territories, and resources upon which Indigenous Peoples depend for their cultural, spiritual and physical sustenance, well-being, and survival.²

The specific mandate and obligation for States, the UN and its programmes to respect, protect, and promote the right to FPIC, particularly in the case of Indigenous Peoples, is affirmed in numerous international and regional instruments-- both *expressly* in the texts, and as arising from the State duties and obligations with respect to other rights as affirmed by the decisions of the human rights bodies authorized to interpret these instruments³.

In the context of REDD+, although the term 'FPIC' is not expressly referred to in either the body of the decision on REDD+ in the Cancun Agreements or in its Appendix containing the safeguards⁴, the right to FPIC is addressed indirectly because the text of the safeguards "note[s]" that the General Assembly has adopted UNDRIP (which itself set out the right to FPIC). Further, the application of FPIC is a means to meet the Cancun Agreements requirement of countries to promote and support

¹ Colchester, M. and MacKay, F. (2004). In Search of Middle Ground: Indigenous Peoples, Collective Representation and the Right to Free, Prior and Informed Consent, Forest Peoples Programme, pp. 8-14.

² Center for International Environmental Law (CIEL), (2010) [FPIC and UN-REDD: Legal and Practical Considerations](#), for the UN-REDD Programme.

³ Including, for example: the Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169); the Convention on Biological Diversity (CBD); the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of all Forms of Racial Discrimination (CERD); the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); the African Charter on Human and Peoples Rights (Banjul Charter); the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man; and the United Nations Development Group (UNDG) Guidelines on Indigenous Peoples Issues.

⁴ [Cancun Agreements decision on REDD+](#)

“respect for the knowledge and rights of indigenous peoples and members of local communities” and to ensure “the full and effective participation of relevant stakeholders, *inter alia*, indigenous peoples and local communities” (Cancun Agreements, paras. 69 and 72; and Appendix I, paras. 2(a), (c) and (d)).

Recognizing the critical role of Indigenous Peoples and Forest Dependent Communities to the long-term sustainability and effectiveness of REDD+, the UN-REDD Programme has prioritized stakeholder engagement and the right to FPIC as a key component of stakeholder engagement, from its inception.

Following a series of extensive consultations with Indigenous Peoples and Forest Dependent Communities⁵, the UN-REDD Programme has developed draft Guidelines on Free, Prior and Informed Consent⁶, which outline the normative, policy and operational framework for UN-REDD Programme partner countries to seek FPIC. The Guidelines are currently being revised to address recommendations arising from comments received during the public consultation period (1 December 2011 – 20 January 2012) and the Expert Workshop on the UN-REDD FPIC Guidelines in Geneva (10-11 February 2012)⁷. The revised Guidelines are expected to be shared publicly in September 2012.

As more UN-REDD Programme partner countries develop their national approaches to REDD+, a few are gaining direct experience with piloting FPIC in REDD+ (e.g. Indonesia and Viet Nam), while demand is increasing from others who are seeking more knowledge and guidance in relation to FPIC. The purpose of this Report is to share the recent lessons learned on FPIC and REDD+ in the Asia Pacific region based on these emerging experiences. It also seeks to identify some of the opportunities and challenges for FPIC on the horizon, and makes some brief recommendations for further action by the UN-REDD Programme on FPIC.

This Report draws significantly on the proceedings of the *Second UN-REDD Programme Regional Workshop on FPIC Shared Learning*, held in Bogor, Indonesia, from 19 – 20 April 2012 (hereafter referred to as the ‘FPIC Workshop in Bogor’). This workshop was attended by nearly 80 participants, drawn from 14 partner countries across the Asia Pacific region and 2 partner countries from the

⁵ The UN-REDD FPIC Guidelines are based on recommendations received during three regional consultations on FPIC and grievance mechanisms, held in Viet Nam (June 2010), Panama (October 2010), and Tanzania (January 2011) (For more information, see: [Asia-Pacific workshop report](#); [Latin America and the Caribbean workshop report](#); [Africa workshop report](#)); and respond to feedback received from the UN Special Rapporteur on the Rights of Indigenous Peoples (February 2011).

⁶ The draft Guidelines are available [here](#) in English, French and Spanish.

⁷ Click [here](#) for all documents related to this Workshop, including the Final Report.

