





Civil Society Forum on Social Forestry in ASEAN

Safeguards

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Pan Nature, AIPP, IDEAS, WCS, POINT, WARS, CSDM

7th Annual CSO Forum Meeting, 24-25 June 2018 Da Nang, Vietnam

Background



For indigenous peoples and local communities (IPLCs), forests have social, cultural, spiritual, economic and medicinal values

Recognition of IPLCs' right to say yes or no to any intervention affecting their lands, resources, way of life or using their indigenous knowledge, systems and practices are primary measures to protect them as agreed under the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)

Safeguard measures have become central elements in forestry and climate change agreement and mechanism such as in the implementation of REDD+.

The Inter-governmental Panel on Climate Change (IPCC) has also recognized that indigenous, local and traditional knowledge systems and practices are one major source for adapting to climate change (Assessment Reports 5 and 6).

Indigenous Peoples and local communities' platform under the Paris Agreement

Safeguard measures such as FPIC guidelines have not been developed in most of the ASEAN Countries and many development projects such as plantations, energy and mining projects are taking place without the consent of communities.

Traditional knowledge of indigenous and local peoples on herbal medicine is being used for business purpose without the consent of communities.

In some ASEAN member states, there is lack of legal recognition of indigenous peoples and forest dependent community rights.

Targets to 2020



- **Develop the FPIC guidelines for IPs and Other Forest dependent communities ensuring full and effective participation in decision making;**
- Establish a multi stakeholder and independent body to oversee / monitor safeguards implementation, eg private sector investments in forestry and agro-industries
- Establish a regional forest related grievance mechanism

Progress on the target @ country level



Cambodia

FPIC is incorporated in the draft National Environment Code and the Environmental Impact Assessment Law; The development of REDD+ Safeguards and Safeguard Information System (SIS) included participation and inputs from indigenous peoples and local communities; Benefit Sharing Agreement on REDD+ payments agreed between government, community and WCS tec.

Myanmar, Social and Environmental safeguards for Myanmar's National REDD+ program has required FPIC from IPLCS .Under this, it is the community role to define a process for FPIC ensuring that that the process accounts for participation of women and marginalized groups. The safeguards framework has included both formal land titles and customary tenure rights to land and resources as basis for ownership of carbon rights. The National Land Use Policy (2016) recognize and protect customary land tenure rights and stated that FPIC should be included in the EIA process.

Progress on the target @ country level



In **Laos**, safeguard policies such as FPIC and benefit sharing are still for consideration by the government in the land and forestry laws revision processes.

In **Thailand**, the Article 70 of the 2017 Constitution promotes the right of ethnic groups to exercise their culture, customary way of life, as long as it will not harm with peace, moral, national security and health, however the previous Thai Constitution (1996, 2006) mentioned community rights

In **Vietnam**, the term ethnic minorities appeared in the new National REDD+ action plan towards 2030 (Decision No.419/QD-TTG dated 5th April 2017 by Prime Minister) and an article in this Decision by the Prime Minister emphasized their role and participation in the REDD+ implementation;

It has signed the FLEGT/VPA and the requirement of timber legality, and also have an indicator relating to IPs and local community rights have to be complied. The Payment for Forest Ecosystem Services (PFES) Monitoring and Evaluation System has an indicator for enhancing transparency, democracy and equity in PFES implementation and Benefit Sharing.

Progress on the target @ country level

In **Sabah, Malaysia**, SASOF continues to work on inclusion of FPIC requirement for plantation in a draft policy;

In **Indonesia**, the new policy on Social Forestry (UU 83 Thn 2016) socialization sections includes FPIC principle; In West Sumatra, the provincial action plan and strategy includes FPIC

In the **Philippines**, a Revised Guidelines on FPIC (2012) and Guidelines on documentation of Indigenous Knowledge Systems and Practices and Customary laws were issued by National Commission of Indigenous People (NCIP).

Department of Environment and Natural Resources (DENR) has included evidence of FPIC as requirement in renewal of the community forestry agreements if such areas are also within ancestral domain areas; International donors have required certification of FPIC compliance issued by NCIP for their projects; The proposed REDD-plus safeguards framework and guidelines and SIS

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Control No. **BXI-2015-05-158**

CERTIFICATE OF PRECONDITION
 Certificate of Compliance to the FPIC Process and
 Certification that the Community has Initiated the Project

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that NATIONAL REDD+ SYSTEM PHILIPPINES PROJECT has satisfactorily complied with the process for the issuance of the Certification Precondition prescribed under NCIP Administrative Order No. 3, Series of 2012, for its IMPLEMENTATION OF VARIOUS PROJECTS AS INDICATED IN "ANNEX 1" FORMING AN INTEGRAL PART OF THIS DOCUMENT to be conducted in Municipality of Manay, Province of Davao Oriental supported with corresponding resolution signed by the Mandaya indigenous cultural communities/indigenous peoples.

