



# Guidelines on FPIC for REDD+ in Papua New Guinea

*Office of Climate Change &  
Development*



**OFFICE OF CLIMATE CHANGE  
& DEVELOPMENT (OCCD)**

*Final Working Draft Guidelines on FPIC for REDD+  
In Papua New Guinea, Version 4*



OFFICE OF CLIMATE CHANGE  
& DEVELOPMENT (OCCD)

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A joint field visit to some of the REDD pilot demonstration sites was also conducted by OCCD, UN-REDD Programme, DLPP and PNGFA to collect views and understand some of the issues underlying community engagement in the project sites. The field visit conducted by the joint team provided some useful data to demonstrate our understanding on some of the important requirements of *Free, Prior and Informed Consent*, particularly in **awareness-raising, representation and participation, decision-making, documentation, and grievances and disputes**. A “**Mission Report: Strengthening Draft National FPIC Guidelines for REDD+ in Papua New Guinea**” was established by UN-REDD Programme after the field visits to support and strengthen this Guidelines. Comments from stakeholders have been collected and with the support of the UN-REDD Programme, a final draft of the Guidelines will be completed and approved for use in Papua New Guinea.

## Status of the Guidelines

This is a revised ‘*Final Working Draft*’ of an earlier version, “*Guidance to Establishing Free, Prior, and Informed Consent for REDD+ Projects in Papua New Guinea*”, produced by OCCD in 2011, and is not final. This revised version has undergone extensive stakeholder comments and expert reviews, including a final Validation Workshop on the 9<sup>th</sup> of July 2014 before it is finalized as a “Final Working Draft” of the *Guidelines on FPIC for REDD+ in PNG*.

This Final Working Draft of the Guidelines will be further field tested in a REDD+ pilot activity in the country before it can be finalised and endorsed by the Government of Papua New Guinea to be applied in *FPIC* engagement in PNG. Upon endorsement by the Government, these Guidelines are mandatory for all REDD+ actions, activities and projects in PNG, and are to be complied with by all REDD+ proponents.<sup>1</sup>

Furthermore, based on the application of these Guidelines, increase information and experience related to its application *FPIC* in REDD+ activities in PNG, and continued inputs and feedback from the Governments, customary landowners and forest dependent customary landowners, practitioners and experts, NGOs and civil society organisations, the Guidelines will be improved on a continuous basis.

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<sup>1</sup> Although these Guidelines are specifically meant for implementing *FPIC* in REDD+ programs and/or activities, it may also be applicable to other PES activities in the country where the rights of customary landowners may be affected.

## Abbreviations

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CBO	Community Based Organisations
CCDS	Climate-Compatible Development Strategy
CDM	Clean Development Mechanism
CEDAW	Convention to Eliminate Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
COP/MOP	Conference of the Parties, serving as the Meeting of the Parties
CRC	Committee on Rights of Child
CSO	Civil Society Organisations
DAL	Department of Agriculture and Livestock
DEC	Department of Environment and Conservation
DFO	District Forestry Officer
DLPP	Department of Lands & Physical Planning
DMT	District Management Team
FCPF	Forest Carbon Partnership Facility
FPIC	Free, Prior and Informed Consent
GDP	Gross Domestic Product
GoPNG	Government of Papua New Guinea
ICCPR	International Convention on Civil and Political Rights
ICESCR	International Convention on Economic, Social and Cultural Rights
ILG	Incorporated Land Group
ILO	International Labour Organisation
JDP & BPC	Joint District Planning and Budget Priority Committee
JICA	Japanese International Cooperation Agency
JPP & BPC	Joint Provincial Planning and Budget Priority Committee
KP	Kyoto Protocol
LLG	Local Level Government
MDGs	Millennium Development Goals
MEAs	Multilateral Environmental Agreements
MRV	Measuring Reporting and Verification / Monitoring Reporting and Verification
MoA	Memorandum of Agreement
NEC	National Executive Council
NGO	Non-Governmental Organisation
NSO	National Statistical Office
OCCD	Office of Climate Change and Development
PEC	Provincial Executive Council
PES	Payment for Environmental Services
PFO	Provincial Forest Officer
PMT	Provincial Management Team
PNGRIS	PNG Resource Information System
PNGFA	Papua New Guinea Forest Authority
PNG	Papua New Guinea
RED	Reducing Emissions from Deforestation
REDD	Reducing Emissions from Deforestation and forest Degradation
REDD+	Reducing Emissions from Deforestation and forest Degradation plus Conservation, Sustainable Management of Forests and Carbon Stock Enhancement
SGS	Societe General de Surveillance
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UN-REDD Programme	The United Nation Collaborative Programme on Reducing Emissions from Deforestation and forest Degradation in Developing Countries
UNFCCC	United Nations Framework Convention on Climate Change
VCS	Verified Carbon Standard

