

[DRAFT]

FPIC Procedure for the UN-REDD Programme in Indonesia

Community consultation and engagement strategy

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UN-REDD Indonesia recognizes that indigenous peoples and local communities should provide primary guidance on the application of FPIC and must be fully involved in developing and implementing an FPIC procedure.

UN-REDD Indonesia therefore intends to hold a workshop with indigenous groups and civil society groups to discuss this draft procedure and to obtain their comments, suggestions and approval.

In the meantime, any written comments on this draft FPIC procedure should be sent to:

[insert UNDP contact details here]

Executive summary

The recent landmark *United Nations Declaration on the Rights of Indigenous Peoples* (2007) establishes the principle that development should not take place without the free, prior and informed consent of the indigenous peoples whose lands and livelihoods might be affected.

The purpose of this document is to set out a procedure to ensure that all activities under the UN-REDD Programme in Indonesia are conducted with the free, prior and informed consent of indigenous peoples and other local communities. It does this by setting out a strategy for consulting and engaging with indigenous peoples and local communities at both national and local levels for all UN-REDD activities.

National Level Consultation Strategy

To facilitate consultation at the national level, UN-REDD Indonesia will establish a National level Indigenous Peoples and Civil Society Organizations Advisory Group. The purpose of this Group is to establish a national level framework within which UN-REDD can engage with indigenous representatives and civil society groups in an ongoing basis in relation to national level activities.

As a safeguard to ensure that indigenous peoples concerns are integrated into the UN-REDD Programme's activities, UN-REDD will also establish a national level complaints mechanism.

Community level FPIC Guidelines

This document also sets out the procedures which should guide local level (community-specific) consultations. These include:

- Seeking and obtaining permission to initiate consultations with local communities;
- Establishing the general principles which should guide all local level consultations, such as the need to address communities in an appropriate language and gender awareness;
- Undertaking additional preparatory work, if relevant, where pilot activities are concerned.

The procedure also identifies the process for obtaining consent and identifies how the UN-REDD Programme will respond where consent is withheld.

Finally, the procedure sets out a process by which the process of obtaining the free, prior and informed consent of indigenous peoples and local communities can be independently verified.

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1 Introduction

On 23 November 2009, the UN-REDD Programme in Indonesia launched a National Joint Programme with the Government of Indonesia, funded by the Norwegian Government.¹ The objective of the Indonesian UN-REDD Programme is to support the Indonesian Government to attain REDD-Readiness by assisting it to develop a REDD scheme which is fair, equitable and transparent.

The work plan for UN-REDD's activities in Indonesia is set out in the National Joint Programme document (**NJP**).² It identifies three main outcomes for the Programme, namely:³

- *Outcome 1:* Strengthened multi-stakeholder participation and consensus at national level
- *Outcome 2:* Successful demonstration of establishing a Reference Emission Level (REL), Measurement Assessment Reporting and Verification (MRV), and fair payment systems based on the national REDD architecture
- *Outcome 3:* Capacity established to implement REDD at decentralized levels.

UN-REDD Indonesia is keenly aware of the concerns raised by indigenous people and civil society organizations regarding the potential impacts of an emerging REDD scheme both globally, and in Indonesia.⁴ About 48 million people live in customary communities in and around Indonesia's forests, and an estimated 6 million Indonesian's make their living directly from forests.⁵

¹ See *Indonesia UN-REDD National Joint Programme Document*, available on the UN-REDD website at <http://www.un-redd.org/UNREDDProgramme/CountryActions/Indonesia/tabid/987/language/en-US/Default.aspx>.

² The National Joint Programme document for UN-REDD in Indonesia can be accessed at: <http://www.un-redd.org/UNREDDProgramme/CountryActions/Indonesia/tabid/987/language/en-US/Default.aspx>

³ The *UN-REDD Indonesia National Joint Programme document* contains a detailed description of how UN-REDD Indonesia intends to achieve each of these outcomes, including the outputs required for each outcome.

⁴ There is ongoing debate in Indonesia concerning the use of the term "indigenous peoples". The Government of Indonesia has generally avoided using the term "indigenous peoples" because the term is closely linked to the right to self-determination, which, if recognized, may present a threat to the unity of the Indonesian state. Many other terms have instead been used to refer to indigenous peoples in Indonesia, such as isolated people or communities (*masyarakat terasing*), rotational farmers, forest squatters, *adat* communities (*masyarakat adat*), and *adat* law communities, some of which may have discriminatory connotations. For a more detailed discussion on the definition of *adat* communities in Indonesia, see ADB (2002), *Indigenous Peoples/Ethnic Minorities and Poverty Reduction – Indonesia*: Chapter 2. This document uses the terms "indigenous peoples" and "local communities" to refer to *adat* communities which have a long-standing, significant relationship to forested areas through traditional ownership, use or occupation: see UNDRIP, Art 26.

⁵ *R-Plan Indonesia*, May 2009, prepared for the World Bank's Forest Carbon Partnership Facility, p 3.

The potential for these peoples' customary land and livelihoods to be affected by REDD activities gives rise to an entitlement on their part to participate in the process by which the REDD scheme in Indonesia is developed and implemented. Furthermore, effective consultation and engagement with indigenous peoples and local communities is an integral part of the UN-REDD Joint Programme and a precondition for it to successfully carry out its activities.

2 Legal and policy framework for FPIC

2.1 International law

Since the 1980's, the right of indigenous and local communities to give or withhold their free, prior and informed consent to activities affecting their land or livelihoods has been increasingly recognized in international law.⁶ There are a range of international instruments in which the various elements of the right to FPIC. However the most definitive and comprehensive statement of the FPIC principle is found in the 2007 United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**).

In particular, UNDRIP provides:

"States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior informed consent before adopting and implementing legislative or administrative measures that may affect them." (Art 19)

UNDRIP also recognizes a range of other rights which are relevant to REDD, and which underpin the principle of FPIC. These include:

- The right of indigenous peoples not to be forcibly removed from their lands or territories. Where relocation is unavoidable, it should be done with the free, prior and informed consent of the people, with fair compensation, and with the option of return (Art 10)
- The right of indigenous peoples to practise their cultural traditions and customs (Art 11)
- The right to maintain, protect and have access to religious and cultural sites (Art 12)
- that the right of indigenous peoples to participate in decision-making through representatives chosen by themselves in accordance with their own procedures, as well as to maintain their own indigenous decision-making institutions (Art 18)
- the right not to be deprived of their means of subsistence (Art 20)
- the right to traditional medicines (Art 24)
- the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise use or acquired (Art 26), and

⁶ For a detailed review of the international legal and policy framework for FPIC, see the recent report by CIEL, (2010), *FPIC and UN-REDD: Legal and Practical Considerations*.

- the right to determine and develop priorities and strategies for the development or use of their land or territories and other resources, including the right to give or withhold their FPIC to any project (Art 32).

Other international instruments which establish the right to FPIC include:

- 1989 Indigenous and Tribal Peoples Convention (ILO Convention 169)
- 1965 International Convention on the Elimination of All Forms of Racial Discrimination
- 1966 International Covenant on Civil and Political Rights
- 1966 International Covenant on Economic, Social and Cultural Rights, and
- 1992 Convention on biological diversity.

The proposed framework for REDD under the 1992 *United Nations Convention on Climate Change (UNFCCC)*, which was negotiated at COP 15 in Copenhagen 2009, also recognizes the need to engage indigenous peoples and local communities in developing and implementing REDD projects and activities.⁷ Although the framework for the international regulation of REDD under the UNFCCC is yet to be finalized, it would be prudent for countries to adhere to the emerging regulatory scheme as access to funding under the proposed REDD mechanism is likely to be contingent on compliance with it.⁸

Elements of the FPIC principle can also be found in some voluntary carbon standards. The leading voluntary standard concerning REDD and the need to engage with indigenous peoples and local communities is the *Draft REDD+ Social & Environmental Standards (CCBA Standards)*.⁹ This standard requires REDD projects to demonstrate clear socio-economic benefits for local people in order to receive accreditation. One element of the CCBA Standard requires that the free, prior and informed consent of all rights holders be obtained for any activities.¹⁰ Although the standard does not establish legally binding obligations under international law, any

⁷ Draft decision -/CP.15 on *Policy approaches and positive incentives on issues relating to REDD in developing countries: and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks* (FCCC/AWGLCA/2009/L.7/Add.6). The decision on *Methodological guidance for activities relating to REDD and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries* was formally adopted by the COP: 4/CP.15).

⁸ The UNFCCC framework for REDD is likely to be finalized in November 2010 at COP 16 in Cancun, Mexico. The Copenhagen Accord recognizes the need to establish a REDD-plus mechanism (Para 6), and to make substantial finance available for REDD-plus through the Copenhagen Green Climate Fund (Paras 8 and 10).

⁹ This Standard is currently being developed by the Climate, Community & Biodiversity Alliance (CCBA), a group of companies and NGOs, and is open for public comment until 15 March 2010. The CCBA Standard does not issue carbon credits but is intended to be used in conjunction with other carbon accounting standards (such as the Voluntary Carbon Standard, or credits generated under the UNFCCC) to verify the social and environmental co-benefits of credits generated by forestry projects

¹⁰ See Principle 1.3 of the *Draft REDD+ Social & Environmental Standards* (version 15 January 2010).

REDD credits which are certified as meeting the standard are likely to generate a premium price on the carbon market for voluntary credits.

2.2 What does FPIC mean?

There is no universally accepted definition of what FPIC means in terms of how it must be applied in practice. In this respect, although UNDRIP clearly establishes the right to FPIC, it gives little guidance as to how the principle should be applied.

The UN Permanent Forum on Indigenous Peoples has given some endorsement to elements of FPIC as described in Box 1 below.¹¹

Box 1 – Elements of free, prior and informed consent

- **Free** should imply no coercion, intimidation or manipulation.
- **Prior** should imply that consent has been sought sufficiently in advance of any authorization or commencement of activities and that respect is shown for time requirements of indigenous consultation / consensus processes.
- **Informed** should imply that information is provided that covers (at least) the following aspects:
 - (a) The nature, size, pace, reversibility and scope of any proposed project or activity;
 - (b) The reasons(s) for or purpose(s) of the project and/or activity;
 - (c) The duration of the above;
 - (d) The locality of areas that will be affected;
 - (e) A preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit-sharing in a context that respects the precautionary principle;
 - (f) Personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others);
 - (g) Procedures that the project may entail.
- **Consent:** Consultation and participation are crucial components of a consent process. This process may include the option of withholding consent....
- **When:** FPIC should be sought sufficiently in advance of commencement or authorization of activities, taking into account indigenous peoples' own decision-making processes...

