

Guidelines for Obtaining Free, Prior and Informed Consent (FPIC) in Implementation of REDD+ Projects



March 2015

Global Environmental Forum
Japan Tropical Forest Action Network (JATAN)



Contents

Contents.....	i
Background of the establishment of the guidelines.....	iii
Aims and features of the guidelines	iii
How the guidelines have been developed.....	iv
Structure to develop the guideline	v
Abbreviations	vi
Chapter 1 FPIC Guidelines.....	1
Chapter 2 Explanatory Notes.....	9
1. Basic knowledge of FPIC and international human rights standards	9
(1) What is FPIC?.....	9
(2) International norms regarding human rights in general and the rights to FPIC.....	11
(3) Social safeguards required in REDD+.....	17
2. Guidance to implement eight steps.....	19
Step 1: Preliminary arrangements within proponents.....	19
Step 2: Preliminary consultations with communities	20
Step 3: Building of capacity and process towards FPIC through the engagement with communities	23
Step 4: Participatory project planning	25
Step 5: Negotiations towards concluding agreements	28
Step 6: Implementation of monitoring.....	28
Step 7: Operation of grievance mechanisms	29
Step 8: Verification of FPIC process	30
3. Glossary of Terms	31

Appendix 1	35
Appendix 2	37
References	40

Background of the establishment of the guidelines

Greenhouse gas emissions due to deforestation and land-use conversion are estimated to account for roughly 20 percent of the total emissions. Therefore it is also important, from the viewpoint of curbing global warming, to prevent deforestation and forest degradation especially in developing countries. This is the reason why REDD+ projects have thus drawn broad attention, not only as a new mechanism for forest conservation and management, but also as one of mitigation measures against climate change.

REDD, which stands for Reducing Emissions from Deforestation and Forest Degradation in Developing Countries, is designed to reduce greenhouse gas emissions by providing economic incentives to the activities that control deforestation and forest degradation as well as reduce greenhouse gas emissions through forest conservation in developing countries. While REDD aims to control deforestation and forest degradation, REDD+ covers not only to control deforestation and forest degradation but also forest conservation, sustainable forest management and other programs which relate to the increase in forest carbon stocks. In the United Nations Framework Convention on Climate Change (UNFCCC), discussion has been started to make international rules for these as one of the schemes for reducing greenhouse gas emissions, which has now been followed by several leading examples on a bilateral or private sector basis.

While raising expectations for the REDD+, there is however a growing concern that these projects may have negative impacts on indigenous peoples and/or local communities who depend on forests for their livelihoods. In fact, a not negligible number of concerned voices have emerged from these peoples and communities in the REDD+ project sites¹. They fear that they may not be included in the projects and their use of forests may be prohibited or restricted. In response to these concerns, one of the consensus in the COP 16 (Conference of the Parties to the United Nations Framework Convention on Climate Change) was that safeguard principles for the implementation of REDD+ must be undertaken as the measures to prevent negative impacts on local communities and forestry ecosystem, which is currently followed by many guidebooks regarding the implementation of this safeguard.

Aims and features of the guidelines

In order to sort out and analyze a number of relevant information and draw more attention to social problems which are occurring in the project sites, especially the ones for forest development/protection, we launched the “project to develop, test, and promote social safeguard guidelines which contribute to forest conservation in developing countries.” The main purpose of this project is to provide guidelines for seeking Free, Prior and Informed Consent (FPIC) from indigenous peoples and/or local communities, primarily targeting Japanese aid organizations and private businesses that are interested in REDD+ projects. One of the features in our guidelines is indicating eight steps to implement FPIC in time series. These steps are tailored for REDD+ on a project basis and address each phase of the project development.

Project phase	FPIC step
Phase 1: Project conceptualization	Step 1: Preliminary arrangements within proponents
Phase 2: Preliminary project design	Step 2: Preliminary consultations with communities
Phase 3: Feasibility study and development of detailed project design	Step 3: Building of capacity and process through the engagement with indigenous peoples and/or local communities Step 4: Participatory project planning
Phase 4: Negotiations on agreements	Step 5: Negotiations towards concluding agreements
Phase 5: Project implementation	Step 6: Implementation of monitoring Step 7: Operation of grievance mechanisms
Phase 6: Project verification	Step 8: Verification of FPIC process

1 IWGIA, AIPP, FPP, TEBTEBBA. 2010. *What is REDD?*. pp.66-67.; Alex Kirby. 2013. *Panama's Indigenous People Reject UN Forest Plan*. Climate Central. available at: <http://www.climatecentral.org/news/panamas-indigenous-people-reject-un-forest-plan-16057>.

The guidelines are designed to be used by the “proponents” who implement REDD+ projects. REDD+ projects are often implemented by consortium consisting of multiple entities such as national and/or local governments, international organizations, government aid agencies, businesses and NGOs. Among them our guidelines are especially intended for private businesses.

How the guidelines have been developed

The guidelines have been developed in the following process:

1. Bibliographic research: we first gathered, compared and contrasted existing certification standards and voluntary guidelines which the UN organizations, other certification bodies and NGOs established for forest related projects including REDD+. We then analyzed all these different requirements and picked out the essential points by also referring to international human rights norms. For more detailed reference information, please see Appendix 1 (list of the guidelines) and 1. (2) *Human rights in general and international human rights norms regarding the rights to FPIC* in Chapter 2.
2. Hearing survey: We visited some REDD+ potential project/forest certification sites in Sulawesi (September 2012) and West Kalimantan (September 2013) in Indonesia, and also in Sabah in Malaysia (February 2013) to conduct a field survey. By hearing the project proponents, members of local communities, NGOs and academics we then sorted out FPIC-related problems and solutions found in forest projects.
3. Drafting of the guidelines: by combining the information extracted from the bibliographic research with the findings gained through the hearing survey, according to REDD+ project timeline, we drafted first guideline in Japanese (ver.1) in September 2013 and its English version in the following October.
4. Collection of public comments in Japan: we released the guideline (ver. 1) to invite for comments and advice from Japanese experts and interested parties such as REDD+ project proponents, consultants and academics. For the details of the respondents, please see Appendix 2.
5. Reviewing in workshop: to examine the English version of the first guideline as well, we held a workshop session at Jakarta, Indonesia in November 2013 and invited the participants from NGOs in Southeast Asian countries. Written comments were also invited from non-participants. For the details of the people who participated in the workshop and contributed comments, please see Appendix 2.
6. Drafting final version: we revised the ver.1 in light of the results of the workshop and the comments from Japanese related parties and drafted the second version (final version) of the guideline (both in Japanese and English) in November 2014.
7. Discussion in 2014GLF: we held the civil society session “Ensuring free, prior and informed consent (FPIC) in REDD+” in 2014 Global Landscapes Forum, which was held alongside the UNFCCC-COP20 in Lima, Peru in December 2014. In this session we released the final version draft and got feedbacks and comments from invited experts (including NGOs and lawyers) who had been engaged on indigenous and FPIC issues. For the details of the session, please see Appendix 2.
8. FPIC Seminar: we held the seminar “What it means to respect the rights of indigenous peoples and local communities: from some actual FPIC cases in forest and development sector” in Tokyo in February 2015. We invited two expert speakers from home and abroad and released the final version of the guideline. For the details of the seminar, please see Appendix 2.

Structure to develop the guideline

The guideline have been developed as a part of the “Project to develop, test, and promote social safeguard guidelines which contribute to forest conservation in developing countries,” which has been jointly undertaken by the Global Environmental Forum and the Japan Tropical Forest Action Network (JATAN). The project has been funded by Japan Fund for Global Environment from April 2012 to March 2015.

The members who participated in this project are:

Kazuo Okuyama, Global Environmental Forum
Toyoyuki Kawakami, Japan Tropical Forest Action Network (JATAN)
Yuki Sakamoto, Global Environmental Forum
Miho Sagara, Global Environmental Forum
Shinichiro Shono, Freelancer
Takayuki Nakatsuka, Japan Tropical Forest Action Network (JATAN)
Ayako Nezu, Global Environmental Forum

Abbreviations

Abbreviations	Official Appellation
CARE	CARE / CARE International
CBD	Convention on Biological Diversity
CCBA	The Climate, Community & Biodiversity Alliance
CCBS	Climate, Community & Biodiversity Project Design Standards
COP	Conference of the Parties
FPIC	Free, Prior, and Informed Consent
FPP	Forest Peoples Programme
FSC	Forest Stewardship Council
IFC	International Finance Corporation
ILO	International Labor Organization
ISO26000	International Organization for Standardization 26000 Guidance on social responsibility
OECD	The Organisation for Economic Co-operation and Development
PDCA	Plan, Do, Check, Act
RECOFTC-The Center for People and Forests	The Regional Community Forestry Training Center for Asia and the Pacific (RECOFTC) -The Center for People and Forests
REDD	Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
REDD+	Reducing Emissions from Deforestation and Degradation and Enhancement of Carbon Stocks
REDD+SES	REDD+ Social & Environmental Standards
RSPO	Roundtable for Sustainable Palm Oil
UNDRIP	The United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
UN-REDD SEPC	UN-REDD Social and Environmental Principles and Criteria

Chapter 1 FPIC Guidelines

Project Phase	Requirements for Obtaining FPIC											
Phase 1 : Project conceptualization	Step 1 Preliminary arrangements within proponents											
	<p>1-1 (Establishment of human rights policy) Proponents establish human rights policy which includes the following elements:</p> <table border="1"> <tr> <td data-bbox="331 479 1453 546">a. (Human rights in general) To respect internationally recognized human rights standards and principles.</td> </tr> <tr> <td data-bbox="331 546 1453 680">b. (Rights to development) To recognize and respect the rights of indigenous peoples and/or local communities to determine and promote priorities and strategies for their own development or use of lands, territories and other resources.</td> </tr> <tr> <td data-bbox="331 680 1453 815">c. (Rights to lands and resources) To respect the rights of indigenous peoples and/or local communities to their lands, territories and resources which they have traditionally owned, occupied or otherwise used or obtained.</td> </tr> <tr> <td data-bbox="331 815 1453 994">d. (FPIC process) To consult and cooperate in good faith with the indigenous peoples and/or local communities concerned through their own representative institutions so as to obtain free and informed consent prior to the commencement of any project affecting their lands, territories and other resources.</td> </tr> <tr> <td data-bbox="331 994 1453 1061">e. (Gender equality) To promote and enhance gender equality and fairness as well as women's empowerment.</td> </tr> <tr> <td data-bbox="331 1061 1453 1196">f. (Prohibition of forced relocation and displacement) To ensure there is no forced relocation and displacement of indigenous peoples and/or local communities from their lands, territories and resources without free, prior and informed consent, or agreement on just and fair compensation.</td> </tr> <tr> <td data-bbox="331 1196 1453 1308">g. (Cultural and intellectual property rights) To respect and protect cultural heritages, traditional knowledge and practices of indigenous peoples and/or local communities.</td> </tr> <tr> <td data-bbox="331 1308 1453 1375">h. (Transparency and accountability) To enhance transparency of business activities and fulfill accountability to society.</td> </tr> <tr> <td data-bbox="331 1375 1453 1487">i. (Rights to participation) To ensure full and effective participation of indigenous peoples and/or local communities in planning, design, implementation and monitoring of REDD+ projects.</td> </tr> <tr> <td data-bbox="331 1487 1453 1576">j. (Implementation of monitoring) To develop and implement monitoring plans for compliance with human rights policy with the participation of stakeholders.</td> </tr> <tr> <td data-bbox="331 1576 1453 1688">k. (Grievance mechanisms and remediation) To establish process to respond complaints and disputes as well as remedy negative impacts on human rights.</td> </tr> </table>	a. (Human rights in general) To respect internationally recognized human rights standards and principles.	b. (Rights to development) To recognize and respect the rights of indigenous peoples and/or local communities to determine and promote priorities and strategies for their own development or use of lands, territories and other resources.	c. (Rights to lands and resources) To respect the rights of indigenous peoples and/or local communities to their lands, territories and resources which they have traditionally owned, occupied or otherwise used or obtained.	d. (FPIC process) To consult and cooperate in good faith with the indigenous peoples and/or local communities concerned through their own representative institutions so as to obtain free and informed consent prior to the commencement of any project affecting their lands, territories and other resources.	e. (Gender equality) To promote and enhance gender equality and fairness as well as women's empowerment.	f. (Prohibition of forced relocation and displacement) To ensure there is no forced relocation and displacement of indigenous peoples and/or local communities from their lands, territories and resources without free, prior and informed consent, or agreement on just and fair compensation.	g. (Cultural and intellectual property rights) To respect and protect cultural heritages, traditional knowledge and practices of indigenous peoples and/or local communities.	h. (Transparency and accountability) To enhance transparency of business activities and fulfill accountability to society.	i. (Rights to participation) To ensure full and effective participation of indigenous peoples and/or local communities in planning, design, implementation and monitoring of REDD+ projects.	j. (Implementation of monitoring) To develop and implement monitoring plans for compliance with human rights policy with the participation of stakeholders.	k. (Grievance mechanisms and remediation) To establish process to respond complaints and disputes as well as remedy negative impacts on human rights.
	a. (Human rights in general) To respect internationally recognized human rights standards and principles.											
	b. (Rights to development) To recognize and respect the rights of indigenous peoples and/or local communities to determine and promote priorities and strategies for their own development or use of lands, territories and other resources.											
	c. (Rights to lands and resources) To respect the rights of indigenous peoples and/or local communities to their lands, territories and resources which they have traditionally owned, occupied or otherwise used or obtained.											
	d. (FPIC process) To consult and cooperate in good faith with the indigenous peoples and/or local communities concerned through their own representative institutions so as to obtain free and informed consent prior to the commencement of any project affecting their lands, territories and other resources.											
	e. (Gender equality) To promote and enhance gender equality and fairness as well as women's empowerment.											
	f. (Prohibition of forced relocation and displacement) To ensure there is no forced relocation and displacement of indigenous peoples and/or local communities from their lands, territories and resources without free, prior and informed consent, or agreement on just and fair compensation.											
	g. (Cultural and intellectual property rights) To respect and protect cultural heritages, traditional knowledge and practices of indigenous peoples and/or local communities.											
	h. (Transparency and accountability) To enhance transparency of business activities and fulfill accountability to society.											
i. (Rights to participation) To ensure full and effective participation of indigenous peoples and/or local communities in planning, design, implementation and monitoring of REDD+ projects.												
j. (Implementation of monitoring) To develop and implement monitoring plans for compliance with human rights policy with the participation of stakeholders.												
k. (Grievance mechanisms and remediation) To establish process to respond complaints and disputes as well as remedy negative impacts on human rights.												
<p>1-2 (Publication of human rights policy) Proponents receive the approval of their highest management regarding human rights policy and release it to the public.</p>												
<p>1-3 (Identification of indigenous peoples and/or local communities) Proponents identify any indigenous peoples and/or local communities dwell in and near potential project areas or have collective attachment to these areas, as well as if any of their rights, lands, territories and resources may be affected.</p>												