## Table of Contents

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i. Acknowledgement .....	2
ii. Status of the Guidelines.....	2
iii. Abbreviations .....	3
<b>1. Introduction .....</b>	<b>7</b>
1.1 Objective of Guidelines.....	7
1.2 Intended Users.....	7
1.3 Background.....	7
1.4 Climate Change in the Forestry Context.....	8
1.5 REDD+ and Social Safeguards.....	9
<b>2. FPIC (FPIC) .....</b>	<b>10</b>
2.1 Defining Different Elements of FPIC .....	11
2.1.1 Free .....	11
2.1.2 Prior .....	12
2.1.3 Informed .....	12
2.1.4 Consent .....	12
2.2 When is FPIC required?.....	13
2.3 At what Level is FPIC Applied?.....	14
2.4 Who Seeks Consent?.....	14
2.5 Who Gives Consent?.....	15
2.6 Outcome of FPIC Process?.....	16
<b>Part A: Normative and Policy Framework.....</b>	<b>18</b>
<b>3. Normative Framework .....</b>	<b>19</b>
3.1 National Obligations .....	19

3.2 International Obligations .....	20
3.3 PNG and UNFCCC.....	20
3.4 PNG and Other Related Conventions.....	21
3.5 International Treaties on Human Rights.....	21
<b>4. Policy Framework.....</b>	<b>22</b>
4.1 What is the role of the Government of Papua New Guinea? .....	22
4.2 National-Level Governance Structure for REDD+ Management in Papua New Guinea.....	22
4.3 Office of Climate Change and Development.....	23
4.4 Papua New Guinea Forest Authority.....	23
4.5 Other related Agencies.....	24
<b>Part B: Operational Framework.....</b>	<b>26</b>
<b>5. Operational Framework.....</b>	<b>27</b>
5.1 Objective of Operational Framework.....	27
5.2 Type of Users.....	27
5.3 Three-Stage Approach .....	27
5.4 Stage 1: Determine Applicability of FPIC.....	28
5.5. Stage 2: Identify User Category.....	30
5.6 Stage 3: Indicative Steps to Conduct FPIC.....	30
5.6.1 Section A: Implementing FPIC at the National Level.....	30
5.6.2 Section B: Implementing FPIC at the Provincial and District Level.....	32
5.6.3 Section C: Implementing FPIC at the Project Level.....	35
5.6.4 <i>Indicative Steps to Conduct a FPIC Process in REDD+</i> .....	42
<b>6. National-level Grievance Mechanism.....</b>	<b>43</b>
<b>7. Annexes.....</b>	<b>44</b>
7.1 Annex 1: Key Principles of FPIC Process in REDD+ Development.....	44