¹¹ Source: Extracts from the Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples, 17 – 19 January 2005, Paras 46 – 48 (E/C.19/2005/3). For full list of the elements, see the Report at: http://www.hreoc.gov.au/social_Justice/conference/engaging_communities/report_of_the_international_workshop_on_fpic.pdf. At its fourth session in 2005, the UN Permanent Forum on Indigenous Issues (UNPFII) urged the World Bank to use this formulation as a guide in its dealings with indigenous peoples (E/2005/43; E/C.19/2005/9: Para 25). In 2007, the UNPFII recommended that the Working Group on Indigenous Populations (under the Office of the High Commissioner for Human Rights) develop a standard for the principle of FPIC (E/2007/43; E/C.19/2007/12: Para 36), although this does not appear to have occurred yet.

- **Who:** Indigenous people should specify which representative institutions are entitled to express consent on behalf of the affected peoples or communities. In FPIC processes, indigenous peoples, United Nations organizations and Governments should ensure a gender balance and take into account the view of children and youth, as relevant.
- **How:** Information should be accurate and in a form that is accessible and understandable, including in a language that the indigenous peoples will fully understand.....

2.3 UN-REDD-specific obligations

Under the international and policy framework for FPIC and UNDRIP, the UN-REDD Programme is obliged to adhere to the principle of FPIC and to the other rights set out under UNDRIP. UNDRIP provides that the UN specialized agencies, particularly at the country level, must promote the full application of the provisions of the Declaration (Art 42). UN specialized agencies are also obliged to mobilize financial resources and technical assistance to indigenous people, and to establish ways and means of ensuring their participation on issues affecting them (Art 41).

As a partnership consisting of three UN agencies (FAO, UNDP and UNEP), UN-REDD is therefore obliged under international law to give effect to the principle of FPIC in the course of carrying out country actions under the various UN-REDD National Joint Programmes.¹²

The UN-REDD Programme is also obliged to give effect to the FPIC principle in order to meet the UN's own organizational standards such as:

- the *United Nations Development Group Guidelines on Indigenous Peoples' Issues* (2009); and
- *UN-REDD Operational Guidance: Engagement of Indigenous Peoples and other Forest Dependent Communities* (25 June 2009).¹³

2.4 Indonesian law

2.4.1 International obligations

The international legal and policy framework for FPIC which imposes FPIC obligations on international institutions also impose corresponding country obligations on those countries which have ratified or supported the relevant instruments.

¹² The recent report by CIEL contains a detailed review of how the international legal, institutional and policy framework for FPIC applies to the UN-REDD Programme and to country activities conducted under National Joint Programmes: see *FPIC and UN-REDD: Legal and Practical Considerations*, (22 Jan 2010), Part III, pp. 7 - 17.

¹³ The UN-REDD Operational Guidance must be followed "in the development, implementation, monitoring and evaluation of all UN-REDD Programme activities that may impact the rights and livelihoods of Indigenous Peoples and other forest dependent communities", p 9.

To this effect, Indonesia has ratified the following treaties which contain provisions regarding the right to FPIC:

- 1966 International Covenant on Civil and Political Rights
- 1966 International Covenant on Economic, Social and Cultural Rights
- 1965 Convention on the Elimination of All Forms of Racial Discrimination
- 1992 United Nations Framework Convention on Climate Change
 - Draft COP decision on REDD
 - COP decision on Methodology for REDD
- 1992 Convention on biological diversity
- 1979 Convention on the Elimination of All Forms of Discrimination against Women.

However Indonesia has *not* ratified the 1989 Indigenous and Tribal Peoples Convention (ILO 169).

Indonesia was also one of the overwhelming majority of States which voted in favour of adopting the 2007 *United Nations Declaration on the Rights of Indigenous Peoples* in the UN General Assembly.¹⁴

Annex A contains a list of international instruments which establish the principle of FPIC in international law. It also identifies the provisions of each instrument which specifically relate to the FPIC principle and notes whether Indonesia has ratified or supported the international instrument.

2.4.2 National legal framework for forestry, REDD and FPIC

The 1945 *Constitution of the Republic of Indonesia* protects and gives effect to some elements of the FPIC principle. For example, the Constitution expressly recognizes traditional (or *adat*) communities along with their customary rights,¹⁵ and also protects the cultural and traditional rights of *adat* communities as a human right.¹⁶

¹⁴ The UN General Assembly resolved to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* on 13 September 2007 (A/RES/61/295) by an overwhelming vote of 143 for (including Indonesia): 4 against (Canada, NZ, Australia and the US voted against its adoption, although Australia subsequently changed its position and signed the Declaration in 2009), with 11 abstentions. Speaking to the General Assembly before the formal vote took place, the Indonesian representative (Muhammad Anshor) noted that “several aspects of the Declaration remain unresolved, in particular what constituted indigenous peoples. The absence of that definition prevented a clear understanding of the peoples to whom the Declaration applied...Given the fact that Indonesia’s entire population at the time of colonization remained unchanged, the rights in the Declaration accorded exclusively to indigenous people and (sic) did not apply in the context of Indonesia. Indonesia would continue to promote the collective rights of indigenous people”: GA/10612, Press Briefing, 13 September 2007, p 13.

¹⁵ Article 18B(2) provides that “The State recognises and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.”

¹⁶ Article 28I(3) provides that: “The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilization.”

However the effectiveness of these rights is significantly limited by a further provision in the Constitution which enshrines the State's right of control over natural resources.¹⁷ In the Constitutional scheme, this effectively subordinates traditional rights to the national interest where natural resources are concerned.

The main law regulating forestry operations in Indonesia is the *1999 Forestry Law*. This regulation expressly recognizes the rights of indigenous communities but the recognition is heavily qualified. The *1999 Forestry Law* provides that the rights of indigenous people will be recognized only to the extent that they do not conflict with the national interest to exploit the forest resource for the benefit of the nation (Art. 4). Customary land tenure is thus very poorly protected under the *1999 Forestry Law*.

The main law regulating REDD activities in Indonesia is the *Regulation on Procedures for the Implementation of REDD (30/2009)*.¹⁸ This Regulation sets out a process for the application, assessment, approval and issue of carbon credits for REDD projects. However the Regulation does not include any process or requirement to ensure that the free, prior and informed consent of indigenous and local communities is obtained before a REDD project can be approved by the Minister for Forestry. Furthermore, the regulatory regime for REDD in Indonesia adopts the same forestry definitions as those in the *1999 Forestry Law*,¹⁹ thus perpetuating the deficiencies in the *1999 Forestry Law* which do not recognize customary land ownership claims over land located in the State forest zone.

Consequently, Regulation 30/2009 is not consistent with the proposed scheme for regulating REDD under the UNFCCC which stipulates that national systems should include safeguards to ensure the full and effective participation of indigenous peoples and local communities.²⁰

Annex B contains a more detailed summary of national laws in Indonesia regarding forestry, REDD and the land tenure rights of indigenous communities. It also contains a brief analysis of the implications these matters for FPIC.

Given the potential scale of REDD activities in Indonesia, it is critical that the shortcomings of the current REDD regulatory scheme in Indonesia are addressed by establishing a clear procedural regime which will give effect to the FPIC principle in the design and implementation of REDD projects and activities in Indonesia.

¹⁷ Article 33(3) provides: "The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people."

¹⁸ Decree (PerMenHut) P.30/Menhut-II/2009, came into force on 1 May 2009.

¹⁹ Article 1(3) provides "State forest is forest on land unencumbered by proprietary rights"; and Article 1(5) provides "Customary forest is state forest within an area of customary community [tenure]": *Regulation on Implementation Procedures for REDD (30/2009)*.

²⁰ Draft decision on Policy approaches and positive incentives on issues relating to REDD in developing countries (-/CP.15, AWG-LCA; FCCC/AWGLCA/2009/L.7/Add.6), Para. 6.

2.5 How will UN-REDD apply the principle of FPIC to its activities?

The obligation to obtain the free, prior informed consent of indigenous peoples and local communities can be described as applying at two different levels:

- to policy development work and dissemination of information, at all levels (national, provincial, district and community levels); and
- to all on-the-ground activities (e.g. carbon sampling activities, , etc) which may affect indigenous peoples and local communities.

The UN-REDD Programme in Indonesia covers a very broad range of activities. The level at which FPIC consultations will take place will thus need to vary for each activity, according to the context. For example, although a policy proposal at the national level will not require consultation with local communities it will require consultation with their national-level representatives which will take place in accordance with UN-REDD's National Level Consultation Strategy (see Part 3 below). By comparison, a proposal to carry out REDD activities in pilot districts (e.g. carbon sampling) will require direct consultation with the local communities concerned. This consultation should take place in accordance with UN-REDD's Community Level FPIC Guidelines (see Part 4 below).

Annex C contains a (draft) table showing how UN-REDD Indonesia proposes to apply the FPIC principle to each of the activities identified in the NJP work plan.

3 National Level Consultation Strategy

The UN-REDD Programme in Indonesia recognizes that it has an obligation to apply the FPIC principle to its activities which will take place at the national level, such as assisting in the development of policy and legislative initiatives (UNDRIP, Art 19).

The purpose of establishing a national level consultation strategy is to create the general structures within which ongoing national-level consultation can take place with indigenous peoples' groups level during the life of the UN-REDD Programme in Indonesia.²¹

3.1 Establishment of a National IP and CSO Advisory Group

UN-REDD Indonesia will establish a national level Indigenous Peoples and Civil Society Organizations Advisory Group (**National IP and CSO Advisory Group**). The purpose of this Group is to establish a national level framework within which UN-REDD can engage with indigenous representatives and civil society groups in an ongoing basis in relation to national level activities.