Project Phase	Requirements for Obtaining FPIC					
	<p>1-4 (Establishment of structure to implement FPIC) Proponents build a structure towards obtaining FPIC. In doing so, attention should be paid to the followings:</p> <table border="1"> <tr> <td>a. To devote adequate human resources and funds.</td> </tr> <tr> <td>b. To define the roles and responsibilities of all those who are involved FPIC implementation.</td> </tr> <tr> <td>c. To make good use of human resources who have expertise related to the potentially-affected communities and their cultures.</td> </tr> <tr> <td>d. To keep all their staff who are involved in the projects fully informed of their human rights policy.</td> </tr> <tr> <td>e. To enhance their ability necessary to implement FPIC through bringing in relevant expertise and skills from outside.</td> </tr> </table>	a. To devote adequate human resources and funds.	b. To define the roles and responsibilities of all those who are involved FPIC implementation.	c. To make good use of human resources who have expertise related to the potentially-affected communities and their cultures.	d. To keep all their staff who are involved in the projects fully informed of their human rights policy.	e. To enhance their ability necessary to implement FPIC through bringing in relevant expertise and skills from outside.
	a. To devote adequate human resources and funds.					
	b. To define the roles and responsibilities of all those who are involved FPIC implementation.					
	c. To make good use of human resources who have expertise related to the potentially-affected communities and their cultures.					
	d. To keep all their staff who are involved in the projects fully informed of their human rights policy.					
	e. To enhance their ability necessary to implement FPIC through bringing in relevant expertise and skills from outside.					
	<p>1-5 (Development of communication programs) Proponents develop programs to interactively communicate with indigenous peoples and/or local communities. In doing so, attention should be paid to the followings:</p> <table border="1"> <tr> <td>a. The programs cover all levels of indigenous peoples and/or local communities, including not only men but also women, youth and marginalized/vulnerable groups, as well as appropriately respond to each of their differing livelihoods, voices and circumstances.</td> </tr> <tr> <td>b. While face-to-face meetings and use of local languages is the default method of communication, other appropriate means and media are also used in response to the situations or request of indigenous peoples and/or local communities.</td> </tr> <tr> <td>c. To ensure indigenous peoples and/or local communities can obtain adequate information and guarantee them the opportunity for independent advice.</td> </tr> </table>	a. The programs cover all levels of indigenous peoples and/or local communities, including not only men but also women, youth and marginalized/vulnerable groups, as well as appropriately respond to each of their differing livelihoods, voices and circumstances.	b. While face-to-face meetings and use of local languages is the default method of communication, other appropriate means and media are also used in response to the situations or request of indigenous peoples and/or local communities.	c. To ensure indigenous peoples and/or local communities can obtain adequate information and guarantee them the opportunity for independent advice.		
	a. The programs cover all levels of indigenous peoples and/or local communities, including not only men but also women, youth and marginalized/vulnerable groups, as well as appropriately respond to each of their differing livelihoods, voices and circumstances.					
b. While face-to-face meetings and use of local languages is the default method of communication, other appropriate means and media are also used in response to the situations or request of indigenous peoples and/or local communities.						
c. To ensure indigenous peoples and/or local communities can obtain adequate information and guarantee them the opportunity for independent advice.						
<p>1-6 (Development of basic concept of projects) Proponents develop the basic concept of the project, which includes its clear goals and specific activities to achieve such goals, in a manner that indigenous peoples and/or local communities can understand.</p>						
<p>1-7 (Preliminary survey on human rights, social and environmental impacts) Proponents conduct preliminary survey on human rights, social and environmental impacts, including potential risks, costs (compensations) and benefits which the planned project activities may cause.</p>						
<p>1-8 (Research on legal systems of host countries) Proponents conduct surveys on legal systems and standards on or approaches to FPIC in host countries. If proponents are unable to comply with their own human rights policy due to the domestic circumstances of host countries, they have to cease the project or consider the measures to respect, as much as possible, internationally recognized human rights principles.</p>						
Phase 2: Preliminary project design	Step 2 Preliminary consultations with communities					
	<p>2-1 (Confirmation of willingness at the start of preliminary consultations) Proponents confirm with indigenous peoples and/or local communities if they would like to enter into preliminary consultations and if there would be any objections to gathering relevant information. If any people who do not wish to be contacted, proponents respect their unwillingness.</p>					
	<p>2-2 (Identification of rights holders) Proponents identify rights holders to enter into negotiations. In doing so, attention should be paid to the followings:</p> <table border="1"> <tr> <td>a. To consider the rights of not only indigenous peoples but also other local communities which depend on forests for their livelihoods as well as recognize not only the rights upheld by written law but also their established customary rights.</td> </tr> <tr> <td>b. To ensure any individual, group or entity can apply for recognition as rights holders.</td> </tr> <tr> <td>c. When multiple groups/communities or people have differing claims to land, these claims need to be recorded and if possible, tiered starting from those with legal or customary rights to those with merely interests.</td> </tr> </table>	a. To consider the rights of not only indigenous peoples but also other local communities which depend on forests for their livelihoods as well as recognize not only the rights upheld by written law but also their established customary rights.	b. To ensure any individual, group or entity can apply for recognition as rights holders.	c. When multiple groups/communities or people have differing claims to land, these claims need to be recorded and if possible, tiered starting from those with legal or customary rights to those with merely interests.		
a. To consider the rights of not only indigenous peoples but also other local communities which depend on forests for their livelihoods as well as recognize not only the rights upheld by written law but also their established customary rights.						
b. To ensure any individual, group or entity can apply for recognition as rights holders.						
c. When multiple groups/communities or people have differing claims to land, these claims need to be recorded and if possible, tiered starting from those with legal or customary rights to those with merely interests.						

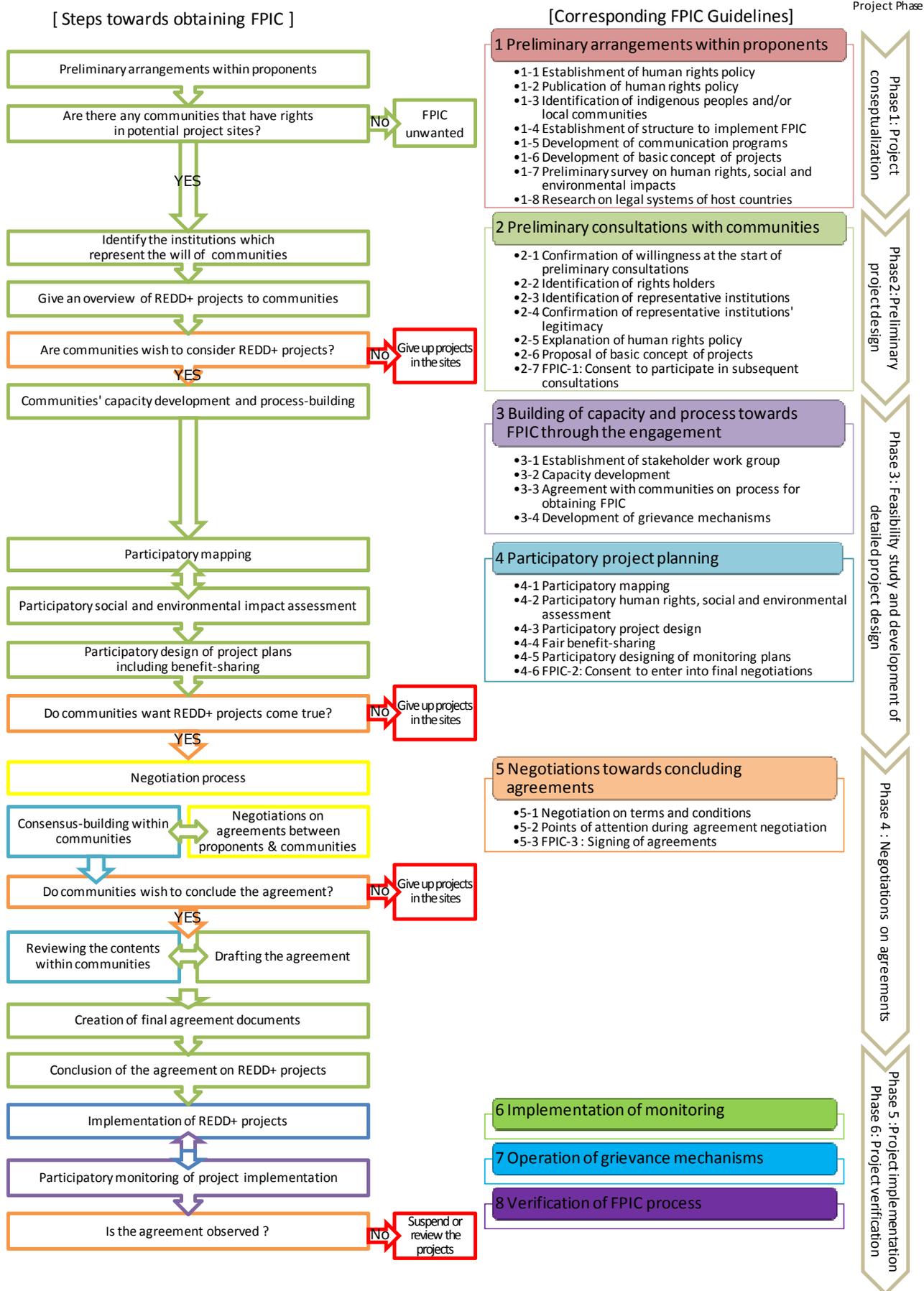
Project Phase	Requirements for Obtaining FPIC	
		d. FPIC process should be applied to indigenous peoples and/or local communities which have the rights upheld by written law or established customary rights to lands, territories and resources, while other stakeholders with any interests are the subject to consultation without FPIC.
	2-3	(Identification of representative institutions) Proponents recognize representative institutions of indigenous peoples' or local communities' own choice as their negotiating partner.
	2-4	(Confirmation of representative institutions' legitimacy) Proponents confirm if the representative institutions ensures the interests of all levels of community members, including marginalized/vulnerable groups such as women and youth, are represented. In case where the interests of the all levels are not represented, there should be consultation with the representative institutions regarding the participation of all of the community members.
	2-5	(Explanation of human rights policy) Proponents sufficiently explain to indigenous peoples and/or local communities that they implement their own human rights policy throughout the life of the project.
	2-6	(Proposal of basic concept of projects) Proponents propose the basic concept of the project to indigenous peoples and/or local communities in advance. This includes:
		a. the nature, size, pace, reversibility and scope of the proposed project;
		b. the reasons for and/or purposes of the project;
		c. the duration of the project;
d. the locality of areas that will be affected;		
e. the results of preliminary survey on human rights, social and environmental impacts;		
f. limitation on indigenous peoples' and/or local communities' activities that are caused by the project (incl. relocation and displacement) as well as proponents' proposals regarding the compensation, alternative livelihoods and relocation;		
g. personnel likely to be involved in the project (including people from indigenous peoples and/or local communities, employees of the proponents, research institutions, governments, and so forth) ;		
h. procedures that the project may entail (incl. grievance mechanisms, compensation, monitoring and evaluation methods);		
i. uncertainty in the project revenue and potential risks; and		
j. communication programs.		
2-7	FPIC-1 : Consent to participate in subsequent consultations Proponents obtain consent of indigenous peoples and/or local communities that have certain rights to participate in later consultations towards project development after confirming their understanding of the basic concept of the project.	
Phase 3: Feasibility study and development of detailed project design	Step 3 Building of capacity and process towards FPIC through the engagement with communities	
	3-1	(Establishment of stakeholder work group) Proponents establish a stakeholder work group which consists of not only indigenous peoples and/or local communities but also different stakeholders including businesses, NGOs/civil society groups, national and local governments in order to provide the opportunities for them to participate in decision-making process regarding the issues which may affect them as well as to discuss with national and local governments.
	3-2	(Capacity development) Proponents implement capacity building programs in order to ensure that indigenous peoples and/or local communities can participate in project design, implementation and monitoring. 3-2-1 For capacity building of indigenous peoples and/or local communities, proponents conduct a survey on their needs and develop the programs.

Project Phase	Requirements for Obtaining FPIC		
	3-2-2	Proponents repeatedly provide the opportunity for capacity building throughout the life of the project and evaluate the results together with the indigenous peoples and/or local communities.	
	3-2-3	Proponents guarantee them, depending upon their needs, the access to adequate independent advice.	
	3-3	(Agreement with communities on process for obtaining FPIC) Proponents embody process and methods to seek and obtain FPIC.	
	3-3-1	Proponents explain to indigenous peoples and/or local communities that they have the right to give or withhold consent, or even to choose conditional agreement.	
	3-3-2	Proponents and indigenous peoples and/or local communities enter an agreement on the FPIC process until the expression of their will to give or withhold consent to the project. This agreement includes: <ul style="list-style-type: none"> a. likely stages/points to seek consent during the life of the project; b. steps towards obtaining FPIC; c. representatives from indigenous peoples and/or local communities and their roles; d. how their consensus and decisions will be reached within the communities and their content; e. methods to verify FPIC process (incl. participatory monitoring) ; f. points/frequency to verify if the agreed terms are observed; and g. grievance mechanism. 	
	3-3-3	Proponents and indigenous peoples and/or local communities consult with each other about the necessity of facilitators, and if needed, determine who will be.	
	3-4	(Development of grievance mechanisms) Based on the consultations with indigenous peoples and/or local communities, proponents establish a process in order to effectively resolve grievance and disputes related to planning, implementation and evaluation of the project. In doing so, attention should be paid to the followings: <ul style="list-style-type: none"> a. To establish a grievance mechanism within the project. This mechanism includes procedures for complaint filing as well as remedial measures including remediation and compensation. b. In case where proponents are unable to resolve the grievance or dispute, they make use of existing mechanisms to seek mediation through independent mediators or legal/administrative remedies in a way that is acceptable to indigenous peoples and/or local communities. c. To support indigenous peoples and/or local communities so that in the case of a dispute, they can understand proceedings and the adjudication process as well as represent themselves effectively. 	
	Step 4 Participatory project planning		
	4-1	(Participatory mapping) Proponents conduct participatory mapping to show legal and customary rights to land, territories and resources as well as the actual land use situation, and then obtain consent from all the relevant indigenous peoples and/or local communities regarding land tenure/use rights and its boundaries. In this participatory mapping, attention should be paid to the followings: <ul style="list-style-type: none"> a. Proponents inform indigenous peoples and/or local communities that proponents will carefully consider and respect their tenure/use rights to land, territories and resources as well as their claims to the boundaries. b. All of the indigenous peoples and/or local communities located in or adjacent to the project should participate in the mapping. c. To makes sure that there is participation of all levels, generations and groups from within a community, including marginalized/vulnerable groups such as women and youth when the participating members are elected by each community. 	

Project Phase	Requirements for Obtaining FPIC
	<ul style="list-style-type: none"> d. The map is created with a full recognition and agreement from indigenous peoples and/or local communities. e. Demarcation should not be forced in areas where boundaries do not exist. In most cases, these areas are communally shared without demarcating the boundaries. f. In case where their claims to land conflict with each other, how these claims conflict and what positions each of the related parties currently take should be recorded. g. In case where their claims to land conflict with each other, proponents facilitate, if the communities so wish, give advice to the parties to discuss and reach a solution. h. If boundary disputes cannot be settled among the related parties, it should be attempted to be agreed to the boundaries that function for the purposes of the project only. i. If boundary disputes cannot be settled nor there cannot be any agreed boundaries that function for the purposes of the project only, proponents exclude the area in which boundary disputes exist from the potential sites of the project. j. If agreed with indigenous peoples and/or local communities, the sites of cultural significance such as their sacred spots are identified and recorded.
	<p>4-2 (Participatory human rights, social and environmental assessment)</p> <p>With participation of indigenous peoples and/or local communities, proponents conduct participatory assessment on both positive and negative impacts which the project might have from social, cultural, economic, environmental and human rights perspectives. In this assessment, attention should be paid to the impacts on marginalized/vulnerable groups such as women and youth. The scope of the assessment should include the communities' concerns.</p>
	<p>4-3 (Participatory project design)</p> <p>With full and effective participation of indigenous peoples and/or local communities, proponents design the details of the project.</p> <p>4-3-1 Proponents outline the key points of the project plans for indigenous peoples and/or local communities, in the light of the project's basic concept, participatory mapping, and each result of human rights, social and environmental impact assessment. These key points include:</p> <ul style="list-style-type: none"> a. the potential conversion of land use, costs and benefits which may occur as a consequence of the project, as well as the possibility that these costs and benefits could fluctuate as the project proceeds; b. the roles and responsibilities of the indigenous peoples and/or local communities in participating in the project; c. the selection of alternative lands and/or compensation in case of relocation or displacement; and d. potential scenarios and likely outcomes of alternatives, including the one where the project is not implemented. <p>4-3-2 Proponents review and revise, as needed, the objectives and activities of the project, with participation of indigenous peoples and/or local communities.</p> <p>4-3-3 Proponents ensure that economic and social well being of the communities are protected and promoted, with special consideration to marginalized/vulnerable groups such as women and youth.</p>
	<p>4-4 (Fair benefit-sharing)</p> <p>Proponents consult with indigenous peoples and/or local communities as to a clear policy and guidelines regarding benefit-sharing among the related parties. Attention should be paid in order to realize a fair, transparent and non-discriminatory benefit-sharing, especially with due consideration to marginalized/vulnerable groups such as women and youth.</p>
	<p>4-5 (Participatory designing of monitoring plans)</p> <p>Proponents consult with indigenous peoples and/or local communities as to monitoring plans to evaluate the achievement of targets/objectives of the project as well as the compliance with the agreed terms. The monitoring plans include:</p>

Project Phase	Requirements for Obtaining FPIC		
		<ul style="list-style-type: none"> a. what activities and issues to be monitored; b. what monitoring methods to be used; c. who will do the monitoring; and d. how to record and present the results. 	
	4-6	<p>FPIC-2 : Consent to enter into final negotiations</p> <p>Proponents confirm the terms agreed with indigenous peoples and/or local communities through the process described in the steps of 3 and 4, and then obtain consent from them to enter into final negotiations, along with their full understanding of the details of the project and its predicted impacts.</p>	
Step 5 Negotiations towards concluding agreements			
Phase 4: Negotiations on agreements	5-1	<p>(Negotiation on terms and conditions)</p> <p>Proponents negotiate with indigenous peoples and/or local communities to reach an agreement, proposing the following specific terms and conditions:</p> <ul style="list-style-type: none"> a. descriptions of project location/rights holders/resources/factors of deforestation and forest degradation/ecosystem services; b. benefits, roles and responsibilities of indigenous peoples and/or local communities (e.g. patrolling, data collection); c. rules and restrictions imposed on indigenous peoples and/or local communities (such as forest-use restrictions, relocation/displacement) as well as the compensation and alternative livelihoods for such restrictions; d. duration of the agreement; e. arrangements for making the agreement binding; f. provisions for independent verification; g. grievance mechanisms; h. participatory monitoring plans; i. withdrawal clauses from the consent terms; and j. timing and conditions when the agreed terms are to be reviewed during the agreement period. 	
	5-2	<p>(Points of attention during agreement negotiation)</p> <p>In negotiations to conclude the agreement, proponents pay attention to the followings:</p>	
	5-2-1	<p>In cases where relocation or displacement of indigenous peoples and/or local communities is inevitable, proponents negotiate and obtain free, prior and informed consent on the following items:</p> <ul style="list-style-type: none"> a. technical and financial assistance for relocation or displacement, including provision of alternative living places and livelihoods; b. the peoples' and/or communities' right to return to their former living places are recognized when the reason of relocation or displacement ceased to exist; and c. transparent, fair and steadfast procedures regarding relocation or displacement. 	
	5-2-2	<p>In agreement negotiation, proponents ensure sufficient time for thorough discussion to build consensus within the indigenous peoples and/or local communities.</p>	
	5-2-3	<p>Proponents pay attention for the following points regarding withdrawal clauses from the consent terms:</p> <ul style="list-style-type: none"> a. To present that indigenous peoples and/or local communities have the right to withdraw consent in case that the agreed terms and conditions are found to be not met. b. Third party adjudication or mediation programs are agreed to beforehand by proponents and indigenous peoples and/or local communities in case of any disagreement over whether the agreed terms and conditions are being met or not. 	