7.2 Annex 2: Stakeholder Engagement: Effective and Equitable Gendered Participation and Representation in Decision-Making.....	47
7.3 Annex 3: Papua New Guinea National Constitution.....	48
7.4 Annex 4: PNG National Goals and Directive Principles.....	49
7.5 Annex 5: National and International Legal and Policy Framework.....	53
7.5.1 <i>National Legal and Policy Framework</i> .....	53
7.5.2 <i>International Legal and Policy Framework</i> .....	56
7.6 Annex 6: Summary Guide for Affected Customary landowners in the FPIC Process.....	59
7.6.1 <i>Guiding Questions for Affected Landowner Representatives and Affected Customary landowners</i> .....	60
7.7 Annex 7: Obtaining and Verifying Consent.....	62
7.7.1 <i>Issues and Questions to be considered when Verifying Consent</i> .....	66
7.8 Annex 8: Role of Independent Evaluators.....	68
7.9 Annex 9: National-Level Grievance Mechanism (FCPF Readiness Fund: Guidelines for establishing Grievances and Redress Mechanism at the country Level) .....	69
7.10 Annex 10: FPIC Proposal Template .....	70
8. Glossary .....	71
<b>9. Reference.....</b>	<b>73</b>

# 1. Introduction

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The Guidelines on FPIC for REDD+ in Papua New Guinea builds on the Joint Stakeholder Engagement Guidelines developed by the UN-REDD Programme and the World Bank hosted Forest Carbon Partnership Facility (FCPF), the UN-REDD Programme Guidelines on FPIC, and broad multi-stakeholder consultations. It is divided into two main parts: “**Part A**” outlines the **Normative and Policy Framework** by setting out the roles and responsibilities of the Government of Papua New Guinea in seeking Free, Prior and Informed Consent (FPIC); while “**Part B**” looks into the **Operational Framework** and provides a logical flow to the implementation of FPIC.

## 1.1 Objectives of Guidelines

The Guidelines will:

- Assist users to identify when FPIC is required; at what level it shall be applied; who seeks consent; who gives consent; and how outcomes shall be documented; and,
- Provide guidance in the design and implementation of consultative and participatory processes where FPIC is required for REDD+ programs and activities.

## 1.2 Intended Users

The intended users of this guide are:

- REDD+ proponents, including national and sub-national levels of government, as well as project proponents/developers.
- Non-Governmental Organizations (NGOs), Civil Society Organizations (CSOs) and other independent experts working to support customary landowners and local communities or supporting REDD+ proponents.
- Certifying bodies and independent observers/verifiers.

The guidelines also applies to stakeholders, in particular, customary landowners and local communities in or near REDD+ project areas whose free, prior and informed consent is sought for the proposed REDD+ program or activities.

As will be subsequently outlined, users need to be aware of the requirements of FPIC and therefore shall follow the guidelines accordingly when implementing REDD+ programs and activities in Papua New Guinea.

The guideline will use the term “*customary landowners and local communities*” to refer to clans and communities who have customary rights over the land and resources on the land. It also recognizes that there may be clans and communities who do not own land, but may be accorded use rights over land and resources on the land. Therefore for the purpose of this guideline the term will also include other primary users of forests such as women, youth, marginalized<sup>2</sup> and vulnerable<sup>3</sup> groups who play either a direct or indirect role in forest management and use.

## 1.3 Background

PNG is the largest of the Pacific Island nations, both in terms of population, estimated at some 7.2 million people in 2012, and in terms of land mass, covering approximately 460,000 square kilometres. Around 87 per cent of the population lives in rural areas of PNG’s varied and rugged terrain that supports an extraordinary range of

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<sup>2</sup> Marginalized refers to individuals or group of people within a community that are regarded as less important or insignificant due to their lower status within the community, e.g. individuals or group of people who have user rights to a forest area or land.

<sup>3</sup> Vulnerable refers to elderly, young and poor (source: World Health Organization).

ecosystems and biodiversity, most of which are not accessible by road. The country has a rich and unique cultural and ethnic diversity, with some 854 languages spoken by a population distributed over the mainland and the many islands. The population is forecast to grow to more than 11 million by 2050. Currently 40 per cent of the population is under the age of 18.