²¹ The NJP document has already been reviewed as part of an initial consultation process (called "in-country validation") with indigenous peoples and civil society organisations in accordance with the UN-REDD Programme's *Rules of Procedure and Operational Guidance*, March 2009 (Para 2.3). Annex 2 of the NJP document contains details of the consultation with indigenous peoples and CSOs held at Bogor on 20 May 2009, including the minutes of the meeting.

3.1.1 Role of IP and CSO Advisory Group

The role of the National IP and CSO Advisory Group will include:

- Attending regular meetings with UN-REDD Indonesia;
- Attending meetings of the Programme Executive Board (**PEB**), when requested by the PEB.²² The Group will be asked to nominate one or more representatives to attend meetings of the PEB;
- Responding to ad-hoc requests for assistance from the UN-REDD Programme in Indonesia;
- Providing ongoing advice, comments and feedback to UN-REDD Indonesia on activities under the National Joint Programme before, during and after activities are carried out;
- Facilitating communication between indigenous people, forest-dependent communities and local communities on UN-REDD activities;
- Acting as a conduit for any complaints from indigenous peoples or local communities which it may choose to raise with UN-REDD on behalf of local communities, and providing feedback to the complainant;
- Assisting in the dissemination of information on the UN-REDD Programme to indigenous peoples and local communities at the provincial, district and community levels.

3.1.2 Call for nominations

UN-REDD Indonesia invites indigenous groups and civil society organizations which have a national focus to express their interest in joining the National IP and CSO Advisory Group. In this regard, UN-REDD Indonesia recognizes that indigenous groups are entitled to choose their own representatives and to use their own representative institutions.²³

To facilitate the nomination process, UN-REDD Indonesia will place a form on its website which groups can use to express their interest in participating in the IP and CSO Advisory Group, or to express their interest in being granted observer status at meetings of the Programme Executive Board: see model form at Annex D (Notification of interest to participate).

The UN-REDD Programme encourages groups to nominate which meet one or more of the following criteria:

- demonstrated experience in serving as a representative for, receiving input from, consulting with, and providing feedback to, a wide scope of civil society and/or indigenous peoples or local community representatives in Indonesia;
- has networks which have national and/or regional coverage in Indonesia;

²² The Programme Executive Board is established by the Ministry of Forestry in consultation with Bappenas, the UN Resident Coordinator and other key stakeholders to guide and oversee the National Joint Programme: *Indonesia UN-REDD National Joint Programme* document, p 37.

²³ UNDRIP, Arts 18 and 19.

- has an ability to work constructively with the UN-REDD Programme and other IP and CSO groups;
- has demonstrated experience in representing women in indigenous and local communities at a national or provincial level.

Membership of the Advisory Group is not intended to be static. Rather, it is intended to evolve over the duration of the Programme and may change as the Programme progresses.

The membership of the National IP and CSO Advisory Group, with each group's contact details, will be published on the UN-REDD Indonesia website.

3.2 National communications strategy

In order to develop a deeper understanding of REDD in Indonesia, the UN-REDD Programme will develop a National Communications Programme (see NJP: Output 1.3.4), to be managed by United Nations Environment Programme (**UNEP**). The national strategy will target a diverse group of stakeholders ranging from local communities, the general public, to government officials and parliament.

3.2.1 *Tailoring information to needs of local communities*

Awareness of REDD in Indonesia among indigenous communities is currently very limited. UN-REDD's Communications Strategy can play an important role in raising awareness and preparing indigenous communities for engagement with REDD.

The UN-REDD Programme will ensure that its Communications Strategy meets the information needs of indigenous people by taking the following steps:

- Identifying indigenous peoples and forest-dependent communities as a target group in the REDD national social marketing campaign (NJP: Output 1.3.1), particularly in those areas which are likely to be affected by on-ground activities or pilot projects.
- Ensuring that of the information, education and communication materials which are to be developed, some of them are specifically targeted to meet the needs of indigenous communities (NJP: Output 1.3.3 – 5). For example, they should be made available in an appropriate language and should address locally-relevant issues such as local causes of deforestation, etc.
- Ensuring that indigenous communities are included in any local level REDD training activities (NJP: Output 1.3.6).

3.2.2 *Website*

UN-REDD Indonesia will establish a dedicated website to make information and documents regarding its activities easily available.

Documents which will be published on the website will include:

- Quarterly work plans
- Quarterly progress reports

- Annual progress reports
- Minutes of each UN-REDD Indonesia / IP and CSO Advisory Group meeting
- All project documentation, including the project name, location, maps, preliminary studies, impact assessments, and public comments
- The results of any independent audits of the FPIC process (see Para 4.6 below)
- Downloadable form “Notification of interest to participate” (see Para 3.2.3 and Annex D below).

The website will be updated regularly as new material becomes available.

3.2.3 *Notification of interest to participate*

UN-REDD Indonesia will place a downloadable form on its website (in English and Bahasa Indonesia) which will provide interested indigenous peoples, local communities and CSOs with an opportunity to directly notify UN-REDD that they wish to participate in UN-REDD Programme activities. This will allow individuals or groups to register their interest in participating in workshops, seminars and training events on REDD, and to identify the geographic area of their interest.²⁴

Annex D contains a model form: “Notification of interest to participate”.

UN-REDD recognizes that many communities in Indonesia do not have access to the internet and that alternative methods must be used to make the form widely available. The “Notification of interest to participate” form will be translated into Bahasa Indonesia and any relevant local languages (as advised by the National IP and CSO Advisory Group). It will also be distributed in hard copy to indigenous organizations in provincial, district and local areas in which REDD activities are proposed.

3.3 National complaints mechanism

One means of ensuring that indigenous peoples concerns are integrated into the UN-REDD Programme’s activities and projects is to ensure that there is a clear and accessible complaints mechanism. With this objective in mind, UN-REDD will establish a national level complaints mechanism.

The complaints mechanism will operate as follows:

- Complaints can be raised with:
 - The UN Secretariat, located within the Ministry of Forestry, will be the contact point for complaints.
 - Alternatively, complaints from indigenous peoples and local communities can be raised with one of the members of the IP and CSO Advisory Committee. The Committee member may then choose whether to raise

²⁴ This was suggested by CIEL (2010), *FPIC and UN-REDD: Legal and Practical Considerations*, p. 35. It is based on the form which already exists on the Global UN-REDD website by which governments can express their interest to participate in the UN-REDD Programme: see <http://www.un-redd.org/Home/tabid/565/language/en-US/Default.aspx>.

the complaint with the UN Resident Coordinator, the Programme Executive Board, or both.

- Complaints may be made in writing or in person, and can be made anonymously.
- Once a complaint is made, the UN Resident Coordinator in Indonesia will be responsible for ensuring that the complaint is investigated, and an appropriate response is made.
- All complaints will be listed on a complaints register, with the follow up action noted for each complaint. This will allow for independent verification, if required.

If a complaint is not satisfactorily resolved at the national level, the complainant may then raise the complaint directly with the UN-REDD Technical Secretariat in Geneva, which has established an ombudsman system for complaints as part of its overall responsibility for monitoring and evaluating the UN-REDD Programme.²⁵

3.4 Coordination with other REDD programmes

There are a range of multilateral and bilateral arrangements operating in Indonesia for the purpose of assisting the Indonesian Government with REDD-Readiness, such as the World Bank's Forest Carbon Partnership Facility

The multitude of REDD programmes in Indonesia has the potential to create confusion in local communities regarding the differing roles and responsibilities of these programmes. As recommended in UN-REDD's Operational Guidelines on Engagement with Indigenous Peoples, the UN-REDD Programme will use its best endeavors to coordinate its community participation and engagement strategy with other REDD programmes operating within Indonesia with a view to establishing one collaborative consultation process.²⁶

3.5 Capacity-development component for IP groups

The UN-REDD Programme in Indonesia recognizes the need to include a capacity development component to assist indigenous people to participate effectively in the Programme at a national level, and also at community levels. In this regard, UN-REDD notes that UNDRIP provides that indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation in order to give effect to their rights in the Declaration (Art 39).

UN-REDD will consult with the IP and CSO Advisory Group to identify and address the capacity development needs for indigenous peoples' groups at national, provincial and community levels.

²⁵ Framework Agreement (2008), *UN Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries*, FAO, UNDP, UNEP, Framework Document, p. 22.

²⁶ UN-REDD Programme, *Operational Guidance: Engagement of Indigenous Peoples and Other Forest Dependent Communities*, Working document – 25 June 2009, p. 10.

4 Community level FPIC Guidelines

4.1 Scope of local level activities

Some activities in the NJP work plan require work to be done at the provincial or district levels, such as activities involving spatial planning and training. Although these activities may not have direct impacts on the ground they will nevertheless require consultation with indigenous people and their representatives.

Before commencing these activities, UN-REDD should identify which level of government will be involved in the activity and the corresponding level of local consultation which is required.

The different levels of government which exist in Indonesia are set out below.

<i>Government level</i>	<i>Head</i>
National (<i>Negara</i>)	President
Province (<i>Propinsi</i>)	Governor
District (<i>Kabupaten/Kota</i>)	Regent (<i>Bupati</i>)
Sub-district (<i>Kecamatan</i>)	Sub-district Head (<i>Camat</i>)
Ward (<i>Kelurahan</i>)	Ward Chief (<i>Lurah</i>)
Village (<i>Desa</i>) ²⁷	Village Chief (<i>Kepala Desa</i>)

Once the level of activity has been identified, UN-REDD should take steps to identify the relevant communities' representatives institutions in those areas.

4.2 Seeking permission to initiate community consultation

Where the UN-REDD Programme proposes to undertake activities which will involve direct contact with indigenous peoples and local communities (e.g. access to land), a community-specific FPIC procedure will be required.

To begin this process, UN-REDD should first seek and obtain permission from the relevant communities to initiate consultations with them.²⁸

Annex E contains a model form which can be used to record the details of any permission which is granted.

This form will assist in achieving the following objectives:

- informing local communities about their right to FPIC;
- establishing a clear basis for future consultations to take place; and
- providing evidence of FPIC in the event that independent verification is required.

²⁷ *Desa* is a Javanese word. Other communities may use different terms to describe community territory. For example, communities in Minangkabau use *nagari*, while those in Kalimantan use *kampung*: ADB (2002:3).

²⁸ This approach is suggested by CIEL (2010: 36).