Project Phase	Requirements for Obtaining FPIC	
	5-3	<p>FPIC-3 : Signing of agreements When proponents and the communities reach an agreement regarding 5-1 and 5-2, it should be documented and confirmed through local traditional ways, and if mutually agreed, also confirmed by notary public or independent testifier.</p>
Phase 5: Project implementation / Phase 6: Project verification	Step 6 Implementation of monitoring	
	6-1	<p>(Participation of the communities) Proponents continuously implement monitoring, with participation of indigenous peoples and/or local communities, during the period of project implementation.</p>
	6-2	<p>(Evaluation of the compliance status) Proponents evaluate whether the agreed terms are being met properly in accordance to the agreed monitoring plans.</p>
	6-3	<p>(Disclosure of the results) Proponents present the monitoring results to all of the related parties, especially in a manner that indigenous peoples and/or local communities can understand.</p>
	6-4	<p>(Negotiation to withdraw consent) In case where the agreed terms and conditions are not met, proponents negotiate with indigenous peoples and/or local communities on remedial actions, compensations or even withdrawal of their consent, with reference to 5-1 (i) .</p>
	Step 7 Operation of grievance mechanisms	
	7-1	<p>(Prompt and appropriate response) Proponents receive and respond to grievances without any delay, and strive to resolve them amicably in an appropriate period.</p>
	7-2	<p>(Understanding/analysis of problems and modification of the methods) Through a tendency and pattern analysis of complaints and concerns from indigenous peoples and/or local communities, proponents identify if there any systemic flaws are in project implementation, and if any, modify the implementation methods.</p>
	7-3	<p>(Consideration to marginalized and vulnerable groups) Through the operation of the grievance mechanism, proponents verify if marginalized/vulnerable groups such as women and youth are not excluded from the community's internal decision-making process, and if such is the case, try to correct the situation as well as confirm if the representatives of the community truly ensure the interests of the entire community members.</p>
	Step 8 Verification of FPIC process	
	8-1	<p>(Third-party verification) Proponents undergo third-party verification on FPIC process.</p>
	8-1-1	<p>Proponents agree with indigenous peoples and/or local communities on the standards applied to FPIC process verification.</p>
8-1-2	<p>Proponents make indigenous peoples and/or local communities familiar with each item in the verification standards when undergoing the verification of FPIC process.</p>	



Flowchart to obtain FPIC and FPIC Guideline

Chapter 2 Explanatory Notes

1. Basic knowledge of FPIC and international human rights standards

For a better understanding why FPIC is sought at the sites of forest conservation/control projects of REDD+, we will provide the definition of FPIC and its background information on the relevant discussions, as well as international norms regarding the rights of indigenous peoples and international negotiations over REDD+.

(1) What is FPIC?

FPIC is the acronym standing for “Free, Prior and Informed Consent.” More specifically, it refers to a right or principle applied to the case in which indigenous peoples (and other communities) determine if they give consent to a project that may affect their lands, territory and/or resources. FPIC was originally recognized as a right of indigenous peoples by the United Nations and other organizations, but recently it has become applied to not only indigenous peoples but also local communities.

1) Four elements of FPIC²

In this section more clarification is given on each of four elements of FPIC: free, prior, informed and consent.

Free

‘Free’ refers to a process that a consent is sought without any coercion, threat or manipulation.

Prior

‘Prior’ means that a consent is sought well in advance of the approval or launch of an activity. Respect should be given to decision-making timeline established by indigenous peoples and/or local communities to whom FPIC is applicable.

Informed

“Informed” means that at least the information related to the following aspects should be provided:

- nature, size, pace, recoverability and scope of the proposed project/activity
- reason(s) and/or purpose(s) of the project and/or activity
- duration
- specified area(s) that will be affected
- results of preliminary assessment on economic, social, cultural and environmental impacts (including potential risks, fair and equitable benefit-sharing)
- personnel likely to be involved in the proposed project (indigenous peoples, private sector staff, research institutions, government employees and others)
- steps under which the project is operated

Consent

The procedure of consent includes consultation and participation. The consultation must be implemented in good faith. Involved parties express mutual respect for each other, guarantee fair participation and establish a forum for dialogue to find appropriate solutions. The consultation also needs sufficient time and effective mechanisms for good communication among stakeholders. Certain mechanisms are needed for indigenous

2 In this section, we referred to the followings: United Nations Economic and Social Council. 2005. *Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples* E/C.19/2005/3; Toshiaki Sonohara. 2007. “Senjuminzoku no kenri – jizen no juyuna informed consent gensoku tonon kanren de.” *Senri Ethnological Reports, National Museum of Ethnology*. 32(1):63-85(2007).

peoples and/or local communities to be able to participate in this decision-making process through their representatives who are freely chosen by themselves and customary and/or other institutions. Gender-equal perspective, women's participation, and where appropriate, child/youth participation seem to be essential. This procedure can include an option to withhold consent. Consent to reach an agreement abides by indigenous peoples' interpretation based on their rational understanding.

2) To whom is FPIC applicable?

This guideline can be applicable to indigenous peoples and/or local communities that make use of/live in or near REDD+ project sites.

The well-known indigenous peoples include Indian or Indio of the Americas, Eskimo and Alyutors near the Arctic Circle, Sami in northern Europe, aborigines of Australia, and Ainu of East Asia. Total population of these peoples is estimated between 190 and 625 million³.

Although it is said to be no internationally agreed definition of indigenous peoples⁴, a concept of self-identification that people who identify themselves as indigenous should decide their own identity is considered a fundamental criterion for determining who indigenous peoples are⁵. The following criteria might be helpful when you think who can be recognized as indigenous peoples:⁶

1. Self-identification as indigenous peoples at the individual level and acceptance by the community as their members
2. Historical continuity with pre-colonial and/or pre-settler societies
3. Strong link to territories and surrounding natural resources
4. Even if only partially, they maintain their distinct social, economic or political systems
5. Even if only partially, they maintain their distinct language, culture, beliefs and knowledge
6. As distinctive peoples and/or communities, they resolve to maintain and develop their distinctiveness and their own social, economic or political systems
7. They form a obviously non-dominant group of society

Except for the Convention on Biological Diversity (CBD), relevant UN Conventions, Declarations and Resolutions provide that FPIC shall be applicable to indigenous peoples, while not mentioning local communities. On the other hand, the FPIC guidelines of the UN-REDD Programme⁷ broaden the scope to include forest-dependent communities, but only require prior consultation for them⁸. In slightly contrast, the Forest Stewardship Council (FSC) takes a different stance: local communities that are in or adjacent to the project are also entitled the right to FPIC, just same as the one of indigenous peoples⁹. However in effect, in the UN-REDD it is required to secure FPIC from forest-dependent communities that share common characteristics with indigenous peoples¹⁰ while the FSC sets additional requirements for local communities to have the right to FPIC: they must first have a legitimate right, and secondly, they will have to be significantly affected by the project.

3 Matsubara Masatake (ed.). 2002. *Sekai Minzoku Mondai Jiten (Shinteizouhoban)*, Heibonsha. pp.594-597. In this cyclopedic book, Hideaki Uemura quoted two figures. First, according to *State of the World 1993-1994* by the Worldwatch Institute, the population is estimated between 190 million and 625 million, and second, approximately 300 million in more than 70 countries, which is estimated by the UN.

4 UN-REDD Programme. *Guidelines on Free, Prior and Informed Consent*. 2013. p.36.

5 Sachiko Kubota, Atsushi Nobayashi (ed.). 2009. *Senjuminzoku towa dareka*. Sekaishisousha. p.18.

6 Ibid. UN-REDD Programme. 2013. pp.36-40.

7 Ibid. UN-REDD Programme. 2013.

8 Ibid. UN-REDD Programme. 2013. p.11.

9 Forest Stewardship Council. 2012. *FSC guidelines for the implementation of the rights to free, prior, and informed consent (FPIC)* Version 1.p.13.

10 Ibid. UN-REDD Programme. 2013. p.12.

Indigenous peoples are not even defined in the UN Declaration on the Rights of Indigenous Peoples (for details, please see Section 2 (3) UNDRIP), and this has made it more difficult to distinguish indigenous peoples from other local communities. Furthermore, the fact that the FSC has screened FPIC-target communities based on the significance of impacts involves another difficulty to ensure its objectivity.

In practical implementation of FPIC where forest-dependent peoples live in or near a project site, it is impossible to develop the project without any consent/participation from them. In this guideline we therefore assume that FPIC is applicable to all communities that have legitimate rights, whether they are indigenous or not.

3) *In what cases is FPIC needed?*

When examining whether or not an activity will require FPIC, the following checklists which the UN-REDD Programme developed will be useful¹¹. If you answer yes to any one of these, it is encouraged to undertake the process to obtain FPIC.

1. Will the activity involve the relocation/resettlement/removal of indigenous peoples and/or local communities?
2. Will the activity involve the taking, confiscation, removal or damage of cultural, intellectual, religious and/or spiritual property from indigenous peoples and/or local communities?
3. Will the activity adopt or implement any legislative or administrative measures that will affect the rights, lands, territories and/or resources of indigenous peoples and/or local communities?
4. Will the activity involve mining and oil and/or gas operations on the lands/territories of indigenous peoples and/or local communities?
5. Will the activity involve logging on the lands/territories of indigenous peoples and/or local communities?
6. Will the activity involve the development of (agro-industrial) plantations on the lands/territories of indigenous peoples and/or local communities?
7. Will the activity affect the status of indigenous peoples' and/or local communities' rights to their lands/territories or resources?
8. Will the activity involve the accessing of traditional knowledge, innovations and practices of indigenous peoples and/or local communities?
9. Will the activity involve making commercial use of natural and/or cultural resources on lands subject to traditional ownership and/or under customary use by indigenous peoples and/or local communities?
10. Will the activity involve decisions regarding benefit-sharing arrangements, when benefits are derived from the lands/territories/resources of indigenous peoples and/or local communities?
11. Will the activity have an impact on the continuance of the relationship of the indigenous peoples and/or local communities with their land or their culture?

(2) International norms regarding human rights in general and the rights to FPIC

The international standards to guarantee human rights, which referred to as international human rights norms, have been developed after World War II. Vowing never to repeat the tragedies of war, the establishment of the United Nations was set out by the UN Charter and as one of the purposes of the UN the protection of human rights was also specified in the Charter. International human rights norms have since then been drafted primarily in the United Nations on the basis of the UN Charter Article 1 (3) "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character,

11 Ibid. UN-REDD Programme. 2013. p.27.

and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”¹²

What we should first cite as international human rights norms are the Universal Declaration of Human Rights (UDHR) which was adopted in the UN General Assembly in 1948 and the International Covenants on Human Rights (International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights) which was adopted in 1966. The two Covenants represent the first global expression of human rights in a comprehensive manner. Together with the United Nations Charter, these three documents are called as the International Bill of Human Rights,¹³ which complete most fundamental documents adopted by the UN for human rights protection.¹⁴

From then on, the United Nations have drawn up and established various area-specific conventions and declarations which were not fully specified in the International Bill of Human Rights. Among these include the International Convention on the Elimination of All Forms of Racial Discrimination (adopted in 1965), Convention on the Elimination of All Forms of Discrimination against Women (adopted in 1979), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted in 1984), Convention on the Rights of the Child (adopted in 1989), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted in 1990), Declaration on the Right to Development (adopted in 1986), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (adopted in 1992), Convention on the Rights of Persons with Disabilities (adopted in 2006), Declaration on the Rights of Indigenous Peoples (adopted in 2007).¹⁵ Furthermore, International Labour Organization (ILO), which had promoted study and research on labor issues related to indigenous people before the UN gained momentum, adopted the Indigenous and Tribal Peoples Convention (No. 169) in the 76th Session of the International Labour Conference in 1989.¹⁶

In this section we will further explain important UN Declarations and Conventions which constitute international norms on rights of indigenous peoples such as the ILO Indigenous and Tribal Peoples Convention No.169, Declaration on the Rights of Indigenous Peoples (UNDRIP), Convention on Biological Diversity (which includes several provisions relating to the rights of forest dependent indigenous peoples), as well as international human rights norms applicable to businesses.

1) *ILO - Indigenous and Tribal Peoples Convention No.169 (1989)*

International Labor Organization (ILO) has long been working on the issue of indigenous peoples' rights since the era of the League of Nations. After World War II, the Indigenous and Tribal Populations Convention No.107 was adopted in 1957. In 1989, this was partially amended and adopted as the Indigenous and Tribal Peoples Convention No.169 by the General Assembly of the ILO “to respect the intention of indigenous and tribal peoples to maintain their distinctive culture, tradition and economy.”¹⁷

Under the ILO Convention No.169, the provisions concerning FPIC are summarized as follows:

The Convention is designed to cover indigenous peoples and tribal peoples. The Article 1 (2) provides that “Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.”

12 Yozo Yokota.2010. *Kokusai Shakai to Hou*. Yuhikaku. p.208.

13 Ibid. Yozo Yokota. 2010. p.208.

14 Ibid. Yozo Yokota. 2010. p. 215; Yozo Yokota. 2013. *Kokusai Jinken Nyumon (2nd ed)*. Houritsubunkasha. p.37.

15 Takane Sugihara.2011. *Kihon Kokusaihou*. Yuhikaku. p. 230; Ibid. Yozo Yokota. 2010. p.209, Shin Hae Bong.2013. *Kokusai Jinkenhō –Kokusai Kijun no Dainamizumu to Kokunaihou tonō Kyocho*.Shinzansha.p.31.

16 M.Tomei, L. Swepston. (trnsldt by Toshiaki Sonohara, Yasuo Aonishi, Tomomi Kozaki).2002.*Senjuminzoku no Kenri – ILO dai 169 gou jōyaku no Tebiki*.Ronsosha. p.15.

17 Website of the ILO office in Japan. http://www.ilo.org/public/japanese/region/asro/tokyo/standards/st_c169.htm

The Article 5 advocates the recognition and protection of their social, cultural, religious and spiritual values and practices and the Article 8 ensures their right to retain their own customs and institutions.

In the Article 6, it requires that the consultations with the peoples concerned are carried out, through their representative institutions, “in good faith and in a form appropriate to the circumstances,” “with the objective of achieving agreement or consent to the proposed measures,” when implementing legislative or administrative measures which may affect them.