Legitimate land ownership and the right to exploit most natural resources are vested with the people and protected by the constitution. Land tenure is divided into two categories, Alienated Land and Customary Land. The former takes up 3 per cent of total land mass, and is owned and administered by the State through leasehold and freehold interest. The latter consists of the remaining 97 per cent and is owned by the indigenous peoples<sup>4</sup> of PNG whose ownership rights and interest is regulated by their customs.

## **1.4 Climate Change in the Forestry Context**

PNG has one of the most significant areas of largely intact tropical forest in the world, though these forests appear to be facing acute and imminent threats. Together with Irian Jaya (Papua) Province of Indonesia, the forests of PNG are the third largest expanse of rainforest on earth after the Amazon and Congo basins.

Forests are vital resource for the local population particularly in remote PNG. They provide food, fibre, building materials, and support a variety of wildlife, ecosystem services such as carbon sequestration, watershed protection, water supply, soil stability and fertility. Almost, 85 per cent of the population rely directly on subsistence farming and the forests for their basic needs and have little if any contact with the formal economy.

The forest resources also represent an important renewable and natural asset, which can be utilized on a sustainable basis to generate wealth in support of socio-economic development. In Papua New Guinea, the forest industry is one of the few industries that operate in remote areas of the country. The industry creates opportunities for rural communities to enter the formal workforce and improve their standard of living using money earned as wages. Also, forest companies operating in the logging area create basic infrastructure such as roads, bridges, schools and health centres. In the absence of government support, the presence of the forestry industry in rural areas is usually seen as a proxy for government with communities becoming entirely dependent on the forestry operations to act as the government body and the business entity to provide service to the community.<sup>5</sup>

In terms of financial contribution, PNG's real GDP was about K8,084.4 million in 2005.<sup>6</sup> The agriculture, forestry and fisheries sector contributes about 38.5 percent to the real GDP.<sup>7</sup> Using the relative values of exports generated by the forestry sector alone in 2005, this suggests that forestry's contribution to real GDP in 2005 was as high as 9.2 percent of total real GDP. Other contributions from the forestry sector include – Central government revenue contribution. Apart from royalty payments made to landowner groups and the provision of services in remote areas, the forestry industry also makes substantial contributions to state revenues in the form of both income tax payments and log export tax payments. Log export tax payments alone in 2005 equates to 2.4 percent of total central government revenue (excluding receipts from borrowings);<sup>8</sup>

Also, export earnings from forestry contribute significantly to government revenue, which underpin and enable a very large percentage of national and provincial government spending. The forest industry has mainly been log export oriented. About two million cubic metres of tropical logs are exported annually making PNG the world's second largest exporter of tropical logs after Malaysia.<sup>9</sup> According to PNGFA, in 2005, the export of forest products represented 4.7 percent of the value of all exports from PNG (K10,147.5 million) making forest products the largest non-mineral export from PNG in terms of value<sup>10</sup>. This makes forestry the second largest contributing sector to

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4 The Guidelines will use the term "customary landowners" to refer to indigenous peoples and communities who have customary rights over land and resources on the land. It also recognizes that there may be communities who do not own land, but may be accorded use rights over land and resources on the land. It includes other primary users of the forests who may not be formal "customary landowners", such as women, youth, marginalized and vulnerable groups who play either a direct or indirect role in forest management and use.

5 <http://www.forestry.gov.pg/site/page.php?id=40>

6 *Ibid.*

7 *Ibid.*

8 *Ibid.*

9 *Ibid.*

<sup>10</sup> In 2007 Percentage of GDP by Economic Activity in the Agriculture/forestry/fisheries sector is estimated at 32 percent. In 2008 and 2009, there was an estimated increase in percentage from 34 – 35 percent. In the following years from 2010 to 2016, the percentage is predicted to drop considerably from 35 percent at 2009, to about 31 percent in 2010 and 2011. Again, this is predicted to drop further to about 24 percent in 2016 (source: NSO and Treasury forecast).