Clarification should be given to local communities at this stage to ensure that they understand the difference between agreeing to discussions about REDD (permission to initiate consultations) and any later decision as to whether they will actually agree to the activities being carried out (granting consent).

Communities should be able to choose whether their permission will be granted orally or in writing. Where consent is given verbally, UN-REDD should prepare a written record of the consent for the project file which sets out the Programme's understanding of each of the matters listed in Annex E, which can be signed by the community representative if they so choose.

4.3 General principles for community-level consultation

All community level consultations under the UN-REDD Programme in Indonesia should be guided by the following principles:

4.3.1 *Early support for capacity-building*

It may take some time for communities to understand the nature of REDD and to consider whether they wish to give their consent. To minimize delays, UN-REDD should target those communities which are likely to be affected by on-ground activities when developing its national communications programme to give them sufficient time to prepare them for engagement (see NJP, Output 1.3, UNEP).²⁹

Once a pilot province or district has been selected for UN-REDD activities, further work will be required to identify the specific capacity building needs of the target communities and how the Programme can support them.

4.3.2 *Identify languages/dialects spoken*

Indonesia is a place of great linguistic diversity, with groups speaking more than 600 languages.³⁰ Although all relevant UN-REDD information and documents should be translated into Bahasa Indonesia, it will also be necessary to identify the local languages or dialects which are spoken in any target communities.

Preliminary consultation with indigenous peoples organizations at the national, provincial and district should assist those who are preparing to work in pilot provinces or districts to identify the languages or dialects spoken in an area or village, as will use of the model form in Annex E (Form for Initiating Community-Level Consultation) on which communities can identify the language/dialect in which they wish to be addressed.

This information should then be collated in the manner set out below::

<i>District</i>	<i>Sub district</i>	<i>Ward</i>	<i>Village</i>	<i>Language / dialect</i>
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²⁹ This approach was also suggested by CIEL (2010: 36).

³⁰ ADB (2002:3).

District A	Name 1			X
				X
	Name 2			Y
				Y
District B	Name 3			Z
				Z
	Name 4			Z
				A
				A

Once the relevant language requirements have been identified for a particular area, UN-REDD can take steps to ensure that written materials are translated into the appropriate language/dialect and that suitable translators are engaged for seminars and workshops.

4.3.3 Gender awareness

In many rural areas in Indonesia, women have primary responsibility for the economic survival of their families which may depend on having continued access to forested areas. REDD projects thus have the potential to disproportionately affect women's lives if access to a forest is limited or prohibited.

UNDRIP also requires that particular attention be paid to the rights and special needs of women in the implementation of the Declaration (Art 22). In this regard, those who are engaging with indigenous communities regarding REDD activities should be mindful that customary decision-making systems may have the effect of perpetuating the inequality and social exclusion of women or other marginalized groups, such as indigenous elders, youth and children.

In carrying out community level consultations, UN-REDD should take active steps to ensure the full participation of women by:

- Seeking input from national, provincial and local women's NGOs to identify women's concerns and to develop strategies to address them;
- Holding separate consultations and workshops for women on proposed REDD activities, if required, which are conducted by women;
- Preparing a gender analysis of proposed REDD activities, particularly where any pilot projects are concerned; and
- Incorporating women's concerns into the design of the activity, e.g. by ensuring that benefit-sharing systems ensure that revenues are shared equitably with women.

4.3.4 Providing full information

"Informed" consent requires that full information should be provided to local communities about proposed REDD activities.

Those preparing materials and workshops on REDD for communities should seek to avoid an information bias. For example, the information provided to local communities should include not just the potential benefits of a REDD projects but also the risks, costs and liabilities of the project. It should also place the proposed REDD activity within the broader context of the climate change debate, and should cover some of the systemic problems regarding the use of carbon offsets in carbon markets.³¹

With this broad objective in mind, workshops, seminars and discussions should be structured to allow for presentations to be made from groups outside the UN-REDD structure, such as from CSOs or academic institutions.

4.4 Pilot activities: additional requirements

UNDRIP provides that States must obtain the free, prior and informed consent of indigenous peoples prior to the approval of any project affecting their lands, territories and other natural resources, particularly in connection with the development, use or exploitation of natural resources (Art. 32(2)).

At present, no firm decision has been made as to where pilot activities will take place. However the National Joint Programme document foreshadows that a demonstration province is likely to be selected from among three provinces in northern Sulawesi, namely Central Sulawesi, Gorontalo, and North Sulawesi.

4.4.1 Preparatory work: Review of customary land tenure and governance

Once a location is identified as being suitable for pilot activities, a preparatory study should be prepared which can be used to guide the further implementation of the FPIC process.

Where relevant to the proposed activity, the preparatory study should:

- identify the existing legal and policy framework under national and provincial laws concerning land titles, forest tenure and REDD legislation in the target area and their relationship to the indigenous peoples and local communities;
- identify any logging concessions or other restrictions on the title;
- identify the customary rights holders and the customary land tenure laws, and how they interact with any statutory laws or policy positions;³²

³¹ In developing the guidelines for UN-REDD Indonesia's local level consultation strategy, consideration has been given to the criticisms of existing FPIC procedures as set out in the recent presentation given by the Forest Peoples Programme (22 January 2010), *Emerging lessons from the Ground with REDD-Readiness*, to the Chatham House and Rights and Resources Initiative Third Dialogue on Forests, Governance and Climate Change.

³² By way of example, see the recent report on customary land tenure in Aceh in land involved in the Ulu Masen REDD project by Dunlop, J. (2009) *REDD, Tenure and Local Communities: A Study from Aceh, Indonesia*, International Development Law Organization, Rome, Italy: http://www.idlo.int/publications/REDD_Tenure%20and%20Local%20Communities_A%20Study%20from%20Aceh%20Indonesia_IDLO_2009.pdf

- assist the local communities to map and document their customary systems of land use, including identifying traditional uses of the forest for food, medicine and fuel wood,³³ and identifying any sacred or cultural sites;
- describe the customary decision-making and governance structures, and identifies any practical obstacles to implementing FPIC in the community (e.g. exclusion of women from decision-making processes);
- review whether the customary representatives who have been nominated to represent local communities have the authority to give consent on their behalf;³⁴
- identify, in so far as is possible, whether there are any pre-existing conflicts within the communities which may affect how the consent process; and
- Identify any customary dispute resolution mechanisms.

All information from the study should be shared and disseminated within the communities affected.

4.5 Obtaining consent

Before any UN-REDD activities proceed, consent should be obtained from the local community.

Annex F contains a form which can be used as evidence of consent of a local community, called a Certificate of Consent. The form is intended to be given to local communities at the conclusion of a workshop or presentation by the UN-REDD Programme, and to be returned to the Programme organizers at a later date. Adequate time should be given for communities to discuss issues within their own structures before a formal response is sought. x

This form has three purposes:

- To provide a formal method by which a local community can indicate whether it does or does not consent to the activities which the UN-REDD Programme proposes to carry out in their area;
- To provide local communities with an additional opportunity to give feedback to the UN-REDD Programme, including making suggestions for improvements and requests for assistance with capacity-building; and
- To provide a record of consultation activities which can be independently verified (or audited) at a later date, if required: see Para 4.6 below.

The form will be translated into Bahasa and into any relevant local languages, as required.

³³ In this regard, Article 1 of the ICCPR and ICESCR (both ratified by Indonesia) both state: "In no case may a people be deprived of its own means of subsistence."

³⁴ The report by the Forest Peoples Programme identifies a range of ways in which indigenous systems of representation may fail to act in an accountable manner due to manipulation, interference or misunderstanding: Colchester (2007: 1, 7).

4.5.1 Interpretation of FPIC results

Where the result of community consultation is universally supportive of a proposed REDD activity, the question of interpreting the results of consultation will be straightforward and the activity can proceed as planned.

However UN-REDD recognizes that the principle of FPIC includes the right of indigenous peoples and local communities to withhold consent. In some cases this can be problematic, such as where one community indicates that it does not support an activity, yet the majority of other communities wish to proceed with it.

In order to be transparent in the way that it will deal with this issue, UN-REDD will adopt the process set out below.

Where one or more villages or communities withhold consent to a particular activity, the UN-REDD Programme will take the following approach:

Nature of activity	Examples of activities	UN-REDD response
<i>Activities not directly involving communities, (i.e. not involving land use or access to land)</i>	• training of local or district government officials	Any negative comments will be noted. If such comments are rare and/or minor, the activities will proceed as planned. If the complaints are serious and consistent, UN-REDD will enter into a dialogue with the communities concerned to see whether the concerns can be resolved in a mutually satisfactory manner.
<i>Activities involving communities which: (a) will take place on community land; (b) where a collective commitment is not required</i>	• training • awareness raising	Activities will proceed only in those villages and communities which gave consent.
<i>Activities requiring access to or use of land and forest for which collective commitment is required</i>	• systematic sampling for estimating carbon density • village-based capacity building	The basis for withholding consent will be analyzed. The proposed activities will be redesigned in light of the withholding of consent. UN-REDD will enter into a dialogue with the communities

Nature of activity	Examples of activities	UN-REDD response
		concerned with a view to identifying a mutually acceptable solution to the problem. The process of obtaining consent will be repeated. If consent is still refused, the activity will not proceed.

4.6 Independent verification

All FPIC processes under the UN-REDD Programme in Indonesia should be designed so that they can be verified by an independent third-party auditor, if required. The purpose of independent verification is to check whether the FPIC process has taken place in accordance with international and Programme requirements, and to identify any improvements which can be made to the FPIC process.

The UN-REDD programme will adopt the following procedure for verifying FPIC:

- An independent audit of FPIC processes may be requested at any stage of an activity or project by government, donors or civil society groups. For example, verification may be requested to satisfy policy or legislative requirements, to meet funding conditions, or in response to community concerns.
- Requests for independent audits should be made to the UN Resident Coordinator, who will be responsible for considering the request and directing the audit to be carried out.
- If it is determined that an audit is required, an auditor will be selected by mutual agreement between the Programme Executive Board and the National IP and CSO Advisory Group who will review the documentation and interview the people concerned to determine whether free and informed consent was given.
- The costs of the audit will be met by the UN-REDD Programme, or by an independent third party if funding can be secured.

The results of any independent audit will be made publicly available on the UN-REDD Indonesia website, and copies will be given to the local communities involved, translated into appropriate local languages.