In the Article 14 it recognizes their rights of ownership and possession over the lands which they traditionally occupy as well as their rights to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Furthermore,

The Article 16 prescribes that where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their “free and informed consent.”

Although the ILO Convention No.169 successfully adopts certain progressive elements such as the protection of indigenous peoples’ rights and the consideration for their customs or customary laws, it lacks to ensure their right to self-determination¹⁸ and it contains “a restrictive provision which virtually prevents indigenous peoples from acting as subjects of international law.”¹⁹

ILO Convention No.169 is the sole international binding convention that specifically addresses the rights of indigenous and tribal peoples. However it has been ratified, even at this distance of time, by only 22 countries located mainly in Latin America. Major countries of the world, including Japan, have not yet ratified it, and nor almost every country in Asian region has.

2) *Convention on Biological Diversity (CBD) - Conference of the Parties Decision V/16 (2000)*

The Convention on Biological Diversity was adopted in 1992. In the Article 8 of this convention refers to “knowledge, innovations and practices of indigenous and local communities” and upholds “the promotion of their wider application with the approval and involvement of the holders of such knowledge, innovations and practices.” The Conference of the Parties Decision V/16 takes one step further, requiring that “access to traditional knowledge, innovation and practices of indigenous and local communities should be subject to prior informed consent or prior informed approval from the holders of such knowledge, innovations and practices.”

3) *United Nations General Assembly - Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)*

In 1985, the UN Working Group of Indigenous Populations (WGIP), which was established in 1982, launched to draft the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). As this declaration, which was finally adopted by the UN General Assembly in September 2007, is currently regarded as core norms on the rights of indigenous peoples, the key elements are briefly explained below.

18 Yozo Yokota. 2008. “Senjuminzoku no kadai to tenbou – kokuren deno torikumi wo chuushin ni”, Senjuinzoku Forum Memorial Lecture. p.7.

19 Hidaki Uemura. 2008. “ ‘Senjuminzoku no kenri ni kansuru kokuren sengen’ kakutoku he no nagai michinori,” *PRIME* (Journal of the International Peace Research Institute of Meiji Gakuin University) Vol. 27. p. 63.

Definition of indigenous peoples

Even though the UNDRIP addresses the issues of indigenous peoples' rights, it does not define who exactly indigenous peoples are. Before this, a working definition referred to as the "Cobo"²⁰'s definition" had been recognized by the UN. In this definition, several characteristics of indigenous peoples were highlighted, including a historical continuity with pre-invasion and pre-colonial societies that developed on their territories (indigeneity).²¹ Despite the existence of the Cobo's definition, the ILO Convention No.169 did not employ it and the UNDRIP even avoided defining itself. Some reasons behind this include the fact that the drafters of the UNDRIP considered it important for the Declaration to be applied universally, including Asia and Africa, rather than persisting with the indigeneity which originated from colonization,²² and that indigenous peoples themselves did not want to restrict the application of the Declaration too narrowly.²³ Some concerns however have been expressed about this problem of "definition," including that the lack of any conceptualization of indigenous peoples poses considerable difficulties to assess the scope of application of the UNDRIP, and in the absence of the definition, it cannot prevent the States from being de-facto free to determine who are or are not indigenous peoples.²⁴

The right to self-determination

In the context of FPIC, the Article 3 stipulates indigenous peoples' right to self-determination and in its latter part it specifies the right to "freely pursue their economic, social and cultural development" which is basic constituent of the right to FPIC. The right to FPIC is regarded as a derivative right from some fundamental rights, including the right to self-determination, property, participation, as well as the right to not be forcibly removed.²⁵ The Article 26 of the UNDRIP also mentions the right to lands and resources while the Article 18 defines the right to participate in decision-making and the Article 10 forbids forcible relocation. To uphold the right to FPIC, all of these fundamental rights are thus set in the UNDRIP.

The provisions related to FPIC

There are six provisions which refer to FPIC and each of these explicitly specify the following activities and/or measures that need to seek and obtain FPIC:

- Adoption and implementation of legislative or administrative measures that may affect indigenous peoples (Article 19)
- Approval of any project affecting their lands or territories and other resources (Article 32(2))

Both of the provisions above scope the activities in a general and comprehensive manner. For the measures and projects mentioned above, the UNDRIP requires to "consult and cooperate in good faith" "in order to obtain free and informed consent prior to" the launch of them. However, according to theories of international law, these words are not interpreted to impose on the States obligations to obtain FPIC.²⁶

- Forcible relocation of indigenous peoples from their lands or territories (Article 10)
- Storage or disposal of hazardous materials in the lands or territories of indigenous peoples (Article 29)

20 Jose R. Martinez Cobo from Ecuador.

21 Yuko Osakada. 2010. "Africa ni okeru 'senjuminzoku no kenri ni kansuru kokuren sengen' no juyo to teikou – senjuminzoku no teigi, jiketsuken, tochiken wo megutte" *Chukyo Hogaku* (Chukyo Law Review) Vol. 1&2 (2010). p.4.

22 Ibid. Osakada. 2010. p.8.

23 ILA. 2010. *THE HAGUE CONFERENCE (2010) RIGHTS OF INDIGENOUS PEOPLES Interim Report*. p.6.

24 Ibid. ILA. 2010. p.7.

25 Ibid. UN-REDD Programme.2013. p.9.

26 ILA. 2012. *SOFIA CONFERENCE (2012) RIGHTS OF INDIGENOUS PEOPLES Final Report*. p.6.

For the activities mentioned above, the Declaration requires that they shall not take place “without their free, prior and informed consent.” Unlike the first two articles, it is interpreted that the States have a duty to obtain FPIC with regard to these activities.²⁷

- Takeover of cultural, intellectual, religious and spiritual property of indigenous peoples without their free, prior and informed consent (Article 11(2))
- Confiscation, takeover, occupation, utilization and/or damaging of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, without their free, prior and informed consent (Article 28(1))

These articles impose the States to redress or compensate for the consequences of the activities and/or measures undertaken in the past. But at the same time, these are also understood as requiring that FPIC should be obtained prior to such activities and/or measures which will be undertaken in the future.²⁸

4) International human rights norms applicable to businesses

International law establishes obligations on the part of national governments.²⁹ To private sector, it is only applied indirectly through the function of the nations which have the primary responsibility under international law.³⁰ Thus it is basically interpreted that international human rights law is not directly applied to businesses.³¹ If it's true, international norms we so far discussed are supposed to, on theoretical grounds, neither applied to businesses. We therefore need to fill this ‘missing link’ that enables these norms to become business norms as well. To this end, an initiative was led by the UN, that is, the adoption of Guiding Principles on Business and Human Rights (UNGPs) by the United Nations Human Rights Council.

The UNGPs are compiled in 2005 by John Ruggie. As the Special Representative of the UN Secretary General, he undertook a thorough study on the cases of human rights violation as well as close consultation with stakeholders and integrated the outcome into the guiding principles. The “Protect, Respect and Remedy Framework” was first adopted in 2008 and based on it the “Guiding Principles on Business and Human Rights” was established in 2011. The former indicates several viewpoints concerning business and human rights as well as policy framework while the latter has developed as the guidance for implementation. The UNGPs are designed to protect and promote human rights based on triadic structure consisting of (i) the States’ duty to protect against human rights abuses by third parties including businesses, (ii) the corporate responsibility to respect human rights and (iii) the need for more effective remedies for victims of human rights abuses.³² Furthermore, under these principles, which however are not legally binding, not only the States but also businesses are obliged to respect human rights.³³ Specifically, businesses are required to avoid to cause negative impacts on human rights, as well as continue to do due diligence on human rights in order to take action for identification, mitigation and reduction of their impacts on human rights, including their supply chains.³⁴ In addition, they are also required to remedy negative human rights impacts which they have caused.

The UNGPs are referred to as “soft laws” and have been widely accepted among the member countries, business communities and a majority of policy advocacy groups.³⁵ Besides, they had a great influence on the

27 Ibid. ILA. 2012. p.7.

28 Ibid. UN-REDD Programme.2013. pp.24-25.

29 Knox, John H., *The Ruggie Rules: Applying Human Rights Law to Corporations* (August 16, 2011). *The UN Guiding Principles on Business and Human Rights* (Radu Mares ed., 2012); Wake Forest Univ. Legal Studies Paper No. 1916664. available at SSRN: <http://ssrn.com/abstract=1916664>.p.5.

30 Ibid. Knox, John H..2011. p.7.

31 Ibid. Knox, John H..2011. p.1.

32 UN Docs A/HRC/8/5 7, p.1, April 2008.

33 But this obligation is not based on international law. It is based on the expectation from the society. (ibid. Knox, John H.. 2011. p.16; and ibid. UN Docs. 2008. p.16-17, para54.)

34 This is generally translated into “Soutou no chuui gimu” in Japanese. It means to take certain preventive/mitigation measures to deal with risk assessment and its result.

35 Ibid. Knox, John H.. 2011. p.36.

development of ISO 26000, an international standard for corporate social responsibility, which was drafted around the same time and released in 2010, and also of the OECD Guidelines for Multinational Enterprises (2011 edition).³⁶ Both incorporated some elements of the UNGPs.³⁷

In the Guiding Principles, Principle #12 on the obligation of respect for human rights considers the rights specified in the International Bill of Human Rights and the fundamental rights provided in ILO Declaration on Fundamental Principles and Rights at Work as the minimum human rights to be secured. Additionally, in its explanatory notes, the UNGPs call for respect for the rights of particular groups and/or peoples which need special considerations and mention, as reference to specify the nature of such rights, several UN documents and standards in the International Humanitarian Law which uphold the rights of indigenous peoples, ethnic/tribal/religious/linguistic minorities, women, children, disabled people, migrant workers and their families. Among these UN documents include the UNDRIP, Convention on Biological Diversity and the ILO Convention No.169, which are all related to indigenous peoples. It is thus appropriate to conclude that the acceptance of the Guiding Principles by businesses constitutes the acceptance of international norms (which we have so far discussed) that serves as the basis of FPIC, and therefore, businesses have to obtain FPIC in accordance with such norms.

The table below gives an overview of the international human rights norms discussed in (2) in Chapter 1.

International human rights norms	Abbr.	Year of adoption
Universal Declaration of Human Rights	UDHR	1948
International Convention on the Elimination of All Forms of Racial Discrimination	ICERD	1965
International Covenant on Economic, Social and Cultural Rights	ICESCR	1966
International Covenant on Civil and Political Rights	ICCPR	1966
Convention on the Elimination of All Forms of Discrimination against Women	CEDAW	1979
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	CAT	1984
Declaration on the Right to Development		1986
Indigenous and Tribal Peoples Convention, 1989 (No. 169)		1989
Convention on the Rights of the Child	CRC	1989
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	ICMW	1990
Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities		1992
Convention on the Rights of Persons with Disabilities	CRPD	2006
Declaration on the Rights of Indigenous Peoples	DRIP	2007
Guiding Principles on Business and Human Rights		2011
ISO26000		2010 (released)
OECD Guidelines for Multinational Enterprises		2011 (amended)

³⁶ The Japanese version, *OECD Takokuseki kigyou koudou shishin: sekaini okeru sekinaru kigyou koudou no tame no kankoku 2011 (tentative Japanese translation edition)* has been released by the Japan Ministry of Foreign Affairs. The original version in English: *OECD Guidelines for Multinational Enterprises*.

³⁷ Ken-ichi Kumagai.2013. *ISO26000 to roushi no mondai*. Japan Productivity Center. p.13.

(3) Social safeguards required in REDD+

REDD+ is one of the global warming mitigation measures to reduce CO₂ emissions through stopping deforestation and forest degradation as well as promoting forest conservation activities. As a policy approach which should be incorporated in a new framework of post-Kyoto Protocol (after 2020), there are still a lot of negotiations going on to work out its details.

1) Background of REDD safeguards

REDD+ originally started with the idea of Reducing Emission from Deforestation in Developing countries, which was proposed by Papua New Guinea and Costa Rica at the 11th Conference of Parties (COP 11) to the United Nations Framework Convention on Climate Change (UNFCCC) in 2005. From the very beginning, there have been several concerns over the effectiveness of the activities i.e. the permanence of their effect leakage or displacement which occurs when there is deforestation in one country as a result of a prevention of deforestation by a second country. Additionally, it is also feared that prevention of deforestation may cause exclusion of forest-dependent people or conversion of tropical forest into artificial plantation. REDD Safeguards are conceived of as measures to deal with the issue regarding the effectiveness of the activities as well as the negative impacts which the activities may cause to local communities and the environment, including the biodiversity in tropical forests.

In the COP 16, which was held at Cancun in Mexico in 2010, the framework of REDD+ was decided and adopted as a resolution by the Parties. In addition, safeguard provisions were also incorporated into the framework.

This Cancun Agreement states that safeguards should be “promoted and supported” when undertaking REDD+ activities. More specifically, the following seven safeguards are set out:

- (a) that actions complement or are consistent with the objectives of national forest programs and relevant international conventions and agreements;
- (b) transparent and effective national forest governance structures, taking into account national legislation and sovereignty;
- (c) respect for the knowledge and rights of indigenous peoples and local communities by taking into account relevant international obligations, national circumstances and laws, and noting that the UN General Assembly has adopted the UNDRIP;
- (d) the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities;
- (e) that actions are consistent with the conservation of natural forests and biological diversity, ensuring that the actions are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services;
- (f) actions to address the risks of reversals; and
- (g) actions to reduce displacement of emissions.

(a) and (b) are designed to guarantee the consistency with international treaties and forest governance. The idea behind these is that appropriate target setting and governance free from corruption and fraud are requisite for REDD+ to be fully effective, and also that good governance is quite essential to protect our environment and society. (c), (d) and (e) are designed for preventing negative impacts on (as well as ensuring benefits for) the environment and society, while (f) and (g) are for permanently ensuring the mitigation effect of REDD+.

2) Position of FPIC within REDD safeguards

In the context of FPIC, two elements of safeguards in the Cancun Agreement, namely, (c) “respect for the knowledge and rights of indigenous peoples/local communities” and (d) “participation of indigenous peoples

and local communities,” have direct relevance and especially it should be noted that (c) includes special wording such as “noting that the UN General Assembly has adopted the UNDRIP.” In the UN-REDD Guidelines it is mentioned that “although the term ‘FPIC’ is not expressly referred to in the Cancun Agreements or in the Appendix on REDD+ safeguards, FPIC is addressed indirectly because the text “note[s]” that the General Assembly has adopted UNDRIP (which itself sets out the principle of FPIC).” The Guidelines conclude that securing FPIC is a means to meet the Cancun Agreements’ requirement to promote and support (c) “respect for the knowledge and rights of indigenous peoples and members of local communities” and to ensure (d) “the full and effective participation of relevant indigenous peoples and local communities.”³⁸

Our guideline also upholds and follows this attitude.

Although the wording of “safeguards should be promoted and supported” in the Agreement does not mandate the member countries to deal with them, it requires in its latter part that the developing countries should establish Safeguard Information Systems (SIS) to provide information on how they deal with safeguards in order to ensure its effectiveness. For the SIS, There has been an agreed guidance in the decision 12/CP.17 (2011) but it only gives a rough outline.³⁹

What the UNFCCC can provide is just the guidelines. To build actual systems for providing information is the duty of each developing country and such systems need to be tailored to individual circumstances. In response to this, the REDD+ SES Initiative⁴⁰ have developed the Guidelines⁴¹ which can be used for developing countries to build systems for providing information on the safeguards at country level, as well as the REDD+ Social and Environmental Standards⁴² which consist of the Principles, Criteria and Indicators to evaluate how the safeguards are being addressed and respected. Based on these tools, collaborative work to develop such system adapted to individual conditions has been undertaken between REDD+ SES Initiative and national governments of Ecuador and Nepal as well as local government of Central Kalimantan, Indonesia. The UN-REDD Programme has also developed social and environmental standards with an objective to support the country-level development of safeguards corresponding to the UNFCCC.⁴³ The results or achievements of these movements are likely to be taken into the information system of each country and when this would happen, the principles, criteria and indicators that are all incorporated into such system would then, substantially, come to specify the details of the UNFCCC safeguards. Given that both the REDD+ SES Initiative and the UN-REDD Programme has basically incorporated FPIC as a core principle into their standards, it is predicted that FPIC will actually become core requirements in REDD+ safeguards.

In considering these viewpoints, when implementing REDD+ in the future, an essential requirement for proceeding with the projects is likely to be to obtain FPIC from indigenous peoples and/or local communities, according with the safeguards and in a in a verifiable manner.