PNG's economy after the mining and petroleum sector.<sup>11</sup> However, export earnings from the forestry sector are expected to decline in the coming years due to a slowdown in export markets.

Another area of contribution is employment. The forestry sector employs directly about 7,000 people with half working in logging operations and the other half employed in other activities such as veneer processing, timber processing, carpentry, and supporting workshop/engineering services.<sup>12</sup> Downstream processing of forest products in PNG have for the last several years, been the fastest growing manufacturing sector of the economy. Log exports have declined by over 33 percent since the Asian currency crisis of 1997, and declined again in 2004 compared to 2003; this at a time when other exporting countries are increasing production and exports. On the other hand, exports of downstream processing products have increased by over 200 percent since 1997 (in US dollar value) and by almost 10 percent in 2004 compared to 2003.<sup>13</sup>

The changing global climate has been attributed to increasing greenhouse gases, and deforestation and degradation of tropical forests has been estimated to be responsible for approximately 18 percent of global anthropogenic emissions of carbon dioxide (CO<sub>2</sub>), larger than the entire global transportation sector.<sup>14</sup> In PNG alone deforestation and degradation through logging and agricultural activities (including subsistence agriculture, agriculture leases and commercial agriculture) contribute 95 percent of the country's total emission, while the other 5 percent comes from mining, petroleum, manufacturing, transport and the energy sectors.<sup>15</sup>

It is very challenging for PNG's economy to completely do away with logging activities in the forestry sector; however, the sector may need to adapt to changes in market demands and trends in order to still contribute to the country's economy.

REDD+ is therefore seen as a suitable mechanism for PNG to reduce its higher emissions in the land use and land-use change and forestry sector, yet can contribute to its economic developments and GDP. REDD+ benefits are multiple, and provides an opportunity for the country to bring about sustainable development to rural communities as-well as to encourage the local communities to preserve their forests from logging, oil palm and other land use activities that will cause destruction to their standing forests.

## **1.5 REDD+ and Social Safeguard**

Being a strong advocate of REDD+ under the UNFCCC and a partner country under the UN-REDD Programme, GoPNG has recognised the critical role of customary landowners in the long-term sustainability and effectiveness of REDD+, and has prioritised stakeholder engagement from its inception, with the goal of supporting the implementation of the UNFCCC Cancun safeguards for REDD+ that require: "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, as well as noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples [UNDRIP]" and "The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities" A key component of effective stakeholder engagement and consultation is FPIC (FPIC), which is set out in the UNDRIP.

Learning from the experiences of other income generating industries such as mining, petroleum and logging, introducing REDD+ will also bring with it greater risks to customary landowners and other stakeholders, such as women, youth, other marginalized and vulnerable forest users, who will be directly affected by the activities. It does not just affect their livelihoods, welfare, and income, but also their social order, identity, and culture. Given that these customary landowners and stakeholders either own and/or depend on forest resources that are on ancestral and customary lands managed sustainably over the generations, lessons from these industries also show that the success of REDD+ implementation will be affected by their full and effective participation. It is fundamental that their needs, rights and interests are recognized and addressed in the design and implementation of REDD+. In this effort, ensuring participatory and inclusive REDD+ interventions, consultation and participation, which effectively engage both men and women stakeholders in decision-making, can help result in a greater likelihood of sustained change in the way forest resources are used, thereby contributing to the sustainability of the REDD+ activities.

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<sup>11</sup> *Ibid.*

<sup>12</sup> <http://www.forestry.gov.pg/site/page.php?id=40>

<sup>13</sup> <http://www.forestry.gov.pg/site/page.php?id=40>

<sup>14</sup> <http://www.redd-oar.org/>

<sup>15</sup> Source: REDD+ Technical Working Group (2010).

## 2. Free, Prior and Informed Consent (FPIC)

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The right to Free, Prior and Informed Consent (FPIC) is seen as one of the key principles of international human rights law to protect customary landowners and local communities from serious negative impacts on their lives, cultures and livelihoods. Obtaining the FPIC of customary landowners and local communities, before undertaking any REDD+ programs or activities on lands they own and/or use, is therefore an important requirement for all REDD+ proponents in PNG.