4.7 Community level complaints mechanism

In addition to the National level complaints mechanism (see Para. 3.3), all community level FPIC strategies should include a complaints mechanism which is clear and accessible to indigenous people and local communities.

Annex A: List of international instruments concerning FPIC

International treaties

<u>Name of treaty</u> <i>(extracts concerning indigenous peoples and FPIC)</i>	<i>Ratified Indonesia?</i> <i>by</i>
<u>1966 International Covenant on Civil and Political Rights</u> <i>Article 1</i> 2. "...In no case may a people be deprived of its own means of subsistence." <i>Article 2</i> 1. Each State Party to the present Covenant undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. 2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.... <i>Article 25</i> Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;	Yes. On 23 February 2006 (by accession).

<u>Name of treaty</u> <i>(extracts concerning indigenous peoples and FPIC)</i>	<i>Ratified Indonesia?</i> <i>by</i>
1966 International Covenant on Economic, Social and Cultural Rights <i>Article 1</i> "2. ... In no case may a people be deprived of its own means of subsistence." <i>Article 3</i> The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant. <i>Article 11</i> 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing... <i>Article 15</i> 1. The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life;... 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation ... [of] culture.	Yes. By accession on 23 February 2006.³⁵
1965 International Convention on the Elimination of All Forms of Racial	Yes.

³⁵ Indonesia's accession was made subject to the following Declaration:

"With reference to Article 1 of the International Covenant on Economic, Social and Cultural Rights, the Government of [the] Republic of Indonesia declares that, consistent with the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, and the relevant paragraph of the Vienna Declaration and Program of Action of 1993, the words "the right of self-determination" appearing in this article do not apply to a section of people within a sovereign independent state and cannot be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states."

<u>Name of treaty</u> <i>(extracts concerning indigenous peoples and FPIC)</i>	<i>Ratified by Indonesia?</i>
<u>Discrimination</u> <i>Article 2</i> States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms... <i>Article 5</i> In compliance w the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee ... the enjoyment of the following rights: (a) .. (b)... (c) Political rights ... to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service. (d) Other civil rights, in particular: (i)...(iv) (v) The right to own property alone as well as in association with others;... <i>General Recommendation No 23 – Rights of Indigenous Peoples</i>³⁶ Para 2: The Committee ... reaffirms that the provisions of the <i>International Convention on the Elimination of All Forms of Racial Discrimination</i> apply to indigenous people. Para 4: The Committee calls in particular upon States parties to: (d) Ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions relating to their rights and interests are taken without their informed consent;..." Para 5: The Committee especially calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources..."	Ratified Convention on 25 June 1999

³⁶ Committee on the Elimination of Racial Discrimination, 1997 (UN Doc A/52/18).

<u>Name of treaty</u> <i>(extracts concerning indigenous peoples and FPIC)</i>	<i>Ratified by Indonesia?</i>
<u>1989 Indigenous and Tribal Peoples Convention (ILO 169)</u> <i>Article 6</i> 1. In applying the provisions of this Convention, governments shall: (a) Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; (b) Establish means by which these people can freely participate...at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them....	No.
<u>1992 United Nations Framework Convention on Climate Change (UNFCCC)</u> COP 15 in Copenhagen, December 2009 considered two decisions concerning REDD: • a decision on <i>Methodological Guidance for REDD</i> (4/CP.15), which was formally adopted by the COP; and • a <u>draft</u> decision on <i>Policy approaches and positive incentives for REDD</i>, which remains under consideration. Both the decisions expressly recognize the need to engage indigenous peoples and local communities in REDD activities. Extracts of those parts of the decisions regarding indigenous peoples are reproduced below: <u>Draft decision on Policy approaches and positive incentives on issues relating to REDD in developing countries</u> (-/CP.15, AWG-LCA; FCCC/AWGLCA/2009/L.7/Add.6) <i>Paragraph 2</i> Further affirms that when undertaking activities referred to in paragraph 3 below, the following	Yes. Ratified UNFCCC on 23 August 1994 Square brackets in the text of the draft decision indicate that consensus has not yet been reached on those matters. The mandate for both working groups to continue to develop their work on REDD has been extended

<i>Name of treaty</i> <i>(extracts concerning indigenous peoples and FPIC)</i>	<i>Ratified by Indonesia?</i>
safeguards should be [promoted] [and] [supported]: ... (c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples; (d) Full and effective participation of relevant stakeholders, including in particular indigenous peoples and local communities in actions referred to in paragraphs 3 (i.e. REDD-plus activities) and 5 (i.e. development of national strategies) below; ... <i>Paragraph 6</i> Requests developing country Parties when developing and implementing their national strategy or action plan, [or sub national strategies] to address, inter alia, drivers of deforestation and forest degradation, land tenure issues, forest governance issues, gender considerations and the safeguards identified in paragraph 2 above, ensuring the full and effective participation of relevant stakeholders, inter alia, indigenous peoples and local communities; ... <i>Decision on Methodological guidance for activities relating to REDD and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries</i> (formally adopted by the COP: 4/CP.15) <i>[Preamble]:</i> <i>Recognizing</i> the need for full and effective engagement of indigenous peoples and local communities in, and the potential contribution of their knowledge to, monitoring and reporting of activities relating to decision 1/CP.13 (i.e. the Bali Action Plan), paragraph 1(b)(iii),... <i>[Operative provisions] Paragraph 3.</i> <i>Encourages</i>, as appropriate, the development of guidance for effective engagement of indigenous peoples and local communities in monitoring and reporting; ...	until COP 16 in Mexico, Dec 2010, where the draft decision is likely to be finalized. Access to funds under the proposed REDD mechanism is likely to be contingent upon compliance with these COP decisions.

<u>Name of treaty</u> <i>(extracts concerning indigenous peoples and FPIC)</i>	<i>Ratified by Indonesia?</i>
<u>1992 Convention on Biological Diversity</u> <i>Article 8 In-situ Conservation</i> Each Contracting Party shall, as far as possible and as appropriate: (j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;...	Yes. Ratified Convention on 23 August 1994
<u>1979 Convention on the Elimination of All Forms of Discrimination against Women</u> <i>Article 5</i> States Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary ... practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women... <i>Article 14</i> 1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families... 2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure ... that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: (a) To participate in the elaboration and implementation of development planning at all	Yes. Ratified on 13 September 1984.

<u>Name of treaty</u> (extracts concerning indigenous peoples and FPIC)	<i>Ratified by Indonesia?</i>
levels; ...	

International declarations

<u>Name of declaration</u> (and extracts of provisions relevant to indigenous peoples and FPIC)	<i>Supported by Indonesia?</i>
<u>2007 United Nations Declaration on the Rights of Indigenous Peoples³⁷</u> <i>Article 18</i> Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions. <i>Article 19</i> States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior informed consent before adopting and implementing legislative or administrative measures that may affect them. <i>Article 26</i> 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.	Yes. Indonesia voted in favour of adopting the Declaration in the UN General Assembly. The Declaration is not binding under international law (as is a treaty or convention). Rather, it is an aspirational statement which establishes the standards which States and international

³⁷ A translation of UNDRIP in Bahasa Indonesia can be found on the Tebtebba website at:
http://www.tebtebba.org/index.php?option=com_docman&task=cat_view&gid=16&limit=15&order=date&dir=DESC&Itemid=27

<i>Name of declaration</i> <i>(and extracts of provisions relevant to indigenous peoples and FPIC)</i>	<i>Supported by Indonesia?</i>
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned. <i>Article 32</i> 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.	organisations should seek to achieve in their engagement with and treatment of indigenous people.

Voluntary international standards

<i>Name of Standard</i> <i>(extracts of provisions relevant to indigenous peoples and FPIC)</i>	<i>Implications for Indonesia</i>
<u>Draft REDD+ Social and Environmental Standards (ver. 15 January 2010)</u> (prepared by the Climate, Community and Biodiversity Alliance (CCBA) and CARE International) <i>Principle 1: Rights to lands, territories and resources are recognized and respected by the REDD+ program</i> Criteria 1.3 The REDD+ program requires the free, prior and informed consent of rights holders for any activities affecting their rights to lands, territories and resources. <i>Indicators:</i> 1.3.1 The policies of the REDD+ program uphold the principle of free, prior and informed consent of rights holders for any activities affecting their rights to lands, territories and resources. 1.3.2 The REDD+ program effectively disseminates information about the requirement for free, prior and informed consent of rights holders for any activities affecting their rights to lands, territories and resources. 1.3.3 Collective rights holders define a verifiable process of obtaining their free, prior and informed consent including definition of their own representative institutions that have authority to give consent on their behalf. 1.3.4 Free, prior and informed consent is obtained from rights holders for any activities affecting their rights to lands, territories and resources following the agreed process.	This standard has been prepared for voluntary use by governments, NGOs, financing agencies and other stakeholders to design and implement REDD+ programs that respect the rights of Indigenous Peoples and local communities. While the standard is not legally binding, a REDD scheme which can demonstrate compliance with it is likely to add a premium to the value of credits created.

Annex B: Summary of Indonesian national laws regarding FI and land tenure

Constitutional protections

The *1945 Constitution of the Republic of Indonesia* protects and gives some elements of the FPIC principle. For example, the Constitution recognizes traditional (or *adat*) communities along with their customs and also protects the cultural and traditional rights of *adat* communities as human rights.³⁹

However, the effectiveness of these rights is significantly limited by the provision in the Constitution which enshrines the State's right of control over natural resources.⁴⁰ In the Constitutional scheme, this effectively subordinates traditional rights to the national interest where natural resources are concerned.

Other elements of FPIC which are protected under the Indonesian Constitution include:

- the right to information regarding a person's development and environment,⁴¹ and
- the protection of women against discrimination.⁴²

Forestry laws and customary land tenure

Since the 1960's, Indonesia has divided its land into two areas (or zones) for administrative purposes: the national forest land (*Hutan Negara*, or State forest zone), and non-forest land. National forest land currently covers 100 million ha, or about 60% of the land surface of Indonesia.⁴³

³⁸ Article 18B(2) provides that "The State recognises and respects traditional communities along with their traditional customary rights as long as these rights exist and are in accordance with the societal development and the principle of the Unitary State of the Republic of Indonesia, and shall be regulated by law."