38 Ibid. UN-REDD Programme. 2013. p.15.

39 The 17th session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (2011) adopted the Guidance for Safeguard Information System (Decision 12/CP. 16) which requires developing country Parties to provide a summary of information on how all of the safeguards are being addressed and respected and include the summary in national communications, or communication channels agreed by the UNFCCC. Furthermore, in 2013 the COP 19 to the UNFCCC adopted the Warsaw Framework for REDD+, including several decisions such as Decision 12/CP. 19 regarding the timing and the frequency of presentations of the summary of information.

40 The REDD+ SES is a working group which was established in May 2009. It consists of indigenous peoples’ organizations, NGOs and governments. The Climate, Community & Biodiversity Alliance (CCBA), which administers CCB Standards, and CARE International have served as its Secretariat.

41 REDD+ SES.2012. *Guidelines for the use of REDD+ Social & Environmental Standard at country level Version 2.*

42 Ibid. REDD+ SES. 2012.

43 Ibid. UN-REDD Programme. 2013.

2. Guidance to implement eight steps

This section provides detailed guidance on each step, with several key points to remember and useful references in implementing FPIC guidelines. Some steps are omitted where special guidance is not needed.

Step 1: Preliminary arrangements within proponents

Goal of this step

By establishing human rights policy of the proponents, their concept of respecting human rights is be specifically defined. This policy is then informed the entire staff of the proponents as well as announced to the public to ascertain the realization of the concept.

1 – 1: Establishment of human rights policy

The elements which proponents should include into human rights policy are selected from international human rights norms. These norms are applied to nations in general, not directly placing any responsibility on businesses. Given these circumstances, the United Nations adopted the Guiding Principles on Business and Human Rights in 2011 with the objective of avoiding or reducing human rights impacts caused by growing business activities. We therefore listed up the elements which businesses should refer to when respecting human right. (For further information on international human rights norms, please see *1-(2) Human rights in general and international norms regarding rights to FPIC* in Chapter 2.)

1 – 5: Development of communication programs

It should be noted that “Communication” is obviously not a “one-way provision” but “two-way exchange” of information and views. Proponents therefore need to develop the plans which specify not only the communication method they use for indigenous peoples and/or local communities but also the vice versa.

The vulnerability that certain indigenous peoples and/or local communities face is not often homogeneous within their societies. To be more specific, there are more vulnerable groups such as women, youth, widows, disabled and lower caste people in the internal societies. Sufficient considerations should be given when communicating with those who belong to such groups, particularly ensuring diversified means and methods of communication. Among these include, for example, using some media other than written documents so that illiterate people can understand, setting convenient meeting times for different groups or even organizing a separate meeting for particular groups so that they can fully express their views.

In addition, there might be an asymmetry of information between proponents and indigenous peoples and/or local communities if the communities gain relevant information only through the proponents. It is therefore required to guarantee the opportunity for the communities to access the information provided from third parties and the proponents shall not limit or disrupt such opportunity.

1 – 6: Development of basic concept of the projects

It is quite necessary to set purposes of the projects clearly in order to provide the communities with adequate explanations. It is also noted that this will be essential for appropriate participatory monitoring in the stage of project implementation. Furthermore, to define the purposes of the project will help illustrate the reasons why each project activity is needed, and not to mention, vital for the implementation of monitoring.

1–7: Preliminary survey on human rights, social and environmental impacts

Project impact assessment should cover not only social and environmental aspects but also human rights aspect. More specifically, it is important to predict who are likely to be affected and how they are likely to be affected when the project is implemented.⁴⁴ (For further details on human rights, social and environmental impact assessment, please see *Step 4-2. 1-(2) Human rights in general and international norms regarding rights to FPIC.*)

Step 2: Preliminary consultations with communities

Goal of this step

This is relevant to the preliminary phase of consultations with communities towards obtaining FPIC. In this phase, proponents initiate actual contact with indigenous peoples and/or local communities which live in or near the REDD+ project sites. Proponents identify the indigenous peoples and/or local communities which will receive positive and/or negative impacts from the project, as well as roughly figure out what rights and interests they have, who need to be sought FPIC (rights holders) and who does not need (merely stakeholders). Proponents then present their own human rights policy and basic concept of the project.

2–1: Confirmation of willingness at the start of preliminary consultations

If any indigenous peoples and/or local communities which do not wish to be contacted, proponents must avoid contact with them.

2–2: Identification of rights holders

In our guidelines FPIC must be sought from “forest dependent” indigenous peoples and/or local communities. In the areas with relatively large remaining forest, these communities have strong links to the forest. They utilize forest as sources of timber (house-building material), food production (non-timber forest products such as nuts and mushrooms) or even rely on it for cultural and spiritual practices. These links are however not always recognized by written laws, merely regarded as a customary right in many cases. Even in some cases, governments do not adequately recognize such rights. Therefore, when identifying rights holders, proponents need to take not only written laws but also customary rights into consideration.

At the stage of identifying rights holders and categorizing their rights according to their substances, special considerations should also be given to marginalized and vulnerable groups such as women and youth in the communities. As for scheme to apply for recognition of certain rights or interests to the resources, lands and territories relating to the project, proponents need to ensure its transparency and make it available to all members of the communities.⁴⁵

As these claims often overlap each other, they should be tiered starting from those with legal or customary rights to those with merely interests. This work is followed by participatory mapping described in Step 4. In Forest Stewardship Council guidelines, when such claims conflict with each other, proponents are required to suggest and facilitate the peoples involved to discuss it among themselves and resolve the matter.⁴⁶

44 Kokuren jinken rijikai.2011.*Jinken to takokusekikigyō oyobi sonotano kigyō no mondai ni kansuru jimusouchou tokubetudaihyō, John Ruggie no houkokusho: Business to jinken ni kansuru shidougensoku: kokusairengou 'hogo, sonchou oyobi kyusai' wakugumi jisshi no tameni.*p.16-17 (18).

45 Ibid. REDD+ SES. 2012. p16.(Indicator 6.1.2).

46 Forest Stewardship Council (FSC). 2012. *FSC Guidelines for the implementation of the right to free, prior and informed consent (FPIC).*p.50.

Our guidelines provide that “free, prior and informed consent” (FPIC) should be sought from the indigenous peoples and/or local communities which have any of legal or customary rights to the resources, lands and territories affected by the projects, while consultations are required for other communities and stakeholders which have merely interests. In view of the existing guidelines which we referred to, the CCBS⁴⁷ provide that FPIC should be applied to legal and customary rights holders whether they are indigenous peoples or not. On the other hand, in the UN-REDD guidelines,⁴⁸ indigenous peoples and local communities are treated differently; FPIC is applied to the affected indigenous peoples who have certain rights while the forest dependent communities who have also certain rights are to be at least consulted and only in case where these communities are in the circumstances equal to those of the indigenous peoples, FPIC should be sought from such communities as well.

2 –3: Identification of representative institutions

In some cases representative institutions of the communities are their traditional decision-making institutions while in other cases they will establish new institutions for the project. In either case, proponents should respect the institutions selected through the method of their own choice.⁴⁹ On another front, they also need to encourage the establishment of the institutions which ensure that the interests of all levels of the community members are represented, through confirming how marginalized and vulnerable groups are included into internal decision making process of the communities.

2 –4: Confirmation of representative institutions’ legitimacy

Proponents confirm and verify if interests of all levels of the community members are represented in their internal decision-making/representative institutions and their processes by gaining feedbacks from marginalized and vulnerable groups such as women and youth. This is not a one-off event and hopefully continues, if possible, throughout the implementation period of the project by making use of grievance mechanisms.⁵⁰

2 –5: Explanation of human rights policy

Proponents explain their human rights policy established and released in Step 1 to the rights holders and stakeholders. They also clearly announce that they will respect the collective rights of indigenous peoples and/or local communities in according to international norms which are applicable to them. At the same time proponents and these communities will share the recognition that the communities’ decision making process should be respected but this process sometimes conflict with international norms.

2 –6: Proposal of basic concept of the projects

Proponents provide not only the basic information on the nature or size of REDD+ projects but also the results of (especially the negative impacts which were identified through) the preliminary survey on human rights, social and environmental impacts (described in 1-7) as well as communicate that the project revenue is merely a prediction, accompanied by risks and particularly the uncertainty specific to REDD+.

2 –7: FPIC 1 Consent on participation in a subsequent consultation

Proponents first confirm that indigenous peoples and/or local communities understand the human rights policy and basic concept of the project that were presented and explained through Step 2 and then seek

47 Climate, Community and Biodiversity Alliance (CCBA). 2013. *Climate, Community & Biodiversity Standards Third Edition*.

48 Ibid. UN-REDD Programme.2012.

49 UNDRIP Article 19; ILO Convention No.169 Article 6-1(a).

50 IbidUN-REDD Programme.2012. p.5 (Criterion 2).

consent to move on to the next phase from these communities on which the project may have both positive and negative impacts. If proponents cannot obtain the consent, they need to take some measures, such as excluding the areas related to these communities from the potential sites of the project.

*From whom in a community should consent be obtained?
: Learning from a case in the Province of Central Kalimantan, Indonesia*⁵¹

Surya Sawit Sejati (SSS) is a company which runs palm oil plantations, with an area of 15,550 ha, in Central Kalimantan, Indonesia. At the planning stage of the project development, customary land of two villages called Sungai Rangit Jaya and Runtu were included into the development site. Some development began in Sungai Rangit Jaya in 2004 and in Runtu in 2005 respectively, and in its process a few leaders or “elites” such as village chief and officers engaged with the businesses concerned. As their development advanced in such way, other village people who were excluded from the process became suspicious that the businesses were just trying to smoothly promote the development by approaching not the entire communities but only a few leaders in power.

The result was that the leaders gave the consent to cede their customary land rights to the companies for the development of palm oil plantations, but at the same time it came out that they took billions of IDR in bribes from the companies. In addition, it has been reported by some community members that neither of the companies, nor of the governments, notify the village people of the details on the Environmental Impact Assessment (EIA) or High Conservation Value Assessment (HCVA). They even had never consulted with the residents in implementing these assessments.

On the other hand, the governments deny such claims of the village people, arguing that there was no problem as in fact a representation of the communities was achieved by village chief and officers in the consultations. The villagers however have remained resentful that a few village leaders in power have represented the entire village when negotiating over the transfer of their communally-shared land. Representation by only a few people with power in a series of consultation meetings provides a room for arguing the legitimacy and it is also questioned if there is a valid consensus-building process that includes the entire community.

And what is worse, the compensation terms and amounts were reportedly determined in disregard of the village people but by the company unilaterally. Negotiation over these terms took place but the process was highly one-sided in favor of the company, with community members left little choice but to accept the offered amounts or lose their lands without any compensation at all. Repeated demands from the community members for compensation based on the value of their lands and destroyed crops were ignored, leading to protests and road blockades. Complaints were sent to several government agencies and the Roundtable on Sustainable Palm Oil (RSPO) and several meetings with government representatives have taken place, but while a number of negotiations held with the company, SSS continues to reject the communities’ rights to the lands under contestation, and as of October 2013, no mutually satisfactory solutions have been reached.

From this case we can learn that when businesses develop a project, it is important not to apply an inductive approach on the assumption that the development should be promoted, but first receive various opinions from different members of the communities concerned and respond to them flexibly. Even if businesses see that they officially obtained their consent, there may be perception gaps within the communities, which might lead to disruption of the communities. In development of a project attention should be paid whether legitimate “participation process” is in place before the “consent” (result) is obtained.

51 Marcus Colchester, Sopia Chao. 2013. *Conflict or Consent? The Oil palm sector at a crossroads*. Forest Peoples Programme. pp.54-68.

Step 3: Building of capacity and process towards FPIC through the engagement with communities

Goal of this step

Proponents confirm and agree with the communities on the process itself towards obtaining FPIC. They also implement capacity building activities which enable the communities to effectively participate in consultations and project development as well as establish the mechanisms to deal with complaints or problems which may arise in such consultations and project development.

3–1: Establishment of stakeholder work group

As for the response to stakeholders, CCBS requires proponents to engage with stakeholders in addition to communities, in provision information, consultations and participation in decision making or certain activities.⁵² Similarly, FSC also requires them to engage with affected stakeholders at the stage of project design and monitoring process as well as with other interested stakeholders such as NGOs upon their requests.⁵³ The aim of the stakeholder work group is to generate broader support for the outcomes of the FPIC process among the various stakeholders and promote better relationships between stakeholders.⁵⁴

3–2: Capacity development

In REDD+ projects, proponents engage with the communities at a wide range of stages from project design including mapping and impact assessment, to implementation, monitoring and evaluation. It is also required for proponents to implement capacity building programs to ensure that the communities can effectively participate in such engagement process. In order to obtain “informed consent” in FPIC process, it is not sufficient to just release the information to the public. In view of the existing guidelines which we referred to, they require for proponents to provide information in a way that the communities can understand. Besides, in the UN Global Compact it is pointed out that sometimes indigenous communities are lacking institutional capacities to make informed decisions about projects and in such cases, businesses may consider helping with capacity-building, if requested by the communities.⁵⁵

3–3: Agreement with communities on process for obtaining FPIC

Proponents preliminarily discuss, confirm and agree with the communities on their engagement process to seek and obtain FPIC from the communities and the methods they use. Confirmation should also be made regarding not only negotiation process between proponents and the communities but also decision making process within the communities.⁵⁶

(3-3-1: Right to give or withhold consent, or even to choose conditional agreement)

The CCBS certification standards require proponents to obtain FPIC from property rights holders who are potentially affected by the projects and at the same time define that consent means that there is the option of withholding consent.⁵⁷ Moreover, the right to FPIC is accorded to the communities as collectives, not

52 Ibid. CCBA. 2013. pp.19-21(G3.Stakeholder Engagement).

53 FSC.2012b. FSC Principles and Criteria for Forest Stewardship (FSC-STD-01-001 V5-0EN). p.19 (Criterion7.6).

54 Ibid. FSC. 2012a. p.41.

55 UN Global Compact. 2013. A Business Reference Guide-United Nations Declaration on the Right of Indigenous Peoples. p.27.

56 Ibid. FSC. 2012a. p. 38.

57 Ibid. CCBA 2013. p.25 (G5. 2. b.).

meaning that each individual of the community is entitled the right to refuse the proposal.⁵⁸ Proponents thus do not necessarily have to seek FPIC from all members of the communities.⁵⁹

(3-3-2: Agreement on the FPIC process)

It may seem troublesome to confirm that proponents should seek FPIC from the communities in accordance to a mutually agreed process, in other words, “to agree on how to agree.” However not only the FSC⁶⁰ but also the UN-REDD Programme⁶¹ have a requirement to make the agreement on FPIC process, which covers almost same points to check.

The reason why even the decision making process within the communities should be included in the agreement on FPIC process is to make sure human rights abuses do not happen to particular marginalized and vulnerable groups within their communities. The Article 18 of the UNDRIP affirms that indigenous peoples have the right to participate in decision-making through representatives chosen by themselves as well as to maintain their decision-making institutions while the Article 34 provides that the functioning of their institutions should be in accordance with international human rights standards.⁶² Proponents therefore need to respect the representative persons and institutions of the communities’ own choice as well as their own traditional decision making process. At the same time proponents are also required to closely examine and confirm if there are any violations of human rights within the communities, more specifically, whether any of particular groups are discriminated or excluded from their internal decision making process. For example, one of the ways which FSC recommends is to facilitate the formation of a committee that includes representatives of all stakeholder groups (all ethnic groups, women, elders and youth), without alienating the traditional leadership.⁶³

(3-3-3: consultation about facilitators)

Facilitators are third party coordinators who support consultation/engagement between communities and proponents for obtaining FPIC. Their major roles include: (i) to provide information and assist developing the communities’ decision making process and respecting their customary rights and practice in the process leading to decision making by the communities; (ii) to record how they reached the decision; and (iii) to assist capacity building which ensures that the communities can verify whether the agreed terms (including agreed profit-payment and appropriate distribution), are being met.⁶⁴ Facilitators appear, in fact, to be an integral part of the engagement with the communities. The communities requesting assistance thus should be offered a choice of facilitators, including anyone suggested by the community themselves. Funding for this facilitation comes from the proponents.