As of yet there is no internationally agreed definition of Free, Prior and Informed Consent (FPIC). A plain and general description of FPIC is:

*The right to participate in decision-making and to give, modify, withhold or withdraw consent to an activity affecting the holder of this right. Consent must be freely given, obtained prior to implementation of such activities and be founded upon an understanding of the full range of issues implicated by the activity or decision in question; hence the formulation: FPIC.<sup>16</sup>*

FPIC in the context of PNG is the collective right of the people to give or withhold consent and applies to all activities, projects, legislative or administrative measures, and policies that take place in or impact the lands and resources or otherwise may affect the livelihoods of customary landowners and local communities. Apart from being a collective right, it is also a consultative process where potentially affected landowners engage in an open and informed dialogue with REDD+ proponents that are interested in developing REDD+ programs or activities in areas traditionally owned and/or used by customary landowners and local communities.

The implementation of the right to FPIC can be very challenging. It requires the identification of all potentially affected customary landowners and local communities with customary rights to land or resources in and around the proposed REDD+ project area and then, if these right holders are interested, an extensive and repetitious process of engagement is carried out. During this process the affected communities must be given enough time and information to be able to give or withhold their consent, free of coercion or manipulation, at various stages of the process. This process entails among others, communication in ways the communities can understand, agreeing on inclusive decisions models, capacity building, participatory mapping and participatory impact assessment and fair negotiations. It may result in a negotiated consent agreement on the proposed REDD+ activities, or the affected communities may decide to withhold their approval indefinitely, or until certain conditions are met.<sup>17</sup>

Moreover, the affected customary landowners need to be fully informed and consulted during the process, and where required, to freely give or withhold their consent for any REDD+ programs or activities that may potentially impact them. These processes shall build on institutions and mechanisms to ensure effective and inclusive consultation and participation that will act as a social safeguard to customary landowners who may be directly involved and be potentially affected by any means or actions from the REDD+ program or activity. Customary landowners shall not only know how they will benefit from the REDD+ program or activity, but also what the risks are before any decisions from their part are required. However, respecting the right to FPIC cannot be reduced to a process with boxes that can be 'ticked' as they are completed. The right of customary landowners to give or withhold their consent to any developments that may affect their land or territory is part of their collective right to self-determination as embodied in Papua New Guinea's National Constitution and enshrined by the National Goals and Directive Principles, including the right to determine what type of process of consultation and decision making is appropriate for them.

### 2.1 Defining Different Elements of FPIC

The "principles of consultation and consent together constitute a special standard that safeguards and functions as a means for the exercise of indigenous people's substantive rights. It is a standard that supplements and helps

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<sup>16</sup> Taken from FSC guidelines for the implementation of the right to free, prior and informed consent (FPIC), Version 1, 30 October 2012.

<sup>17</sup> Adapted from FSC guidelines for the implementation of the right to free, prior and informed consent (FPIC), Version 1, 30 October 2012.

effectuate substantive rights, including the right to property, and other rights that may be implicated in natural resource development".<sup>18</sup>

FPIC can have the effect of reversing the historical pattern of exclusion from decision-making in order to avoid the future imposition of important decisions on indigenous peoples, allowing them to continue to live as distinct landowners on lands to which their cultures remain attached.<sup>19</sup>

FPIC can be applied in REDD+ and any other activities that could significantly impact the substantive rights of the indigenous peoples. It is important to note that FPIC is a collective or community right and not just an individual right. (Refer to Annex 1: Key Principles of FPIC Process in REDD+ Development)

FPIC shall be sought before any of the following actions can be taken:

- a) When making decisions on projects or programs that may take place in or impact the lands and, resources or otherwise affect the livelihoods of customary landowners and local communities, including REDD+, CDM, mining, petroleum, and other developments, including the use of sacred cultural sites, etc.;
- b) When making decision on the use of biological materials, traditional medicines and knowledge, including artwork, dance and song;
- c) When making agreements or treaties between government and the people;
- d) When creating laws or policies that affect the people; and,
- e) When undertaking actions that could lead to force removal of people from their land or country, etc.