Latin America and Caribbean region, including both government representatives and representatives from indigenous peoples' and civil society organizations.⁸ In addition to the workshop proceedings, the Report also draws on personal interviews with participants attending the conference, as well as a review of the Readiness Preparation Proposals (R-PPs) and National Programme Documents from each of the countries.

This Report does not seek to revisit the material which is covered in the UN-REDD FPIC Guidelines or other publications⁹. Rather, the Report seeks to build on existing FPIC material by analysing some of the emerging issues and identifying some of the challenges arising from early attempts to operationalize FPIC in the context of REDD+.

The views expressed in this Report are those of the author and do not represent the views of the UN-REDD Programme or its partner countries.

⁸ Participants attended the FPIC workshop from Bangladesh, Bhutan, Cambodia, Indonesia, Laos, Malaysia (not a UN-REDD Programme partner country), Mongolia, Myanmar, Nepal, Pakistan, Papua New Guinea, the Philippines, Solomon Islands, Sri Lanka, and Viet Nam, as well as Ecuador and Paraguay. The FPIC Workshop agenda, presentations and evaluation report can be accessed [here](#).

⁹ For example, Anderson, P., (2011). *Free, Prior and Informed Consent in REDD+: Principles and Approaches for Policy and Project Development*, published by RECOFTC and GIZ.

Photos from the Second Regional UN-REDD Workshop on FPIC held in Bogor, Indonesia



Participants at the Second Regional UN-REDD Workshop on FPIC Shared Learning, Bogor, Indonesia, 19 – 20 April 2012



Welcome ceremony: Traditional *rampak gendang* dance from Indonesia



Mrs Nguyen Thi Thu Huyen, UN-REDD Vietnam Programme, being interviewed during FPIC Workshop in Bogor



(left to right): Ms Javin Tan (Malaysia), Mr Thaug Naing Oo (Myanmar) and Mr Cedric Tumba (PNG)



(left to right): Mr Chou Beang Ly, Mr Sokun Narong Sopha, and Mr Monyrak Meng (all from Cambodia)

1 Status of FPIC activities in UN-REDD Programme countries in Asia-Pacific region

Each of the UN-REDD partner countries in the Asia-Pacific region are at different stages in the development of their FPIC processes for REDD+. Table 1 provides an overview of the current status of FPIC experience in each partner country, including some activities which are not taking place directly under the UN-REDD Programme.

Key:

1. Has developed FPIC guidelines and/or has carried out some pilot FPIC activities
2. Has developed national or sub-national FPIC Guidelines
3. Is carrying out preparatory activities for FPIC
4. Has identified specific FPIC activities in its National Programme Document or R-PP
5. Has yet to initiate any FPIC activities

Table 1: Status of FPIC activities in UN-REDD partner countries in the Asia Pacific region

| Country | FPIC status | FPIC activities |
|--|-------------|--|
| Countries receiving support through UN-REDD National Programmes | | |
| Cambodia | 3 | Cambodia's main experience with FPIC and REDD+ to date is through the community consultation process undertaken for the Seima REDD+ Demonstration Project, which is supported by the Wildlife Conservation Society. There are no national or sub-national level FPIC guidelines. |
| Indonesia | 1 | Indonesia does not have any national FPIC guidelines. However, in conjunction with the UN-REDD Programme, the National Forestry Council (DKN), an industry body, has prepared a set of recommendations for establishing national FPIC guidelines. These were submitted to the National REDD+ Taskforce and the Ministry of Forestry in March 2011. ¹⁰ In December 2011, sub-national draft FPIC guidelines ("Panduan") were prepared by a Working Group for Central Sulawesi, the pilot province for demonstration activities under the UN-REDD Programme. In March 2012, the draft FPIC guidelines were field tested in two villages in Central Sulawesi, namely Lembah Mukti and Talaga Village (see the description of this in section 3.1). In July 2012, a second round of field testing of the draft FPIC Guidelines will be carried out in two villages near the Lore Lindu National Park in Central Sulawesi, following which the draft FPIC Guidelines will be revised. |
| Papua New | 2 | PNG has prepared draft national FPIC Guidelines (FPIC Manual, 2011) which are project-based. The draft guidelines have been subject to stakeholder |

¹⁰ See the Dewan Kehutanan Nasional publication, [Policy Recommendation: Free, Prior Informed Consent \(FPIC\) Instrument for Indigenous Community and or Local Community who will be Affected by REDD+ Activities](#).