3–4: Establishment of grievance mechanisms

A grievance mechanism is to be established to ensure that those who will be directly affected by the projects can express their concerns that they are suffering or will potentially suffer negative impacts. This has crucially important functions as it enables proponents to identify, respond to, and directly remedy such negative impacts at an early stage. According to the CCBS, grievance and redress mechanisms shall have the following three stages:⁶⁵

58 Patrick Anderson. 2011. Free, Prior, and Informed Consent in REDD+. RECOFTC, GTZ. p. 28.

59 AIPP, FPP, IWGIA, Tebtebba. 2012 WHAT IS REDD+? A GUIDE FOR INDIGENOUS COMMUNITIES 3rd Edition., p. 94.

60 Ibid. FSC. 2012a. p. 38.

61 Ibid. UN-REDD Programme. 2013. p. 33.

62 Ibid.FSC. 2012a. p.37.

63 Ibid. FSC. 2012a. p.37.

64 Ibid. UN-REDD Programme. 2013. p. 46.

65 Ibid. CCBA. 2013. pp.21-22 (G3. Stakeholder Engagement, 8 Feedback and Grievance Redness Procedure).

- (i) proponents shall attempt to amicably resolve;
- (ii) any grievances that are not resolved by amicable negotiations shall be referred to mediation by a neutral third party;
- (iii) any grievances that are not resolved through mediation shall be referred to arbitration or competent courts in the relevant jurisdiction.

(3-4-a : Grievance mechanism established by proponents)

The mechanisms can be operated solely by proponents or in collaboration with related stakeholders including NGOs. The ISO 26000, an international standard for corporate social responsibility, points out that for these mechanisms to be effective, they need to be legitimate, accessible, predictable, equitable, rights-compatible, clear and transparent, as well as based on dialogue and mediation.⁶⁶

Moreover, the Guiding Principles on Business and Human Rights (UNGPs) address, in addition to the requirements similar to the ones provided in the ISO26000,⁶⁷ that project-level grievance mechanisms should focus on reaching mutually agreed solutions through dialogue because it is not justifiable for businesses to unilaterally determine the grievance and issue the decision in the case where themselves are the defendants.

In the context of third party (other than proponents such as NGOs) participation in project-level process, it is regarded that they are generally capable of facilitating constructive dialogues between proponents and communities and will play a role in supplementing insufficient capacity of both sides, promoting mutual confidence-building, and increasing reliability of the grievance mechanism.⁶⁸

Furthermore, the IFC states that this project-level process shall not inhibit the communities from seeking judicial or administrative remedies.⁶⁹

(3-4-c: Support to the communities)

As the UNGPs provide, it is required for proponents to provide those who face particular barriers to access grievance and adjudication process with proper assistance as well as guarantee such people access to external source of information, advice and expertise in order to redress imbalance of funds, expertise and information between such people and the proponents.⁷⁰

For marginalized and vulnerable groups, such as women and youth, those who cannot properly voice their opinions, a further proactive approach should be taken by proponents to ensure that their concerns can be identified, heard and addressed appropriately. For instance, some system to assist these groups to access to grievance mechanisms should be devised, including the one which independent parties regularly visit and interview them, and if any issues found, will build bridge between proponents and such groups.⁷¹

Step 4: Participatory project planning

Goal of this step

Together with stakeholders involved in the project, proponents work on mapping to identify their rights, and based on the information gained through this mapping, implement human rights, social and environmental

66 International Organization for Standardization. 2010. ISO26000: 2010.

67 Ibid. Kokuren jinkenrijikai.2011.pp.26-27 (31(a)-(g)) .

68 International Finance Corporation (IFC). 2009. *Good Practice Note: Addressing Grievances from Project-Affected Communities*. pp.31-34.

69 International Finance Corporation (IFC). 2012. *Performance Standards on Environmental and Social Sustainability*. p. 15.

70 Ibid. Kokuren jinkenrijikai.2011. p.27 31(b) and (d).

71 International Council on Mining and Metals. 2010. *Good Practice Guide: Indigenous Peoples and Mining*. p.103.

impact assessment. Furthermore, in light of the results from the mapping and assessment, they design the details of the projects with participation of indigenous peoples and/or local communities.

4–1: Participatory mapping

Sometimes customary land rights of the communities are not legally entitled by their government. In such case, participatory mapping needs to be conducted in order for proponents to figure out what kind of rights the communities have in the proposed forest area. When their claims to the rights overlap, proponents once again confirm what have been sorted out and tiered from those with legal or customary rights to those with merely interests in *Step 2-2 (Identification of rights holders)* through this mapping. In conducting the mapping, attention should be paid to the following points:

- In many cases, detailed boundaries have not been established in communally-used lands.⁷² Proponents have to be aware of that seeking to clearly define their rights by mapping can therefore result in tensions and conflicts over their boundaries within or among the communities.⁷³ Mapping efforts should not be directed towards demarcation in the communities' areas where the boundaries do not originally exist.⁷⁴
- Among the communities' sites which are of special cultural and religious significance, there may include the location that they do not want others know. In such case it is therefore necessary to clarify ownership of information. Also, information should be collected with special permission as the maps may include the knowledge of which they should have the right to maintain the control.⁷⁵
- In case where their claims to lands conflict with each other, proponents facilitate (as a mediator) the parties to discuss and reach a solution. If these disputes cannot be settled, proponents exclude the area in which such disputes exist from the potential sites of the project.

The followings are available as reference to participatory mapping:

- International Fund for Agriculture Development.2009. *Good practices in participatory mapping*
- Evans, Kristen et al. 2006. *Guide to participatory tools for forest communities*. Center for International Forestry Research (CIFOR).

4–2: Participatory human rights, social and environmental assessment

Conducting participatory impact assessment is an important process which enables for the communities to figure out whether the project will benefit or damage them. When implementing the assessment, proponents are required to guarantee the communities to participate in the assessment in order not only to make sure the information relevant to the project impacts and profits being provided to the communities, but also the concerns of affected stakeholders being properly assessed.⁷⁶

The followings are reference materials for the detailed procedures for the implementation of impact assessment:

- Human Rights Compliance Assessment tool (HRCA)
<https://hrca2.humanrightsbusiness.org>
- CCBA. 2011. *Social and Biodiversity Impact Assessment (SBIA) Manual for REDD+ Projects*
<http://www.climate-standards.org/2011/11/22/social-and-biodiversity-impact-assessment-manual/>

72 Forest Peoples Programme.2008. *Free, Prior and Informed Consent and the Roundtable on Sustainable Palm Oil: A Guide for Companies*.p.12.

73 International Fund for Agriculture Development.2009. *Good practices in participatory mapping*. p.28.

74 Ibid. FSC. 2012a. p.49.

75 Ibid. International Fund for Agriculture Development.2009. p.28.

76 Ibid. Forest Peoples Programme.2008. p.15; ibid. FSC. 2012. p.50.

HRCA: A tool for human right assessment

<https://hrca2.humanrightsbusiness.org/>

The UNGPs set out and recommend that companies carry out a “human rights due diligence” process, as a way to enable them to discharge their corporate responsibility to respect human rights. The Human Rights Compliance Assessment (HRCA) is an effective tool which are designed to help identify the degree of due diligence in place to ensure respect for human rights.

HRCA is a diagnostic tool designed to help companies detect potential human rights violations caused by the effect of their operations on employees, local residents and all other stakeholders. This tool was developed in collaboration between the Danish Institute for Human Rights (DIHR), Confederation of Danish Industries and several Danish government agencies.

The development of the HRCA involved a six-year process involving more than 80 companies and human rights groups from 14 European countries. The process was designed to ensure that the standards and indicators in the tool reflected the legal standards of the NGO community and the on-the-ground business realities of multinational companies. To verify the usefulness of this tool, Shell, a multinational oil and gas company, conducted some demonstration tests in South Africa and Middle East and since 2005 it has been widely used among a number of companies.

Company users can build their own checklist, and use it to identify gaps in company policies, processes and performance related to human rights and labor standards. The full database is available by fee, while the Quick Check and Dalit (untouchable) Check are available for free.

A database of 195 questions and 947 indicators incorporates the Universal Declaration of Human Rights and more than 80 human rights treaties and ILO conventions. The database focuses on 18 types of human rights to be respected by companies, as well as covers 14 specific issues (e.c. forced labor) to be addressed by them.⁷⁷ The HRCA can be used in a number of different forms depending on the company’ profile and their needs for human rights assessment as well as the regions where their projects are located.

The Worksheet is your interactive checklist. This is where you answer the indicators and save your work. It can be exported to Word file at any time. The Follow-Up Report is a report you can use to review your results and create an action plan by identifying means of addressing gaps in compliance.

4–4: Fair benefit-sharing

As of December 2014, an international consensus has not been achieved on the standards to ensure objectively fair and equitable benefit-sharing for REDD+ projects. An appropriate benefit sharing arrangement acceptable by related parties should be therefore sought on each project basis.

4–5: Participatory designing of monitoring plans

In the FSC Guidelines the followings are listed as the points to be addressed by participatory monitoring mechanism:⁷⁸

- Designing the monitoring approach, including what activities and issues will be monitored.
- What monitoring methods will be used?

⁷⁷ <https://hrca2.humanrightsbusiness.org/docs/file/Human%20Rights%20and%20Issues%20Coverage%20HRCA.pdf>

⁷⁸ Ibid. FSC. 2012a. p.54.

- Who will do the monitoring?
- How will the results be recorded and presented to the community and other parties?
- What steps will be followed if monitoring reveals problems in implementation?
- What kind of problems and what level of disagreement can trigger grievance processes?
- What circumstances would re-initiate the consent process and require a re-negotiation of the agreement?

Step 5: Negotiations towards concluding agreements

Goal of this step

The step for negotiation towards concluding agreements corresponds to, when expressed in PCDA cycle, a transition process from P (Plan) to D (Do). In the negotiation, it is important to make the agreement binding. The guideline includes the several key points for the case of relocation and displacement as well as withdrawal of consent.

5–1: Negotiation on terms and conditions

Before the actual development of the project begins, proponents offer the terms and conditions to the indigenous peoples and/or local communities and then enter into negotiation. As for the “arrangements for making the agreement binding” (e), they should be in a form binding for both of proponents and communities. For this purpose, it might be not limited to a formal written agreement. It can be based on other culturally acceptable ways for the communities, for example, the one based on oral or traditional ritual systems. Also for the “grievance mechanisms” (g), proponents should keep in mind that it will be in place after the project launches.

5–2: Points of attention during agreement negotiation

The conditions of both parties, under which the communities give their consent, should be clearly specified in the agreement. When these conditions are found to be not met, the communities can review and either reaffirm or withdraw consent. In contrast, as long as the conditions are being met, indigenous peoples and/or local communities are not supposed to be able to withdraw consent arbitrarily.⁷⁹ On another front, FSC gives guidance that grievance mechanisms should include provisions for withdrawing consent if suitable remedial action is not forthcoming and there is community consensus to withdraw consent.⁸⁰

Step 6: Implementation of monitoring

Goal of this step

In proceeding with the project it is important to monitor whether the agreed terms are being met. Following the monitoring plans developed in Step 4 and 5, proponents confirm, with the participation of the communities, whether the agreed terms are being met, release the monitoring results, and if needed, negotiate with them on withdrawal of consent.

⁷⁹ Ibid. UN-REDD Programme. 2013. p.30; *ibid.* FSC. 2012. p.13.

⁸⁰ Ibid. FSC. 2012a. p.58.

Step 7: Operation of grievance mechanisms

Goal of this step

Grievance mechanisms should be operated with the aim of:

- (i) Promptly resolving grievances involved in implementation of the projects, taking remedial actions in order not to escalate them into conflicts, as well as feeding back the results of problem analysis in order to improve the projects; and
- (ii) Figuring out and seeking to remedy problematic cases concerning human rights within the communities.

7–1: Prompt and appropriate response

7–2: Understanding/analysis of problems and modification of the methods

According to the commentary on the Principle 29 of the UN Guiding Principles on Business and Human Rights (UNGPs), operational-level grievance mechanisms perform two key functions. Firstly, they support the identification of adverse human rights impacts as a part of ongoing human rights due diligence, and by analyzing trends and patterns in complaints, businesses can identify systemic problems and adapt their practices accordingly. Secondly, these mechanisms make it possible for grievances, once identified, to be addressed and for adverse impacts to be remediated early and directly, thereby preventing harms from compounding and grievances from escalating.

The International Finance Corporation (IFC) which provides financing to private sector has released a comprehensive design guidance document regarding grievance mechanisms. In this document, a step-by-step process to handle grievances is discussed in the following five steps.⁸¹

- (i) Publicizing grievance management procedures
- (ii) Receiving and keeping track of grievances
- (iii) Reviewing and investigating grievances
- (iv) Developing/selecting resolution options and preparing a response, and closing out the cases when an agreement with complainants is reached
- (v) Monitoring, reporting, and evaluating the grievance mechanism as well as correcting inefficiencies in the mechanisms and improving project activities

7–3: Consideration to marginalized and vulnerable groups

The problems within the communities such as the oppression of human rights should be identified through grievance mechanisms and proponents should seek to remedy such problems through dialogue with the communities.

In regard to this, FSC points out the need to figure out if any marginalized and vulnerable groups are excluded from the communities' decision making process,⁸² while the UN-REDD Programme requires verification whether the representatives of the communities represent the interests of all groups within the communities.⁸³

81 Ibid. IFC. 2009. pp.16-27.

82 Ibid. FSC. 2012a. p.58.

83 Ibid. UN-REDD Programme.2012. p.5(Criterion 2).

Step 8: Verification of FPIC process

Goal of this step

In this step it is confirmed and verified whether the consent was actually obtained in accordance with FPIC principles. Under normal conditions, this needs to be done not by proponents themselves but independent third parties.

8 – 1: Third-party verification

By utilizing independent third parties, the credibility of verification results can be enhanced. FPIC verification by independent third parties will make it possible to prevent the FPIC process from being explained self-righteously or becoming the one lacking of balance, as well as gain an objective evaluation that generally reasonable and appropriate FPIC process has been implemented. Particularly, when proponents seek some sort of external assistance or funds, they need to show the achievements of the projects or that the relevant project requirements are being met. In such case, not only provision of self-asserting information, but also objective evaluation by third party organizations would be more effective. For instance, in comparison with the project where its FPIC process is not verified, it is thought that the project where its FPIC is verified can earn the trust as “socially responsible” carbon, which will make transactions easier. This is however not the final target to be attained. A verification process gives only a snapshot of a situation at time of audit. What is more important is to continue consultation process with stakeholders, constantly address grievances, and eventually, implement the ideal FPIC process that makes it possible to meet various verification requirements.

It is also pointed out that “if the verification process known in advance by the project holder, and the community agrees to this process, both parties will be better able to ensure a satisfactory process to respect a community’s right to FPIC.”⁸⁴ To this end, it is thus necessary for proponents and the communities to reach an agreement including the criteria that will be used for confirmation and verification of their FPIC process.

The CCBS provides the criteria to be used for verification of FPIC process for REDD+ projects. Some FPIC verification cases can be found in UN-REDD Programmes implemented in Vietnam and these reports are available for further references. Furthermore, more cases of verification other than UN-REDD are mentioned in the following documents:

- Nguyen Quang Tan, Luong Thi Truong, Nguyen Thi Hai Van and K’Tip. 2010. Evaluation and Verification of the Free, Prior and Informed Consent Process under the UN-REDD Programme: Lam Dong Province, Vietnam. RECOFTC.
- Karen Edwards, Ronnakorn Triraganon, Chandra Siloriand Jim Stephenson. 2012. *Putting Free, Prior, and Informed Consent into Practice in REDD+ Initiatives*, RECOFTC, IGES and Norad.
- WWF. 2011. *Free, Prior, Informed Consent and REDD+: Guidelines and Resources*.

84 Ibid. Patrick Anderson.2011. p55.

3. Glossary of Terms

Terms	Definition
customary rights	Customary rights' (to lands and resources) refers to patterns of long-standing community land and resource usage in accordance with Indigenous Peoples' and local communities' customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the State. ⁸⁵
ecosystem service	Ecosystem services are the benefits people obtain from ecosystems. These include provisioning services such as food, water, timber and fiber; regulating services that affect climate, floods, disease, wastes, and water quality; cultural services that provide recreational, aesthetic, and spiritual benefits; and supporting services such as soil formation, photosynthesis, and nutrient cycling. In REDD+, 'ecosystem services' refers to services other than greenhouse gas emissions reductions or removals from both forest and non-forest ecosystems. ⁸⁶
engagement	The process by which an organization (often a forest company) communicates, consults and/or provides for the participation of interested and/or affected stakeholders ensuring that their concerns, desires, expectations, needs, rights and opportunities are considered in the establishment, implementation and updating of the management plan. ⁸⁷
facilitators	Facilitators are third party coordinators who support consultation/engagement between communities and proponents for obtaining FPIC. Their major roles include: (i) to provide information and assist developing the communities' decision making process and respecting their customary rights and practice in the process leading to decision making by the communities; (ii) to record how they reached the decision; and (iii) to assist capacity building which ensures that the communities can verify whether the agreed terms, including agreed profit-payment and appropriate distribution, are being met. ⁸⁸
forest-dependent communities	Forest-dependent communities refer to directly or indirectly affected indigenous peoples, ethnic minorities and other communities which depend on forests.
FPIC	FPIC is the acronym standing for "Free, Prior and Informed Consent." More specifically, it refers to a right or principle applied to the case in which indigenous peoples (and other communities) determine if they give consent to a project that may affect their lands, territories and/or resources. FPIC was originally recognized as a right of indigenous peoples by the United Nations and other organizations, but recently it has become applied to not only indigenous peoples but also local communities.(For more details, please see 1. (1) in Chapter 2 What is FPIC?)
gender equality	Gender equality refers to the equal rights, responsibilities and opportunities of women and men at any age. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. ⁸⁹

⁸⁵ Ibid.CCBA. 2013.