The list of actions is not exhaustive.

When considering activities, projects, legislative or administrative measures, and policies that may potentially affect the lands, resources (or livelihoods) of customary landowners and local communities; governments and REDD+ proponents shall provide the potentially affected customary landowners the opportunity to give or withhold their consent. Through mechanisms for consultation and participation, REDD+ proponents shall negotiate with the affected customary landowners in good faith, without a predetermined outcome before making any decisions regarding the development of the activity.

For government, this is much stronger than an obligation to just provide information or 'consult' to gauge the views of the people at the implementation site. Governments and project proponents shall not impose their position onto the people, without first taking their rights into consideration.

The following defines the different elements of **Free, Prior and Informed Consent**:

### 2.1.1 Free

Free refers to a process that is self-directed by the customary landowners from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed:

- *Process is free from coercion, bias, conditions, bribery or rewards;*
- *Stakeholder determine process, timeline and decision making structure;*
- *Information is transparently and objectively offered at all stakeholders request;*
- *Meetings and decisions take place at locations and times and in language and formats determined by the stakeholders; and,*
- *All community members are free to participate regardless of gender, age or standing.*

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<sup>18</sup> Report of the Special Rapporteur on the rights of indigenous peoples, supra note 12, para. 49

<sup>19</sup> Ibid., at para. 41.

## 2.1.2 Prior

Prior refers to a period of time in advance of an activity or process when consent shall be sought, as well as the period between when consent is sought and when consent is given or withheld.

- *Prior implies that no project activity implementation takes place, before a decision by the customary landowners and local communities has been made.*
- *Enough time is provided to understand, access, and analyse information on the proposed activity. The amount of time required will depend on the decision-making processes of the customary landowners;*
- *Consultation must occur before the proposed activity is finalized and implemented.*
- *The decision-making timeline established by the customary landowners must be respected, as it reflects the time needed to understand, analyse, and evaluate the activities under consideration.*

## 2.1.3 Informed

Informed refer to the type of information that shall be provided prior to seeking consent and also as part of the on-going consent process. This means that information shall:

- *Be provided before activities can be initiated, at the beginning or initiation of an activity, process or phase of implementation, including conceptualization, design, proposal, information, execution, and following evaluation;*
- *Be accessible, clear, consistent, accurate, and transparent;*
- *Be delivered in appropriate language and format (including video, graphics, radios, documentaries, photos, etc.);*
- *Be given to the landowner communities about their rights as relevant to the project and possible impacts;*
- *Be objective, covering both the positive and negative potential of REDD+ activities and consequences of giving or withholding consent;*
- *Be complete, covering the spectrum of potential social, financial, political, cultural, environmental impacts, including scientific information with access to original sources in appropriate language;*
- *Be delivered in a manner that strengthens and does not erode indigenous or local cultures;*
- *The consultation shall be carried out in a culturally appropriate manner, be delivered by culturally appropriate personnel, in culturally appropriate locations, and include capacity building of indigenous or local trainers;*
- *Be delivered with sufficient time to be understood and verified;*
- *Reach the most remote, rural customary landowners, women, marginalized and vulnerable; and,*
- *Be provided on an on-going and continuous basis throughout the FPIC process.*

To understand the type of information that shall be provided to customary landowners and local communities, REDD+ project proponents, shall refer to the **“Guiding questions for affected landowners representatives and affected customary landowners”** in **Annex 6** of the Guidelines. As structured, these questions may assist REDD+ project proponents to devise and put together appropriate information to be disseminated to the customary landowners and local communities.