Pursuant to Sections 39 and 43 of NCIP AO No. 3, s. 2012, this Certificate is issued with concurrence of the Ethnographic Commissioner and NCIP Chairperson in favor of the NATIONAL REDD+ SYSTEM PHILIPPINES PROJECT.

Done this 12th day of May, 2015 at Davao City, Philippines.

ATTY. GERONIMO R. AGUIO, CESE
 Regional Director

Concurred:
 ATTY. LEOBARD T. ORAZA, QUINTAYO
 Commissioner, Southern & Eastern Mindanao
 NCIP Chairperson

"ANNEX 1"

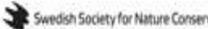
LIST OF PROJECTS

1. Formulation of Ancestral Domain Sustainable Development and Protection Plan (ADSDPP)
2. Formulation of the Municipal Forest Land Use Plan (FLUP)
3. REDD+ Eligible Projects Identified
 - 3.1 Livelihood
 - 3.2 Protected Area Delineation and Conservation Activities
4. REDD+ System Project Studies and Activities
 - 4.1 Forest Resource Assessment
 - 4.2 Drivers of Deforestation and Forest Degradation
 - 4.3 Conduct of Field Testing of Systems for REDD+ Readiness
 - 5.3.a Pilot Testing of Measurement Reporting and Verification System
 - 5.3.b Biodiversity Assessment
 - 5.3.c Forest Resource Assessment
 - 5.3.d Safeguard Information Systems and Guidelines

Knowledge Exchange and Leveling off Workshop on Free, Prior and Informed Consent (FPIC): Towards a common approach in ASEAN

Novou City Hotel, Bangkok, Thailand | November 27-28, 2017



Organized by:  In partnership with:  Supported by:  
 Swiss Agency for Development and Cooperation SDC

Progress @ regional level: Levelling off within CSO Forum towards a Common Approach to FPIC



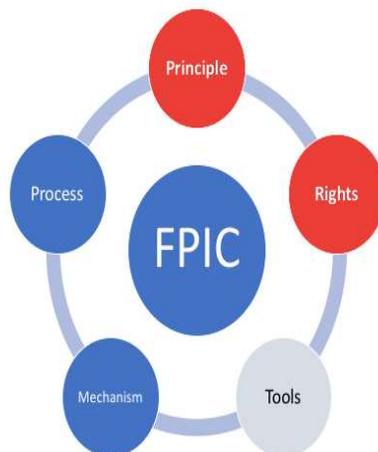
- Stocktaking on national Enabling Policies and Experiences on consultation process
- lack of clear national guidance allows for the various interpretation and practice from various stakeholders on FPIC, which in the end creates conflict.
- IPs and local communities lack capacity understand and to negotiate in the process



Towards a Common Approach to FPIC: Nature of the Guidelines



- Nature of a regional voluntary guidelines that captures clear understanding on the concept and application the right of IPLCs to full and effective participation thru FPIC
- They will not replace existing legal and policy frameworks far more advanced (Philippines) but sustain progress (Myanmar, Cambodia, Indonesia) but hopefully can provide directions to clarify policies on IPLCs (Vietnam, Thailand) and open space for more discussion (Malaysia, Laos) .
- Common approach within ASEAN on FPIC as safeguard measure for forestry and climate change programs and projects



Towards a Common Approach to FPIC: Key Aspects

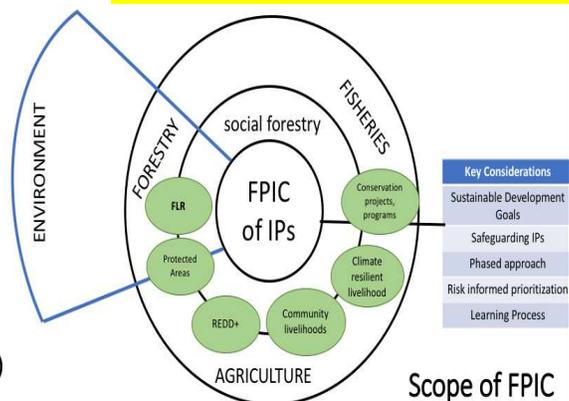


Grievance mechanism provisions	Sufficient time for community to decide	Inclusion of experts in the process	Clearly identify who will be consulted, where the consultation are conducted	Capacity of who will implement
Information Education and Communication	Strengthening partnership between government, & ICCs/IPs	Standard costings for every steps in the FPIC process	Institute measures that define timeline for FPIC preparation	Mechanisms for implementation with common but differentiated approaches
Moved from top down to co-management	Sufficient time and budget is required for careful implementation	Understanding political environment is important (country context for example)	flexibility of guidelines	evolution through soft and legal norms, hence, understanding political environment is crucial
FPIC should be a learning process flexible enough for national and local level		Improving and building capacities e.g. participatory mapping		