³⁹ Article 28I(3) provides that: "The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilization."

⁴⁰ Article 33(3) provides: "The land, the waters and the natural resources within the territory of the State shall be under the powers of the State and shall be used to the greatest benefit of the people."

⁴¹ Article 28F provides: "Every person shall have the right to communicate and receive information for the purpose of the development of his/her self and social environment and shall have the right to seek, obtain, possess, store, process and convey information....".

⁴² Article 28I(2) provides: "Every person shall have the right to be free from discriminatory treatment based upon any grounds whatsoever and shall have protection from such discriminatory treatment."

⁴³ MoFor (2008), *IFCA 2007 Consolidation Report: Reducing Emissions from Deforestation and Forest Degradation in Indonesia*, published by FORDA, Indonesia, p. 10.

The 1967 *Forest Law* did not recognize customary ownership of land (*hak ulayat*), thus allowing logging concessions to be granted without regard to claims of *adat* land ownership.⁴⁴

However, this changed with 1999 *Forestry Law*. The 1999 *Forestry Law* divides the State forest zone into three major functional categories:

- Production forest,
- Protection Forest, and
- Conservation forest.

The 1999 *Forestry Law* expressly recognizes the rights of indigenous communities (Art 4(3)). However, this recognition is heavily qualified. The 1999 *Forestry Law* empowers the State to control forestry resources located in the State forest zone for the benefit of the nation and recognizes the rights of indigenous people only to the extent that they do not conflict with the national interest (Art. 4). The effect of this provision is that the State can override or disregard claims to customary land ownership by indigenous communities when exercising its powers under the 1999 *Forestry Law* to grant timber permits (“area utilization operation permits”) (Art 4(2)).

While the 1999 *Forestry law* also recognizes customary use of forested areas by creating a new category of *adat* forest (*hutan adat*) (Art 1.6; 5(2) and (3)), this category falls within the State forest zone. The 1999 *Forestry Law* defines land in the State forest zone as land to which titles (or proprietary rights) do not attach (Art 1.4), thus confirming the overriding right of the State to control the forest resource.

Customary land tenure is thus very poorly protected under the 1999 *Forestry Law*.

Customary forests

The *Customary Forests Government Regulation 6/2007* allows for the designation of Customary Forests (*hutan adat*) as a legally recognized category within the State forest zone. However before an area can be designated as Customary Forest, the land title of the *adat* community that wishes to hold the rights and manage the forest must first be recognised by local government decree. Most land in Indonesia is not registered because of the cumbersome registration process. A significant amount of work is required to prepare customary land for recognition by local government.⁴⁵

⁴⁴ For other analyses of forestry laws and land tenure in Indonesia, see Dunlop, J., (2009) *REDD, Tenure and Local Communities*, (Chapter 3); Marr, C. *Forest and mining legislation in Indonesia*, in Indonesia: Law and Society (ed. T. Lindsey) (2008); and Cotula, L, and Mayers, J., *Tenure in REDD: Start-point or afterthought*(2009), IIED, pp 42-44.

⁴⁵ The Ministry of Forestry and the Indigenous People’s Alliance (AMAN) have recently announced that they will work together to compile an inventory of customary land tenure

Laws regulating REDD activities

Indonesia is the first country in the world to introduce national laws to regulate REDD activities.

The Minister for Forestry has issued two Regulations and one Decision relating to REDD:

<i>Name of regulation</i>	<i>Description</i>
Regulation 68/2008 on the <i>Implementation of Demonstration Activities on REDD</i> ⁴⁶	A short Regulation addressing REDD demonstration activities.
Regulation 30/2009 on <i>Implementation Procedures for REDD</i> ⁴⁷	Main Regulation which sets out the approval process for REDD projects.
Decision 36/2009 on <i>Procedures for the Granting of Utilization of Carbon Sequestration or Sinks in Production Forest and Protected Forest</i> ⁴⁸	Sets out rules for revenue sharing for REDD projects. ⁴⁹

Regulation on Implementation Procedures for REDD (30/2009)

This Regulation sets out the process for the application, assessment, approval and issue of credits for REDD projects.

The Regulation identifies the types of areas in which REDD projects can be established. These include areas which are designated as customary forest (thus allowing an *adat* community to initiate and control the REDD process), and also include many areas in the State Forest Zone over which certain types of forestry concession have been issued (Art 3) (e.g., areas which are covered by a Wood Forest Product Licence).

The people who can initiate a REDD project (i.e. act as the proponent) (Art 4) include:

- the holder of the logging concession,

claims in the forest zone in order to assist with the implementation of this Regulation: IFCA Report (2008), p 14.

⁴⁶ Decree (PerMenHut) P.68/Menhut-II/2008, issued 11 Dec 2008.

⁴⁷ Decree (PerMenHut) P.30/Menhut-II/2009, came into force on 1 May 2009.

⁴⁸ KepMenHut P.36/Menhut-II/2009, issued on 22 May 2009.

⁴⁹ See the article, *REDD concerns deepen in Indonesia*, by REDD Monitor, which contains a description in English on the revenue sharing provisions of the Regulation: <http://www.redd-monitor.org/2009/10/06/redd-concerns-deepen-in-indonesia/>

- the administrative head of a Forest Management Unit within the State forest zone, or
- the Manager of a Customary Forest.⁵⁰

The proponent must then submit (along with other documents) a REDD Implementation Plan to the Minister of Forestry for approval (Art 12(1)). The application is assessed by the REDD Commission, following which the Minister decides whether to issue a REDD Implementation Licence (Art 12(2), (3)).

Regulation on the Procedures for Implementation of REDD (30/2009) requires the assessment of impacts on local communities before a REDD project is approved in two ways (although there is no details on how this is to be done):

- First, an application for a REDD Implementation Licence must show that it meets the criteria for selecting an appropriate location for a REDD project by demonstrating that the social, economic and cultural impacts are acceptable, by identifying the existence of conflict in the project area, and by identifying the involvement of stakeholders in forest management (Regulation, Appendix 2); and
- Secondly, the REDD Implementation Plan which the proponent submits to the Minister for approval must contain information about the social, economic and cultural impacts of the proposal, including an identification of the forest governance issues (Appendix 3).

FPIC analysis

Constitutional provisions

There is some Constitutional support for the principle that development should take place with the free, prior and informed consent of indigenous and local communities. In this regard, the Constitution expressly recognizes and respects the existence of *adat* communities in Indonesia, and recognizes their right to information.

However, where natural resources are concerned, recognition of *adat* community rights is clearly subordinated to the national interest. In relation to FPIC, it therefore follows that whilst the State may choose to recognize the right of *adat* communities to withhold their consent to REDD projects or activities as a *procedural matter*, the Constitutional framework does not permit this to be recognized as an enforceable legal right.

Analysis of REDD Regulations

For the reasons set out below, the current REDD regulatory regime in Indonesia does not establish or give effect to the right to FPIC.

⁵⁰ It is not clear whether “Manager” means the local customary community as direct managers, or the Minister for Forestry who is designated as the Forest Manager: Dunlop, J., (2009), p 25.

The regulatory scheme does not include any process or requirement to ensure that the free, prior and informed consent of indigenous and local communities is obtained before a REDD project can be approved by the Minister for Forestry. For example, Regulation 30/2009 does not establish any requirement that a REDD proponent consult or obtain the consent of the local community as a precondition to receiving approval.

Furthermore, the regulatory regime adopts the same forestry definitions as those in the 1999 *Forestry Law*,⁵¹ thus perpetuating the deficiencies in the Forestry Law which do not recognize customary land ownership claims in land located in the State forest zone. This presents significant problems when trying to give effect to the element of “consent” in FPIC.

For example, although the *Regulation on Implementation Procedures for REDD* (30/ 1999) gives some opportunity for adat communities to initiate and control REDD projects themselves, problems are likely to arise for local communities where another proponent (such as the holder of a timber permit) initiates the process without the agreement of the local community. This is because the 1999 Forestry Law and REDD regulatory regimes do not recognize customary land tenure rights and there is thus no legal basis on which an *adat* communities can withhold its consent to a REDD project, because their consent is not legally required. The result is that under the current REDD regulator regime it is possible for a timber permit to be issued and for that timber permit to be converted to a REDD Implementation Licence, all without the consent of the local community.

The UN Committee for the Elimination of Racial Discrimination⁵² has recently expressed concerns about the *Regulation on Implementation Procedures for REDD* (30/2009). On 13 March 2009, the Chairperson of the Committee wrote to the UN Ambassador for Indonesia outlining concerns about the failure of the Government of Indonesia to recognise the rights of indigenous people under its forestry laws, and more recently, under REDD regulations.

Concerns were expressed as follows:

“...the Committee has received information according to which Indonesia continues to lack any effective legal means to recognize, secure and protect indigenous peoples’ rights to their lands, territories and resources. For instance, it seems that Indonesia’s 2008 ‘Regulation on Implementation Procedures for Reducing Emissions from Deforestation

⁵¹ Article 1(3) provides “State forest is forest on land unencumbered by proprietary rights”; and Article 1(5) provides “Customary forest is state forest within an area of customary community [tenure]”: *Regulation on Implementation Procedures for REDD* (30/2009).

⁵² This Committee is established under the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (Art 8) to monitor the implementation of the Convention.

*and Forest Degradation' reiterates Law 41 of 1999 on Forestry that appears to deny any proprietary rights to indigenous peoples in forests."*⁵³

On 28 September 2009, the Chairperson of the Committee wrote to the UN Ambassador again, reiterating concerns that the property rights of indigenous people were not appropriately taken into account in the formulation of the Regulation, and expressing concern that indigenous peoples' rights to their lands, territories and resources may not be sufficiently protected.

⁵³ Letter dated 13 March 2009 from the Chairperson of the Committee for the Elimination of Racial Discrimination to the UN Ambassador for Indonesia:

http://www2.ohchr.org/english/bodies/cerd/docs/early_warning/Indonesia130309.pdf .

On 29 July 2009, a coalition of Indonesian NGOs (FPP, Sawit Watch, AMAN and others) sent a request to CERD requesting further consideration of the REDD issue:

http://www.forestpeoples.org/documents/law_hr/cerd_indonesia_urgent_action_jul09_eng.pdf.