⁸⁶ Ibid.REDD+ SES. 2012a.

⁸⁷ Ibid.FSC. 2012.

⁸⁸ Ibid.UN-REDD.2011c. p. 46.

⁸⁹ Ibid.UN-REDD Programme.2012

Terms	Definition
grievance mechanism	<p>A project-level grievance mechanism for affected communities is a process for receiving, evaluating, and addressing project-related grievances from affected communities at the level of the company or project. According to IFC, this process normally includes the following five steps: ⁹⁰</p> <ul style="list-style-type: none"> (i) Publicizing grievance management procedures (ii) Receiving and keeping track of grievances (iii) Reviewing and investigating grievances (iv) Developing/selecting resolution options and preparing a response, and closing out the cases when an agreement with complainants is reached (v) Monitoring, reporting, and evaluating the grievance mechanism as well as correcting inefficiencies in the mechanisms and improving project activities. <p>(See also 2. Guidance to implement eight steps in Chapter 2)</p>
human rights	<p>Human rights refer to basic rights and freedoms to which all humans are entitled, based on fundamental principles of dignity, fairness, equality and autonomy. Fundamental principles for human rights are internationally defined in the Universal Declaration of Human Rights (UDHR). For more details, please see 1. (2) in Chapter 2 International norms regarding human rights in general and the rights to FPIC.</p>
indigenous peoples	<p>People and groups of people that can be identified or characterized as follows: ⁹¹</p> <ul style="list-style-type: none"> · The key characteristic or criterion is self-identification as indigenous peoples at the individual level and acceptance by the community as their member; · Historical continuity with pre-colonial and/or pre-settler societies; · Strong link to territories and surrounding natural resources; · Distinct social, economic or political systems; · Distinct language, culture and beliefs; · Form non-dominant groups of society; · Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.
involuntary resettlement	<p>Involuntary resettlement refers both to physical and economic displacement/relocation without any choice or prior consent of the people who must be relocated involuntarily, even without any proper alternatives being presented at the stage of their decision-making.</p>
local communities	<p>Local communities are communities of any size that are in or adjacent to the project area, and also those that are close enough to have a significant impact on the economy or the environmental values of the project area or to have their economies, rights or environments significantly affected by the project activities or the biophysical aspects of the project area. These also include the communities which depend on forests for their livelihoods and are thus recognized that they are substantially in the circumstances equal to those of the indigenous peoples.⁹²</p>
marginalized group	<p>Marginalized people or groups are those that normally have little or no influence over decision-making processes. Marginalization may be related to gender, ethnicity, socio-economic status, geographic location and/or religion.⁹³</p>

⁹⁰ Ibid.IFC.2009.

⁹¹ Adapted from United Nations Permanent Forum on Indigenous, Factsheet ‘Who are indigenous peoples’ October 2007; United Nations Development Group, ‘Guidelines on Indigenous Peoples’ Issues’ United Nations 2009, United Nations Declaration on the Rights of Indigenous Peoples, 13 September 2007.

⁹² Ibid.FSC. 2012.

⁹³ Ibid.REDD+ SES. 2012a.

Terms	Definition
marginalized/ vulnerable group	Marginalized/vulnerable groups refer to those groups whose rights are restricted or which are relatively powerless in decision-making process compared to other community members in a community due to sex, origin, age or other reasons. For example, such groups include women, youth, elderly, disabled and poor people.
monitoring	Monitoring means to check and observe. More specifically, to keep an eye on whether the agreed terms are actually being met.
participatory mapping	Participatory mapping refers to the activity to make a map together with the community members. They can depict detailed information of village layout and infrastructure (e.g. rivers, roads, transport or the location of individual houses). They can also be used to depict a large area (e.g. the full extent of a community's traditional use areas, including information related to natural resources distribution and territorial boundaries). Participatory maps are not confined to simply presenting geographic feature information; they can also illustrate information related to land-use occupancy. ⁹⁴
participatory monitoring plan	It refers to the development of monitoring plan with a participatory approach where local communities themselves analyze, determine and take actions while external experts facilitate the entire process, by creating the opportunities for them to do so and providing advice/analytical tools. ⁹⁵
REDD	REDD, which stands for Reducing Emissions from Deforestation and Forest Degradation in Developing Countries, is designed to reduce greenhouse gas emissions by providing economic incentives to the activities that control deforestation and forest degradation as well as reduce greenhouse gas emissions through forest conservation in developing countries.
REDD+	REDD+, called "REDD plus," means Reducing Emissions from Deforestation and Forest Degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries. It covers not only to control deforestation and forest degradation, but also forest conservation, sustainable forest management and other programs which relate to the increase in forest carbon stocks.
representatives or representative institutions	Representatives or representative institutions of indigenous peoples and/or local communities are chosen by the peoples and/or communities themselves in order to participate in decision-making process regarding the issues which affect their rights. The representatives or representative institutions act as their negotiators with proponents and in some cases, represent the entire community and make decisions on behalf of the community. Bear in mind that those with the authority to negotiate may not always be the same individuals or entities with the power to decide. ⁹⁶
stakeholders	Stakeholders mean individuals or groups that are directly or indirectly affected by business activities. Specifically, these include local communities, forest residents, neighbors, shareholders, management/employees, financial institutions, creditors, business partner/competitors, customers, social and environmental groups/NGOs, tax authorities and other government agencies.
traditional knowledge	Traditional knowledge refers to cultural heritage and traditional cultural expressions, as well as the manifestations of indigenous peoples' sciences, technologies and cultures, including their human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. ⁹⁷

⁹⁴ Ibid.IFAD.2009.

⁹⁵ Ibid.Noda.2001, p.41.

⁹⁶ Ibid.UN-REDD.2011c. p. 29.

⁹⁷ UN.2007.UN Declaration on the Rights of Indigenous Peoples.

Terms	Definition
territories	Territories are particularly relevant for indigenous peoples and refer to the total environment of the areas which peoples concerned occupy or otherwise use. ⁹⁸
transparency	Transparency and transparent mean that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media. ⁹⁹
vulnerable group	Vulnerable people or groups are those with high exposure to external stresses and shocks (including climate change); and with high sensitivity and low adaptive capacity to adjust in response to actual or expected changes due to their lack of secure access to the assets on which secure livelihoods are built (socio-political, cultural, human, financial, natural and physical). Forest dependency may be an important factor affecting vulnerability particularly where the REDD+ program itself may change access to forest resources. In many situations marginalization exacerbates vulnerability. ¹⁰⁰
women's empowerment	Women's empowerment refers to tools, strategies and approaches that seek to correct asymmetries of power, access and privilege that result from gender inequalities. Promoting gender equality may require efforts to ensure women's empowerment. ¹⁰¹

⁹⁸ Ibid.REDD+ SES.2012a.

⁹⁹ Gramberger, Marc. 2001. Citizens as partners: OECD Handbook on Information, Consultation and Public Participation in Policy-Making.

¹⁰⁰ Ibid.REDD+ SES. 2012a.

¹⁰¹ Ibid.UN-REDD Programme.2011b.

Appendix 1

The following is a brief overview of the guidelines which we referred to, presented in chronological order of the year of adoption.

1. Forest Peoples Programme. 2008. *Free, Prior and Informed Consent and the Roundtable on Sustainable Palm Oil: A Guide for Companies*

This is guidance on obtaining FPIC in palm oil production sites, developed by the Forest People Programme (FPP), an NGO that supports forest conservation and the rights of peoples who live in forests. This was prepared for workshops of the Roundtable on Sustainable Palm Oil (RSPO). It was one of the earliest FPIC guidance in the field of forest.

2. Lewis, J., Freeman, L. and Borreill, P. 2008. *Free, Prior and Informed Consent and Sustainable Forest Management in the Congo Basin*

The authors conducted a feasibility study on the transition to FPIC implementation in timber harvesting projects that seek FSC certification and this book contains practical guidelines on the implementation of FPIC, which were developed based on the feasibility study.

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

This is a guidebook for the proponents who plan and implement REDD+ projects as well as the indigenous peoples and/or local communities which are potentially affected by the projects. It was published by the RECOFTC (Center for People and Forest), a non-profit organization mainly working on capacity building for community forestry. It was established in 1987 in Bangkok, Thailand, with assistance of FAO. The leading author is Patrick Anderson, who works at the FPP, an NGO that promotes the protection of forest communities' rights. The contents of this book are very comprehensive, covering all details about FPIC. Among the guidelines that have been developed after this (as described below), all of them except for the REDD+ SES, which does not include reference list, cite this book as a reference.

4. REDD+ SES. 2012. *REDD+ Social & Environmental Standards: Version 2*

This contains a set of safeguard standards applicable to REDD+ projects on a national basis. They were developed by the CCBA, publisher of the CCBS, and CARE International, a worldwide NGO, through a process with a wide participation of governments, resident groups, NGOs and businesses around the globe. Among the safeguards mentioned above, this is said to be most comprehensive and clear-cut. It is basically designed to be used as a tool for national governments to build SIS (Safeguard Information System). It provides specific principles and standards but for indicators, it only points out the elements to be included in, positioning itself as guidance to develop country-specific indicators.

5. UN-REDD Programme. 2012. *UN-REDD Programme Social and Environmental Principles and Criteria*

This is a set of guidelines which was developed by the UN-REDD Programme in order to help its partner countries facilitate the scheme to implement REDD+. It consists of only principles and criteria to be established by national governments, not including specific indicators. But its coverage is said to be most comprehensive, along with REDD+ SES mentioned above. It is often abbreviated as the UN-REDD SEPC.

6. UN-REDD Programme. 2013. *Guidelines on Free, Prior and Informed Consent*

This was also developed by the UN-REDD programs. It outlines a normative, policy and operational framework for its partner countries to seek FPIC.

7. FSC. 2012. *FSC Guidelines for the implementation of the right to free, prior and informed consent (FPIC)* available at: <https://ca.fsc.org/download.fsc-guidelines-for-fpic.177.pdf>

With the revision of its Principles and Criteria for Forest Stewardship (FSC-STD-01-001 V5-0 E), FSC has broadened the scope of the right to FPIC and become more specific regarding when consent is needed and this document was written in response to such revision. It provides general information regarding the rights to FPIC as well as practical guidance on how an organization (often a forest company) implements a process to seek FPIC from indigenous peoples and/or local communities.

8. Climate, Community and Biodiversity Alliance. 2013. *Climate, Community & Biodiversity Standards Third Edition*. available at: www.climate-standards.org

This book outlines the principles, standards and indicators as well as provides the safeguard guidelines relevant to a certification scheme which was established by the Climate, Community & Biodiversity Alliance (CCBA), a partnership of five international NGOs. This scheme is designed to certify social and environmental impacts of private projects. It is often abbreviated as the CCBS. As social and environmental standards the CCBS is most prevailing, holding almost a dominant position.

People who contributed comments and advice

We acknowledge all those who contributed the project giving comments and advice on our guideline and the report. People who contributed comments and advice on our guideline were:

【In Japan】

(individual)

- Akune, Naoto / Director and Development Manager, YL Invest
- Ehara, Makoto / Graduate School of Social and Cultural Studies, Kyushu University, Research Fellow of Japan Society for the Promotion of Science
- Hasada, Katsumi / Senior Researcher, Rural Development Division, Japan International Research Center for Agricultural Sciences
- Hashimoto, Mutai / WWF Japan
- Hirayama, Akihiko / Sustainable Green Business Promotion Div., Shimizu Corporation
- Hyakumura, Kimihiko, Ph.D. / Associate Professor, Institute of Tropical Agriculture, Kyushu University
- Inoue, Makoto, Ph.D. / Professor, Global Forest Environmental Studies, Department of Global Agricultural Sciences, University of Tokyo
- Isozaki, Hiroji / Professor, Graduate School of Global Environmental Studies, Sophia University
- Miwa, Atsuko / Researcher, Kyoto Human Rights Research Institute
- Nakai, Satoru / Environmental Management Department, Sumitomo Forestry
- Saito, Mariko / Programme Specialist, Gender Action Platform
- Sato, Hirotaka / Environment & Energy Department, Sumitomo Forestry
- Scheyvens, Henry / Area Leader; Principal Policy Researcher, Natural Resources and Ecosystem Services, IGES
- Sugawara, Emi / Assistant Professor, Faculty of Law, Osaka University of Economics and Law
- Suzuki, Kei / Senior Coordinator, Forest Information Group, Japan Forest Technology Association
- Takahara, Shigeru / Chief Adviser, Indonesia-Japan Project for Development of REDD+ Implementation Mechanism
- Takahashi, Saul / Regional Representative for Japan, Korea, and the Pacific Island States, Business & Human Rights Resource Centre
- Uemura, Hideaki / Professor, Keisen University; President, Shimin Gaikou Centre
- Uraguchi, Aya / Sr. Manager, Policy and Partnership Development, Conservation International Japan
- Yokota, Yasuhiro / Senior Researcher, Kyushu Research Center, Forestry and Forest Products Research Institute
- Yoshikura, Toshihide / JICA Expert, Indonesia-Japan Project for Development of REDD+ Implementation Mechanism

(organization)

- Global Environment Department, JICA(Japan International Cooperation Agency)
- Environment and Energy Department, Mitsubishi UFJ Research and Consulting
(Hiratsuka, Motoshi; Asada, Yoko; Iwadare, Marie; Yano, Masato; Chikaraishi, Haruko)

【Overseas】

- Emil Kleden / Forest Peoples Programme / Pusaka
- Helen Tugendhat / Policy Advisor on Human Rights and Financial Safeguards, Forest Peoples Programme
- Indra Hatasura / Manager in Business Development Division, RMI (Rimbawan Muda Indonesia) Foundation - The Indonesian Institute for Forest and Environment
- James Bampton / Manager, Program Coordination and Operations, RECOFTC - The Center for People and Forests
- Joan Carling / Asia Indigenous Peoples Pact
- Kittisak Rattanakrangsri / Indigenous Peoples' Foundation for Education and Environment (IPF)
- Kristen Hite / Independent Consultant
- Lini Wollenberg / the CGIAR Research Program on Climate Change, Agriculture and Food Security, Low Emissions Agriculture Flagship Leader, based at the Gund Institute, University of Vermont
- Dr. Ma Hwan-ok / Project Manager, Division of Forest Management, ITTO
- Patrick Anderson / Forest Peoples Programme
- Ronnakorn Triraganon / Manager, Capacity Development and Technical Service Unit, RECOFTC- The Center for People and Forests
- Sophie Chao / Forest Peoples Programme

FPIC workshop

Date: 14, November 2013

Place: Jakarta, Indonesia

Participants:

- Patrick Anderson / FPP: Forest Peoples Programme
- Sophie Chao / FPP
- Emil Kleden / FPP, Pusaka
- Gam Shimar / IPF: Indigenous Peoples' Foundation for Education and Environment, IKAP
- Indra Hatasura / Indonesian Institute for Forest and Environment
- Yoshikura, Toshihide / JICA Expert, Indonesia-Japan Project for Development of REDD+ Implementation Mechanism
- Edy Sutrisno / Field Coordinator, Indonesia-Japan Project for Development of REDD+ Implementation Mechanism
- Sakamoto, Yuki / GEF: Global Environmental Forum
- Sagara, Miho / GEF
- Shono, Shinichino / Freelance
- Kawakami, Toyoyuki / Japan Tropical Forest Action Network

Agenda:

1. Recommendations, elucidation and comments already made on the Guidelines (ver.1)
2. Key questions for broader discussion, which have been arisen during the development of the Guidelines, including “what are the minimum requirements for the FPIC process?”
3. Possibility for the Guidelines to be used by different sectors other than REDD+ projects
4. Next steps

*2014 Global Landscapes Forum- Civil society session
Ensuring free, prior and informed consent (FPIC) in REDD+*

Date: 6, December, 2014

Place: Lima, Peru

Programs / Speakers:

- FPIC Guideline for REDD+ / Yuki Sakamoto, Global Environmental Forum
- Ensuring free, prior and informed consent in REDD+ / Grace Balawag, TEBTEBBA
- FSC Free Prior Informed Consent Practice / Alison von Ketteler, FSC International
- Why does REDD+ need FPIC? / Conrad Feather, Forest Peoples Programme
- Practice of FPIC: Case study of Suriname / Marie-Josée Artist, VIDS
- Martijn Wilder AM, Partner ,Baker & McKenzie
- Moderator: Daisuke Naito, CIFOR / RIHN

Total number of participants: 70

For the details of this session, please visit the website of Global Landscapes Forum (<http://www.landscapes.org/glf-2014/agenda-item/day-1-dec-6/side-events-sessions-for-and-by-youth-private-sector-and-civil-society-organizations/css-slate-2/ensuring-free-prior-informed-consent-fpic-redd/>)

FPIC Seminar: What it means to respect the rights of indigenous peoples and local communities - from some actual FPIC cases in forest and development area

Date: 5, February, 2015

Place: Tokyo, Japan

Objectives:

Global Environmental Forum (GEF) and Japan Tropical Forest Action Network (JATAN) have developed FPIC Guidelines, targeting the organizations and private businesses that are interested in REDD+ projects. Just in time for our release of latest version of the guidelines, we organize a seminar on FPIC, inviting expert speakers who are familiar with latest trend in international human rights law or well-versed in the field of forest development. Through the presentations of the speakers participants can get a specific understanding of what it means to respect the rights of indigenous peoples and local communities that depend on forests for their livelihoods.