Towards a Common Approach to FPIC: Principles and Scope of Guidelines



- Ensure respect for customary law and recognition of IP and their rights
- Ensuring the full and effective participation of all the stakeholders, particularly the role of women, youth.
- Establishing grievance mechanism and transparency processes
- Knowledge management (tools, processes and sharing)

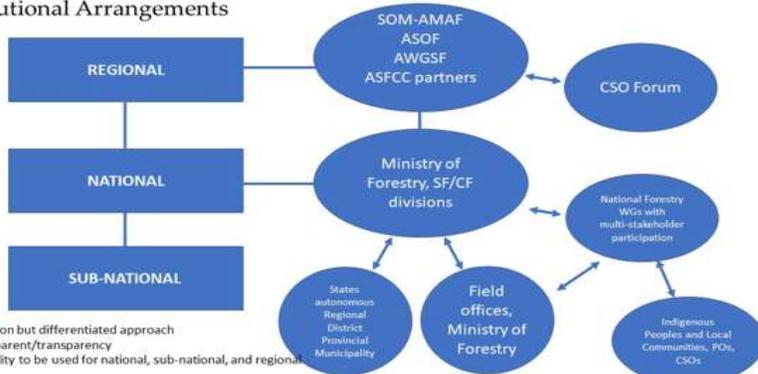


Towards a Common Approach to FPIC: Implementation



IMPLEMENTATION

Institutional Arrangements



- Common but differentiated approach
- Transparent/transparency
- Flexibility to be used for national, sub-national, and regional level
- Multi-stakeholder participation and inclusion of political environment considerations

Figure 19. Proposed Draft Initial Institutional Arrangements for Implementing the Regional FPIC Guideline

Towards a Common Approach to FPIC: Dispute Resolution & Monitoring and Evaluation



- Community based grievance mechanisms put in place at different levels
- How communities access grievance mechanisms?
- What can be the role of Human Right bodies at national, Regional (e.g. AICHR)?
- How to encourage implementation of a voluntary guidelines? How to monitor application? Include baseline assessment existing monitoring and evaluation tools
- Feedbacking at all levels
- What is the role of the AWG-SF? CSO Forum?



2nd Progress @ regional level



• THE ASEAN GUIDELINES ON PROMOTING RESPONSIBLE INVESTMENT IN FOOD, AGRICULTURE AND FORESTRY (FAF)

Targeted for adoption of the AMAF in October 2018

- Draft guidelines (As of June 2018) recognized the protection of the rights of indigenous peoples and local communities through recognizing their right to free, prior and informed consent on any investments in their customary lands and forest
- CSO Forum key recommendations on inclusion of indigenous peoples and local communities, FPIC compliance of investments, reference to UNDRIP, dispute resolutions, recognition of traditional knowledge, forest livelihoods, cultural impacts in social assessment, seed diversity, food safety, gender neutral policies, appropriate technologies, equitable compensation etc. were incorporated.

Role and Contribution of the AWG-SF



- AWG-SF has recommended that at the operational level, FPIC should be set as a minimum standard requirement for implementation of social forestry and REDD+. (2013)
- AWG-SF encouraged ASEAN Member States to establish grievance mechanisms at multiple levels to address local peoples' concerns and conflicts related to land and forest and establish mechanism and develop operational guidelines for implementing social and environmental safeguards for social forestry. In this context was also the recommendation to AMS to develop FPIC guidelines for forestry, including SF/CF, building on the lessons from REDD+ (2015).
- AWG-SF recommendation to ensure that any forest landscape restoration and management initiatives, plans and programs secure FPIC of indigenous peoples under UNDRIP (2017)

Challenges



- No formal recognition of indigenous peoples, and their rights in the national legal and policy framework (Malaysia, Thailand, Laos and Vietnam); Very limited mobility and resources to advocate for change in policy.
- Limited information disclosure related to safeguards measures
- Understanding application of FPIC as a safeguard measure within the context of REDD+, establishing of ICCAs, Forest Landscape Restoration, big forestry investments such as plantations as well as other development projects (energy etc.)

Opportunities



- Embed FPIC concept into various platforms like REDD+ Safeguards Information System (SIS)
- Green Climate Fund for REDD+ provides incentives for countries to engage in REDD+
- Preparation of the country actions under the National Determined Contribution
- The Local Communities and Indigenous Peoples' Platform (LCIPP) under the Paris Agreement

The Paris Agreement "Recognizes the need to strengthen knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change"

- Embedding safeguards in voluntary guidelines in ASEAN (responsible investments, SMEs)



7th Annual CSO Forum Meeting

Safeguards measures should NOT be limited to avoiding harm or doing no harm but should bring BENEFITS to communities!

24-25 June 2018
Da Nang, Vietnam