Annex C: Table of FPIC procedures for UN-REDD Programme activities in Indonesia

Date: March 2010

[DRAFT FOR DISCUSSION WITH IP AND CSO ADVISORY GROUP]

This Table identifies three main consultation modalities:

1. National level consultation

- Information sharing and awareness raising of proposed UN-REDD activities.
- Consultations at national level, receiving inputs from IP and CSO Advisory Group.
- If negative feedback is received, then proposed activities will be reconsidered/revised and the consultation process will be repeated until general agreement can be reached.

2. Provincial and district level consultation

- Information sharing and awareness raising of UN-REDD activities at provincial and district levels.
- Hold workshops to receive input from major CSO/IP organizations at applicable level (provincial or district).
- Identification of relevant IP participants at provincial and local levels in the five target provinces (Aceh, Jambi, Central Kalimantan, Central Sulawesi and Papua).
- Active consultation with provincial and district level IP participants to identify key issues.

3. Community level consultation

- This refers to community-specific FPIC activities at the local level. The nature of each consultation and the extent to which consensus can be reached on any particular activity will vary with each community and/or village involved.
- The results of the FPIC process will be interpreted in accordance with the process set out in paragraph 4.5.1 of the FPIC Procedure, and the process itself will be reviewed by local CSO/IP representatives.
- Since most UN-REDD activities in the first phase (2009 – 2011) will not require direct access to land or to communities, the use of community level FPIC is unlikely to be extensive. Rather, the focus of community level

consultations will be to socialise and design an appropriate FPIC process in the pilot districts to prepare for the UN-REDD Programme's second phase.

Outcome 1: Strengthened multi-stakeholder participation and consensus at national level

<i>Output 1.1 (UNDP) Consensus on key issues for national REDD policy development</i> <i>Specific focus on five provinces: Aceh, Jambi, Central Kalimantan, Central Sulawesi and Papua</i>		
<i>Activity</i>	<i>Consultation</i>	<i>Means of verification</i>
1.1.1 UN-REDD Programme Management Unit facilitating multi-stakeholder activities	National level	Minutes of meetings show attendees from IP groups from provincial and community levels, and discussion of IP issues
1.1.2 National and sub-national consultations on key-issues	- National level - Provincial and district level consultations, where relevant	As above
1.1.3 Analyse key issues focusing on those related to REL	National level	Minutes of meetings
1.1.4 Facilitate inter-ministerial round table discussions on identified issues	National level	CSO/IP issues should be reflected in the inter-ministerial agenda
1.1.5 Prepare policy recommendations & develop roadmap for	National level	Policy recommendations and roadmap approved

issuing policies to address these issues		by National IP and CSO Advisory Group
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Output 1.2 (UNDP) REDD lessons learned		
<i>Activity</i>	<i>Consultation</i>	<i>Means of verification</i>
1.2.1 Establish national knowledge and learning network	National level: Seek comments from National level IP and CSO Advisory Group on how to incorporate IP inputs into proposed network	Approval of proposed national knowledge & learning network by National IP and CSO Advisory Group
1.2.2 Collaborate with ongoing initiatives to stimulate coordination and joint learning	National level: • Identification of other REDD learning activities (e.g. World Bank FCPF)	UN-REDD learning activities are coordinated with World Bank Forest Carbon Partnership Facility and other REDD programmes
1.2.3 Organize joint workshops	National level: • Develop workshop programme in consultation with National IP and CSO Advisory Group,	• Minutes of meetings • Workshop reports • Outcomes of workshops demonstrate

	World Bank FCPF, and other relevant REDD programmes	consideration of IP issues • Workshop results published on UN-REDD Indonesia website
1.2.4 Prepare publication on lessons learned	National level: • National IP and CSO Advisory Group reviews and provides comments on proposed publication.	• Publication considers IP issues • Publication made available in Bahasa Indonesia and other languages, as recommended by IP and CSO Advisory Group • Publication available on UN-REDD website • Publication made available to interested local communities

Output 1.3 (UNEP) Communications Programme		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>

Output 1.3 (UNEP) Communications Programme		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
1.3.1 Identify target messages, target groups and national partners	National level, and Provincial level: • Consultations will seek assistance in identifying target groups and target messages which are relevant to indigenous communities	• Minutes from meetings • Indigenous peoples and forest-dependent communities are identified as a target group • Target messages reflect IP concerns
1.3.2 Design awareness impact monitoring system, and assessing impact at completion	National and provincial level consultations	Minutes of meetings reflect consultation
1.3.3 Design social marketing campaign, focusing on high level government decision makers, as well as local resource users in the pilot districts	National, provincial and district level consultations	Marketing campaign reflects IP issues
1.3.4 Develop REDD information, education and communication (IEC) materials	National and provincial level consultations: Input sought when: • developing materials • Identifying language/dialect	IEC materials made available to indigenous communities in Bahasa Indonesia and relevant local languages/dialects

Output 1.3 (UNEP) Communications Programme		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
	requirements in target areas	
1.3.5 Conduct national communications campaign, targeting one or two drivers of deforestation (incl. High-level Government of Indonesia – UN conference, or panel in Jakarta)	National level: • Consultation to assist in identifying drivers of deforestation which are relevant to, and of concern to, indigenous communities	National communications campaign addresses drivers which are relevant to indigenous peoples
1.3.6 Conduct training on REDD – with emphasis on local level actors	National and provincial level (if applicable): • Consultation to identify training needs of indigenous communities	• Indigenous participants and representatives attend REDD workshops • Workshops address indigenous and local community issues

Outcome 2: Demonstration of establishing a REL, MRV and fair payment systems based on the national REDD architecture

Output 2.1 (FAO) Improved capacity and methodology design for forest carbon inventory within a Measurement, Assessment, Reporting and Verification System (MRV), including sub-national pilot implementation		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>

2.1.1 Review of existing standards and methodologies in MRV at national and sub-national levels	National level:	Minutes of meeting
2.1.2 Development of measurement protocols and sampling design for a national forest carbon inventory with reporting capability, building on the existing Indonesian national forest inventory system	National and provincial level consultations: Guidance sought on how to incorporate concerns of IP and local communities regarding measurement and sampling activities	- Minutes of meeting reflect national level consultation - Measurement protocols and sampling techniques take into account IP issues and concerns
2.1.3 Implementation of the forest carbon inventory in pilot provinces to assess carbon stock and carbon stock changes	Provincial and district level Community level consultation required for any on-ground activities	Minutes of meetings show provincial level consultation Consent forms (Annex F) indicate local community approval before activity begins
2.1.4 Development of methods for Reporting and Verification at sub-national level, consistent with national reporting requirements	Provincial and district level Community level consultation required for any on-ground activities	Consent forms (Annex F) indicate local community approval before activity begins
2.1.5 Implementation of Reporting and Verification in pilot	Provincial level	Standard procedure for reporting and verification

provinces	Community consultation level (if applicable)	reflects IP concerns
2.1.6 Workshop: Identification of additional data needs concerning socioeconomic aspect in MRV Training in monitoring and assessment methodology (with AusAID)	Provincial and district level consultation: • Comments sought to assist in identifying which socioeconomic aspects require additional data • Comments sought in design of workshop	• Indigenous people and local community representatives invited to participate in workshop • Workshop programme addresses any IP concerns

Output 2.2 (FAO) Reference emissions level (REL)		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
2.2.1 Review of methodologies for establishing REL at national and sub-national level	Provincial level Community consultation level (if applicable):	Final review document identifies issues relating to indigenous peoples, such as local level drivers of deforestation
2.2.2 Development of methodological options to establish REL at national and sub-national scale	Provincial level Community level, if on-ground activities will take place	Methodologies reflect inputs of Indigenous peoples and local communities

2.2.3	Compilation of data to support development of REL	N/A	N/A
2.2.4	Assessment of a provisional REL in a pilot province	Provincial and district level Community level consultation if on-ground activities will take place	Minutes of meetings Consent forms (Annex F) demonstrate FPIC given by local communities
2.2.5	Scientific peer review of provisional REL	N/A	N/A
2.2.6	Stakeholder consultations on REL methodological approach and provincial provisional REL	Provincial and district level	Minutes of meetings
2.2.7	Scientific peer review of REL methodological approach and provincial provisional REL	N/A	N/A

Output 2.3 (UNDP) Harmonized fair and equitable payment mechanism at provincial level		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
2.3.1	Compilation of existing payment systems	Provincial level: Minutes of meetings
2.3.2	Analysis / review of benefits and constraints of existing systems	Provincial level: Minutes of meetings
2.3.3	Options for modifications to meet requirements of a	Provincial level: Minutes of meetings

REDD payment system		
2.3.4 Stakeholder consultations	Provincial and district level: Comments sought from local communities in target areas regarding proposals for payment systems	Minutes of meetings
2.3.5 Integration of modifications to create a REDD payment system	Provincial and district level:	Report back to indigenous and local community groups on conclusions regarding REDD payment system
2.3.6 Training of local institutions	Provincial and district level	Workshop records show participation of indigenous and local community representatives

Output 2.4 (UNEP) Toolkit for priority setting towards maximizing potential carbon-benefits and incorporating co-benefits, such as biodiversity conservation and poverty alleviation under MDGs		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
2.4.1 Reach agreement in Indonesia on partner agencies, data	National level:	Minutes of meeting

sources, GIS development and site selection criteria		
2.4.2 Development and testing of the Priority Setting Toolkit (including short manual)	National level:	
2.4.3 Mapping of below and above ground carbon, inside and outside the Forest Estate, based on existing data sources and linkages to NCAS/FRIS (a) national reconnaissance level (b) detailed pilot province level	National level Provincial level Community level consultation required if access to land is involved	Consent forms (Annex F) indicate approval before activity commences
2.4.4 Overlay mapping and analysis co-benefits (minimally: biodiversity, water resources, pockets of poverty, others) for national reconnaissance level and one detailed pilot province level	National level Provincial level	
2.4.5 (GIS) Training of provincial staff in use of Priority Setting Tool	Provincial level	
2.4.6 Workshop on how to translate and integrate the results into local spatial planning process, national REDD policy, and decision taking	Provincial/district consultations:	Indigenous and local community representatives invited to workshop. Workshop addresses IP issues.