Target: businesses that are interested in REDD+ and business persons working at CSR or raw material procurement sections of the companies which depend on overseas sources

Programs:

- International human rights and FPIC (Saul Takahashi / Regional Representative for Japan, Korea, and the Pacific, Business & Human Rights Resource Centre)
- Implementing FPIC in the forest-related projects in Indonesia (Patrick Anderson / Forest Peoples Programme)
- An Overview of the FPIC Guidelines (Miho Sagara /GEF)

References

(Japanese)

- Hashimoto, Hiroko; Miwa, Atsuko.2007.Kenri wo yoridokoro ni suru apurochi' no tenkai to asia no josei no empowerment.KFAW kyakuin kenkyuin houkokusho.Kitakyushu Forum on Asian Woman.
- International Labour Organization.1989.Dokuritsukoku ni okeru genjuumin oyobi shuzokumin ni kansuru joutyaku (Indigenous and Tribal Peoples Convention, 1989 (No. 169)).
- Japan International Cooperation Agency (JICA).2010.Kokusai kyouryoku kikou kankyo shakai hairyo gaidorain (JICA guidelines for environmental and social considerations).
- Kokuren jinken rijikai.2011.A/HRC/17/31 Jinken to takokusekikigyō oyobi sonotano kigyō no mondai ni kansuru jimusouchou tokubetudaihyō, John Ruggie no houkokusho: Business to jinken ni kansuru shidougensoku: kokusairengō 'hōgo, sonchō oyobi kyusai' wakugumi jissai no tameni.
- Kubota,Sachiko ; Nobayashi, Atsushi (ed.).2009.Senjuminzoku towa dareka.Sekaishisousha.
- Kumagai, Ken-ichi .2013.ISO26000 to roushi no mondai.Japan Productivity Center.
- M.Tomei, L. Swepston. (trnsldt by Toshiaki Sonohara, Yasuo Aonishi, Tomomi Kozaki).2002.Senjuminzoku no kenri – ILO dai 169 gou joutyaku no tebiki.Ronsosha.
- Masatake, Matsubara (ed.).2002.Sekai Minzoku Mondai Jiten (Shinteizouhoban).Heibonsha.
- Miwa, Atsuko.2008.Kenri wo yoridokoro ni shita josei no empowerment.Asia taiheiyō jinken review 2008 aratana kokusai kaihatu no choryu: jinken kibān kaihatu no shatei.Asia-Pacific Human Rights Information Center (Hurights Osaka).
- Noda, Naoto .2001.Shakai ringyō - Riron to jissen.Japan International Forestry Promotion and Cooperation Center.
- OECD (transated by Japan Ministry of Foreign Affairs).2011.OECD Takokuseki kigyō koudō shishin: sekaini okeru sekininaru kigyō koudō no tame no kankoku 2011 (tentative Japanese translation edition) .
- Osakada, Yuko .2010.Africa ni okeru 'senjuminzoku no kenri ni kansuru kokuren sengen' no juyō to teikō – senjuminzoku no teigi, jiketsuken, tochiken wo megutte.Chukyo Hogaku (Chukyo Law Review) Vol. 1&2 (2010).
- Otsuka, Kenji .2006.Kankyo seisaku niokeru sankā gensoku no kokusaiteki juyō nitsuite.Kokusai kankyo regime to hatten tojou koku' Chousa kenkyū houkokusho.Institute of Developing Economies.
- Shin Hae Bong.2013.Kokusai jinkenhou –Kokusai kijun no Dainamizumu to kokunaihou tonō kyōcho.Shinzansha.
- Sonohara, Toshiaki .2007.Senjuminzoku no kenri - Jizen no jiyū na informed consent gensoku tonō kanren de.Kokuritsu minzokugaku hakubutsukan kenkyū houkoku (Bulletin of National Museum of Ethnology) 32 (1) :63-85.
- Sugawara, Emi .2013.Jinken CSR gaidorain - Kigyō keiei ni jinken wo kumikomu towa.Buraku Liberation and Human Rights Research Institute.Kaihoshupansha.
- Sugihara, Takane.2011.Kihon kokusaihou.Yuhikaku.
- Uemura, Hidaki.2008.'Senjuminzoku no kenri ni kansuru kokuren sengen' kakutoku he no nagai michinori.PRIME (Journal of the International Peace Research Institute of Meiji Gakuin University) Vol. 27.

- Yokota, Yoza.2008. 'Senjuminzoku no kadai to tenbou – kokuren deno torikumi wo chuushin ni', Senjuinzoku Forum Memorial Lecture.
- Yokota, Yoza.2010.Kokusaishakai to hou.Yuhikaku.
- Yokota, Yoza.2013.Kokusai jinken nyumon (2nd ed).Houritsubunkasha.
- (English)
- AIPP, FPP, IWGIA, Tebtebba.2012.WHAT IS REDD+? A GUIDE FOR INDIGENOUS COMMUNITIES 3rd Edition.
- Anderson, Patrick.2011.Free, Prior, and Informed Consent in REDD+. RECOFTC, GTZ.
- Blomley, Tom; Richards, Michael.2011.Community Engagement Guidance: Good Practice for Forest Carbon Projects. In Building Forest Carbon Projects.Johannes Ebeling and Jacob Olander (eds.).
- Castan Centre for Human Rights Law, International Business Leaders Forum, Office of the United Nations high Commissioner for Human Rights, United Nations Global Compact Office.2008.Human Rights Translated: A Business Reference Guide.
- CCBA.2008.Climate, Community and Biodiversity Project Design Standards.
- CCBA.2013.Climate, Community & Biodiversity Standards Third Edition.CCBA.
- CCBA/CARE.2010.REDD+ Social & Environmental Standards Version 1(Draft Version).
- CCBA/CARE.2011.Guidelines on the interpretation and applications of the REDD+ Social & Environmental Standards at country level .
- Colchester, Marcus.2010.Free, Prior and Informed Consent : Making FPIC work for forests and peoples.
- Colchester, Marcus; Anderson, Patrick; Zazali, Ahmad.2010.The Forests Dialogue Field Dialogue on Free, Prior and Informed Consent 12-15 October, 2010 Pekanbaru, Indonesia.
- Colchester, Marcus; Gardiner, Peter.2010.The Forests Dialogue Scoping Dialogue on Free, Prior and Informed Consent 13–14 April, 2010 | New Haven, Connecticut Co-Chairs' Summary Report.
- Colchester, Marcus; Mahaningtyas, Avi; Degawan, Minnie; Griffiths, James.2010.The Forests Dialogue Field Dialogue on Free, Prior and Informed Consent 12–15 October, 2010 | Pekanbaru, Riau, Indonesia Co-Chairs' Summary Report.
- Colchester, Marcus; Jiwan,Norman; Chao, Sophie.2013.Conflict or Consent? Oil Palm Expansion and Community Rights.Paper prepared for presentation at the Annual World Bank Conference on Land and Poverty.
- Compliance Advisor/Ombudsman (CAO).2008.A Guide to Disigning and Implementing Grievance Mechanisms for Development Projects.
- Corporate Social Responsibility Initiative.2008.Rights-Compatible Grievance Mechanisms: A Guidance Tool for Companies and Their Stakeholders. Corporate Social Responsibility Initiative Working Paper No.41.John F. Kennedy School of Government, Harvard University.
- Crippa, Leonardo A.; Gordon, Gretchen.2012.International Law Principles for REDD+. Indian Law Resource Center.
- Desiree Abrahams and Yann Wyss.2010.Guide to Human Rights Imapct Assessment and Management (HRIAM).International Business Leaders Forum, International Finance Corporation.

Edwards, Karen ; Triraganon, Ronnakorn; Silori, Chandra; Stephenson, Jim.2012.A Training Manual: Putting Free, Prior, and Informed Consent into Practice in REDD+ Initiatives. RECOFTC – The Center for People and Forests, the Institute for Global Environmental Strategies (IGES) and the Norwegian Agency for Development Cooperation (Norad).

Evans, Kristen et al.2006.Guide to participatory tools for forest communities. Center for International Forestry Research (CIFOR).

FAO.2012.Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.

FCPF/UN-REDD.2011.Draft Guidelines on Stakeholder Engagement in REDD+ Readiness.

Forest Peoples Programme.2007.Free, Prior and Informed Consent: Two Cases from Suriname.

Forest Peoples Programme.2007.Making FPIC Work: Challenges and Prospects for Indigenous People.

Forest Peoples Programme.2008.Free, Prior and Informed Consent and the Roundtable on Sustainable Palm Oil: A Guide for Companies.

Forest Stewardship Council.2012.FSC PRINCIPLES AND CRITERIA FOR FOREST STEWARDSHIP , FSC-STD-01-001(V5-0) EN.

Forest Stewardship Council.2012.FSC guidelines for the implementation of the right to free, prior, and informed consent (FPIC) Version1.

Forest Trends.2011.Building Forest Carbon Projects Step-by-Step Overview and Guide Ver.2.

Gramberger, Marc.2001.Citizens as partners: OECD Handbook on Information, Consultation and Public Participation in Policy-Making. OECD.

Human Rights Council.2008.PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT Advance Edited Version.

International Council on Mining and Metals (ICMM).2010.Good Practice Guide: Indigenous Peoples and Mining.

International Council on Mining and Metals (ICMM).2010.Indigenous Peoples and Mining .

International Council on Mining and Metals (ICMM).2013.Indigenous Peoples and Mining Position Statement.

International Finance Corporation (IFC).2009.Addressing Grievances from Project-Affected Communities- Guidance for Projects and Companies on Designing Grievance Mechanisms. Good Practice Notes Series.

International Finance Corporation (IFC).2012.Performance Standards on Environmental and Social Sustainability.

International Fund for Agricultural Development (IFAD).2009.Good Practices in Participatory Mapping : A Review Prepared for the International Fund for Agricultural Development (IFAD).

International Institute for Environment and Development (IIED).2012.Participatory Learning and Action 65: Biodiversity and culture: exploring community protocols, rights and consent.

International Labour Organization (ILO).2007.ILO standards and the UN Declaration on the Rights of Indigenous Peoples.

International Law Association (ILA).2010.The Hague Conference(2010) Right of Indigenous People Committee Interim Report.

- International Law Association (ILA).2012.Sofia Conference (2012) Rights of Indigenous Peoples Committee Final Report.
- IWGIA; AIPP; FPP; TEBTEBBA.1905.What is REDD?.
- Kirby, Alex.2013.Panama's Indigenous People Reject UN Forest Plan.Climate Central.
- Knox, John H.2011.The Ruggie Rules: Applying Human Rights Law to Corporations. Wake Forest Univ. Legal Studies Paper No. 1916664, Available at SSRN: <http://ssrn.com/abstract=1916664>
- Lewis, Jerome; Freeman, Luke; Borreill, Sophie .2008.Free, Prior and Informed Consent and Sustainable Forest Management in the Congo Basin. Swiss State Secretariat for Economic Affairs, Intercooperation and Society for Threatened People Switzerland.
- Mares, Radu (ed.).2012.The UN Guiding Principles on Business and Human Rights.
- Nguyen Quang Tan, Luong Thi Truong, Nguyen Thi Hai Van K'Tip.2010."Evaluation and Verification of the Free, Prior and Informed Consent Process under the UN-REDD Programme in Lam Dong Province, Vietnam".
- OECD.2011.OECD Guidelines for Multinational Enterprises.
- Oxfam Australia.2010.Guide to Free Prior and Informed Consent.
- Rachman, Noer Fauzi ; Siscawati, Mia.2013.A Recent Development of Forest Tenure Reform in Indonesia: The Status of Masyarakat Adat as Rights-Bearing Subjects after the Indonesian Constitutional Court Ruling in Case Number 35/PUU-X/2012, Report on the Assessment of Forest Tenure Reform in Indonesia.
- RECOFTC, GIZ.2011.Free,Prior and Informed Consent in REDD+ - Principles and Approaches for Policies and Project Development.
- REDD+ SES.2012.REDD+ Social and Environmental Standards Version 2.
- REDD+ SES.2012.Guidelines for the use of REDD+ Social & Environmental Standards at country level, Version 2.
- Secretariat of the Convention on Biological Diversity.2004.CBD GUIDELINES Akwé: Kon Guidelines.
- Susan Stone, Mario Chacón León. 2010.Climate Change & The Role of Forests: A Community Manual. Conservation International
- The General Conference of ILO.1989.ILO Convention No. 169.
- UNFCCC.2010.The Cancun Agreement (UNFCCC Decision 1/CP.16 C. Article 68 - 79 & Appendix I Article 2.(c)).
- UNFCCC.2013.Methodological guidance for activities relating to reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries.
- United Nations.2011.A/HRC/17/31 Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie : Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.
- United Nations Development Group.2009.Guidelines on Indigenous Peoples' Issues.
- United Nations Economic and Social Council.2005.Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples.

United Nations Global Compact.2007.Embedding Human Rights in Business Practice II.

United Nations Global Compact.2013.A Business Reference Guide: United Nations Declaration on the Rights of Indigenous Peoples.

United Nations Human Rights Office of the High Commissioner.2012.The Corporate Responsibility to Respect Human Rights: An Interpretive Guide.

United Nations Permanent Forum on Indigenous Issues.2005.The Report of the International Workshop on Methodologies Regarding Free, Prior and Informed Consent and Indigenous Peoples .

United Nations The General Assembly.2007.United Nations DECLARATION on the RIGHTS of INDIGENOUS PEOPLES.

UN-REDD Programme.2009.Operational Guidance : Engagement of Indigenous Peoples and Other Forest Dependent Communities ; Working document.

UN-REDD Programme.2010.Applying Free Prior and Informed Consent in Viet Nam.

UN-REDD Programme.2010.Applying the Principle of Free, Prior and Informed Consent in the UN-REDD Programme in Viet Nam.

UN-REDD Programme.2011.UN-REDD Programme Social and Environmental Principles and Criteria, Version 3 Draft for Consultation.

UN-REDD Programme.2011.The Business Case for Mainstreaming Gender in REDD+.

UN-REDD Programme.2011.UN-REDD Programme Guidelines on Free, Prior and Informed Consent, Draft Comment- December 2011.

UN-REDD Programme.2012.UN-REDD Programme Social and Environmental Principles and Criteria.

UN-REDD Programme.2013.Guidelines on Free, Prior and Informed Consent.

WCS.2008.WCS REDD Project Development Guide.

WWF.2011.Free, Prior, Informed Consent and REDD+: Guidelines and Resources.

Yasmi, Yurdi; Kelley, Lisa; Enters, Thomas.2010.Issues Paper Conflict over forests and land in Asia impacts, causes, and management. RECOFTC.



**This report was made by the grant from the Japan Fund for Global Environment
of the Environmental Restoration and Conservation Agency**