Outcome 3: Capacity established to implement REDD at decentralized levels

Output 3.1 (UNDP) Capacity for spatial socio-economic planning incorporating REDD at the district level		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
3.1.1 Develop a comprehensive baseline dataset and identify areas of REDD-eligible forest	Provincial and district level	Baseline data set reflects IP issues
3.1.2 Analyse the opportunity costs of alternative land uses	Provincial and district level Community level, if access to land is required	Analysis includes consideration of IP issues
3.1.3 Analyse the potential socio-economic impacts of REDD on communities	Provincial and district consultations Community level consultation if on-ground activities are involved	Analysis addresses IP issues
3.1.4 Mainstream REDD into existing spatial planning and forest utilization planning at provincial and district levels	Provincial and district level:	
3.1.5 Develop district based consensus on land – and forest use allocation at district and provincial levels	Provincial and district level	
3.1.6 Approve the REDD mainstreamed spatial plan	Provincial and district level	

Output 3.2 (UNDP) Empowered local stakeholders are able to benefit from REDD		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
3.2.1 Capacity needs assessment	National level Provincial and district level Community level, if access to land or communities is involved	Assessment reflects needs of indigenous and local communities
3.2.2 Design of capacity building and training	National level Provincial and district level	Further development of FPIC process in anticipation of future REDD pilot projects
3.2.3 Training of trainers	National level Provincial and district level	Training programmes address needs of indigenous and local communities
3.2.4 Conduct of training and other capacity building activities	National level Provincial and district level Community level, if access to local	Local communities have given FPIC to training activities (Annex F)

Output 3.2 (UNDP) Empowered local stakeholders are able to benefit from REDD		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
	communities is required for capacity building	
3.2.5 Assessment of follow-up activities required to improve and sustain capacity	National level District level Community consultation level	Follow up addresses IP issues

Output 3.3 (UNDP) Multi stakeholder-endorsed District plans for REDD implementation		
<u>Activity</u>	<u>Consultation</u>	<u>Means of verification</u>
3.3.1 Assess five districts in which REDD is most feasible	District level	Minutes of meetings
3.3.2 Socialize REDD to these districts	District level	
3.3.3 Invite these districts to present their proposals and ensure political readiness to implement REDD	N/A	Proposals should address how FPIC will be achieved in each district
3.3.4 Agree with the selected district on an implementation framework	District level	The implementation framework should contain a clear FPIC process for the district.

Annex D: Notification of interest to participate

[DRAFT FOR DISCUSSION]

UN-REDD Indonesia will place a quick link to this downloadable form on its website.

UN-REDD
Programme
in Indonesia

REQUEST BY INDIGENOUS AND CIVIL SOCIETY GROUPS TO PARTICIPATE IN THE UN-REDD PROGRAMME

I am / we are a: * group *[INSERT NAME]*

 * Individual *[INSERT NAME]*

I am /we are located at: *[insert address, province]*

My / our contact details are: *[insert phone number, email address, etc]*

Our organization wishes to nominate itself for participation in the following UN-REDD activities in Indonesia:

- Indigenous Peoples and Civil Society Organizations Advisory Group.
- An observer at meetings of the Programme Executive Board. I would be grateful if the UN Resident Coordinator would present this request to the Programme Executive Board.

I /we wish to participate in the following UN-REDD Programme activities:

- Workshops on REDD (national / regional/ local)
- Seminars

We request a training seminar on REDD be provided to our community.

I / we wish to be added to the UN-REDD mailing list to receive publications and newsletters of UN-REDD activities in Indonesia. I / we can be contacted by post/email (choose one).

Signature

Date

Please submit this form to: [insert name, address and email of person in UNDP]

Annex E: Form for initiating community-level contact

[DRAFT FOR DISCUSSION]

Procedures for seeking permission from community to begin REDD activities on land owned or occupied by

[insert name of village/peoples]

[INSERT NAME OF REDD ACTIVITY]

Name of Village 1 (*Desa*):.....

Village 2 (*Desa*):

Name of Ward (*Kelurahan*):.....

Name of Sub-district (*Kecamatan*)

Name of District (*Kabupaten*):.....

1. Community right to information, consultation and participation

We believe that, by virtue of our significant and long-standing relationship to the lands and other natural resources on the land described below (paragraph 3), that we are entitled to make decisions regarding the use of these lands and natural resources.

We believe that these rights should be respected and set out the following procedures to secure respect for our rights in relation to any activities concerning Reduced Emissions from Deforestation and Forest Degradation (**"REDD activities"**).

2. Purpose of these procedures

These procedures:

- (a) describe our community's expectations regarding the behaviour of those people or organizations who wish to consult with us about using, occupying or accessing any part of our land and other natural resources which are occupied or traditionally used by us; and
- (b) provide guidance to people who wish to consult with us about these matters.

3. Land area covered by these procedures

The land area which these procedures apply to are: *[describe areas of land covered by this agreement]*.

These areas of land are shown on the map in Attachment A *[attach map if available]*.

4. What these procedures apply to

These procedures apply to the entire decision-making process, including:

- the process of educating our community about REDD,
- any initial decision regarding the site of any REDD activities,
- the design of REDD activities, and
- any assessment of the social, environmental, economic or other impacts of those activities.

We must be contacted beforehand and fully informed about the potential REDD activities before any decisions are made regarding these matters. UN-REDD must provide additional information about their proposals in response to reasonable requests from our community.

We have the right to give or refuse consent for any REDD activities on or affecting our land, natural resources or livelihoods. Our consent must be evidenced by a Certificate of Consent (see model certificate attached) which is marked or signed by our authorized representatives.

5. Our authorized representatives

Authorised groups

The following indigenous or civil society groups are appointed by us to participate in decision-making activities on REDD on our behalf:

- *[insert name of Civil Society Organisations]*.
This group is located at *[insert location of office]*, and can be contacted by *[insert how to contact: e.g. email/phone/fax/in person...]*
- *[insert name of CSO 2, (if more than one group is appointed) etc...]*
This group is located at *[insert location of office]*, and can be contacted by *[insert how to contact...]*.

Authorized individuals

The following individuals are appointed by us to participate in decision-making activities on REDD on our behalf:

- *[insert name/s of any individuals appointed, e.g. Village Chief, etc]*.
This person is located at *[insert address for contact]*, and can be contacted by *[insert how they can be contacted, e.g. in person, etc]*
- *[insert name of individual 2, if more than one person is appointed], etc...*

6. Languages or dialects

Engagement with our community must occur in *[insert name of language or dialect spoken in village or community]* language.

All documents describing or explaining the REDD activities should be given to us in Bahasa Indonesia and also in *[insert name of local language or dialect]* language and must be fully explained to the community.

7. Cultural requirements for engagement

The following traditions of our community must be respected:

- *[insert list of traditions, e.g. visitors to our land must contact our Village Chief first before entering the community, all visitors must dress appropriately, visitors should use a respectful means of address].*
- *[insert tradition 2, etc]*

Annexed to this form is an orientation to our community which more fully describes our people, our cultural traditions, and their significance to visitors to our community, and any proposed REDD activities. **[DELETE IF NOT RELEVANT]**

8. Timeframes

The number, location and timing of meetings must be agreed upon by our authorized representatives.

It is essential that our community is given adequate time to consider and discuss any proposal for any REDD activities.

After any meetings with UN-REDD, our authorized representatives will seek to reach agreement with UN-REDD on the timeframe within which our decisions will be made.

9. UN-REDD must disclose relationships

UN-REDD must disclose to us its relationships with any person or any institution related to the REDD activities, including:

- the organization or company which will be carrying out the activities,
- which government departments will be involved,
- which research institutions will be involved, and
- the names of any consultants.

10. Evidence of consent

The only valid evidence of consent is a Certificate of Consent that is marked by our authorized representatives. No other form or evidence of consent is valid. (Attach example of Certificate of Consent).

Signed by: (signature)

Print name:

At (place):

On (date):

Witnessed by:

[Witness 1]..... [sign and print name]

[Witness 2].....[sign and print name]

[Witness 3]..... [sign and print name]

Annex F: Certificate of consent – Village level

[DRAFT FOR DISCUSSION]

[INSERT NAME OF PROJECT]

Name of Village (*Desa*):

Name of Ward (*Kelurahan*):

Name of Sub-district (*Kecamatan*)

Name of District (*Kabupaten*):

I ... [*insert name*] ..., in my capacity as Village Chief (*Kepala Desa*) of ... [*insert name of village*] ... Village, confirm that the aims and proposed activities of the UN-REDD Programme, which are listed below, were presented to my village: [*insert below the list of UN-REDD activities which were presented*]

- [*description of activity*]
- [*description of activity*]
- [*description of activity*]

This/these presentation/s took place on [*insert date/s*] at [*insert place/s*].

I also confirm that the villagers named in Annex 1 attended this/these presentation/s.

Since the presentation/s, we have had the opportunity to discuss the aims and proposed activities of the UN-REDD Programme and we have reached the following conclusions:

The process by which the aims and proposed activities of the UN-REDD programme have been presented and explained to us [has been / has not been] [*delete one*] free from coercion, intimidation or manipulation.

The aims and proposed activities of the UN-REDD programme [have / have not] been [*delete one*] presented and explained to us *before* the proposed activities have started.

We [have been / have not been] [*delete one*] provided with sufficiently clear and complete information to allow us to reach agreement.

On the basis of this/these presentations and other information, [we do/do not] [*delete one*] consent to the proposed activities taking place.

Our additional comments on each of these points, and on the proposed aims and activities of the UN-REDD programme, are provided in Annex 2 to this document.

Signed by: (signature)

Print name:

At (place):

On (date):

Witnessed by:

[Witness 1]..... [sign and print name]

[Witness 2].....[sign and print name]

[Witness 3]..... [sign and print name]

Annex 2: Additional comments

[leave answers blank if not relevant]

1. The process was not free of coercion, intimidation or manipulation because (or could have been made freer by...):

2. The information provided was not adequate because (or could have been improved by...):

3. We did/did not [delete one] have enough time to make a decision.

4. We would reconsider our decision to withhold our consent if:

5. We request the following kinds of assistance to help our community in working with the UN-REDD Programme in the future (list suggestions for capacity-building):

6. We wish to make the following suggestions concerning the aims and proposed activities of the UN-REDD programme:

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