## 2.1.4 Consent

Consent refers to the decision made by the customary landowners through their customary decision-making process<sup>20</sup>. The collective right to give or withhold consent applies to all projects, activities, legislative and administrative measures and policies (and their associated processes and phases) that may directly impact the lands, territories, resources, and livelihoods of the customary landowners. Consent must be sought and granted or withheld according to the unique formal or informal *political-administrative dynamic* of each community.

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<sup>20</sup> During decision-making processes, it is important that customary landowners need to guard against project developers who might attempt to establish their own imposed processes when traditional decision-making processes already exist that can be easily used by customary landowners in making any decisions regarding REDD+.

## Consent is:

- A freely given decision that may be a “Yes” or a “No”, including the option to reconsider if conditions agreed upon are not met, there are changes in the proposed activities or if new information relevant to the proposed activities emerges;
- A collective decision determined by affected people in accordance with their forms of decision making (e.g. consensus, majority, etc.);
- Based on full understanding of opportunities and risks associated with the proposed activity;
- The expression of rights (to self-determination, lands, resources and territories, culture); and,
- Given or withheld in phases, over specific periods of time for distinct stages or phases of REDD+
- All parties are equal, neither anyone of them having more power or strength over the other;
- Customary landowners’ decision-making processes must be respected and allowed to operate in an open and transparent manner;
- Customary landowners’ right to choose how they want to live is respected by REDD+ proponents; and;
- If consent is not given, this shall be respected.

Hence, the greater the potential negative impact and damage that a decision or project will have on the peoples’ lives, cultural integrity and country, the greater the need to reach an outcome that all parties can agree to. If an action is a direct threat to the customary landowner, customary landowners’ survival or cultural integrity then they shall be entitled to say ‘no’ to that action.

## **2.2 When is FPIC required?**

An FPIC process is applicable in any programs or activities that may have potential impacts on the lives of the customary landowners that are involved, and that consent is given or withheld collectively by the community. The greater the impact of the program or activity, the more important it is to ensure adequate provisions to seek consent are in place.

There are several scenarios recognized by UNDRIP in which the State/or Government is under an obligation to not just seek, but secure the consent of the customary landowners and local communities concerned. States must consult and cooperate in good faith with the customary landowners and local communities concerned through their own representative institutions in order to obtain their free and informed consent prior to:

- (i) Relocating an indigenous population from their lands;
- (ii) Taking “cultural, intellectual, religious and spiritual property”;
- (iii) Causing “damages, takings, occupation, confiscation and uses of their lands, territories<sup>21</sup> and resources”;
- (iv) “Adopting and implementing legislative or administrative measures that may affect them”; and,
- (v) Approving “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”.
- (vi) Before storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples;<sup>22</sup>

PNG has signed and ratified five core Human Rights treaties. Relevant to this are ICCPR, ICESCR, CEDAW, CRC and CERD. These conventions and treaties assert that States must secure consent from indigenous peoples through their own freely identified representatives or institutions, with respect to *any decisions “directly relating to their rights and interests” and in connection to: mining and oil and gas operations (extraction of subsurface resources); logging; the establishment of protected areas; construction of dams; development of agro-industrial plantations; resettlement; compulsory takings; and any other decisions affecting the status of their land rights.*<sup>23</sup> The Convention on Biological Diversity (CBD) which PNG is a signatory to also provides that FPIC is required before “access[ing] traditional knowledge, innovations and practices of indigenous and local communities”.<sup>24</sup>

<sup>21</sup> In Papua New Guinea context the term ‘territories’ refers to customary and/or communal land “boundaries”.

<sup>22</sup> UNDRIP, *supra* note 16, at Arts. 10, 11(2), 19, 28(1), 32(2).

<sup>23</sup> See *supra* note 33 and the *Legal Companion*.

<sup>24</sup> Convention on Biological Diversity, Art. 8(j).

For all REDD+ activities that is developed on a customary land and/or directly or indirectly may affect customary rights of local communities, FPIC is shall be required.

### 2.3 At what Level is FPIC Applied?

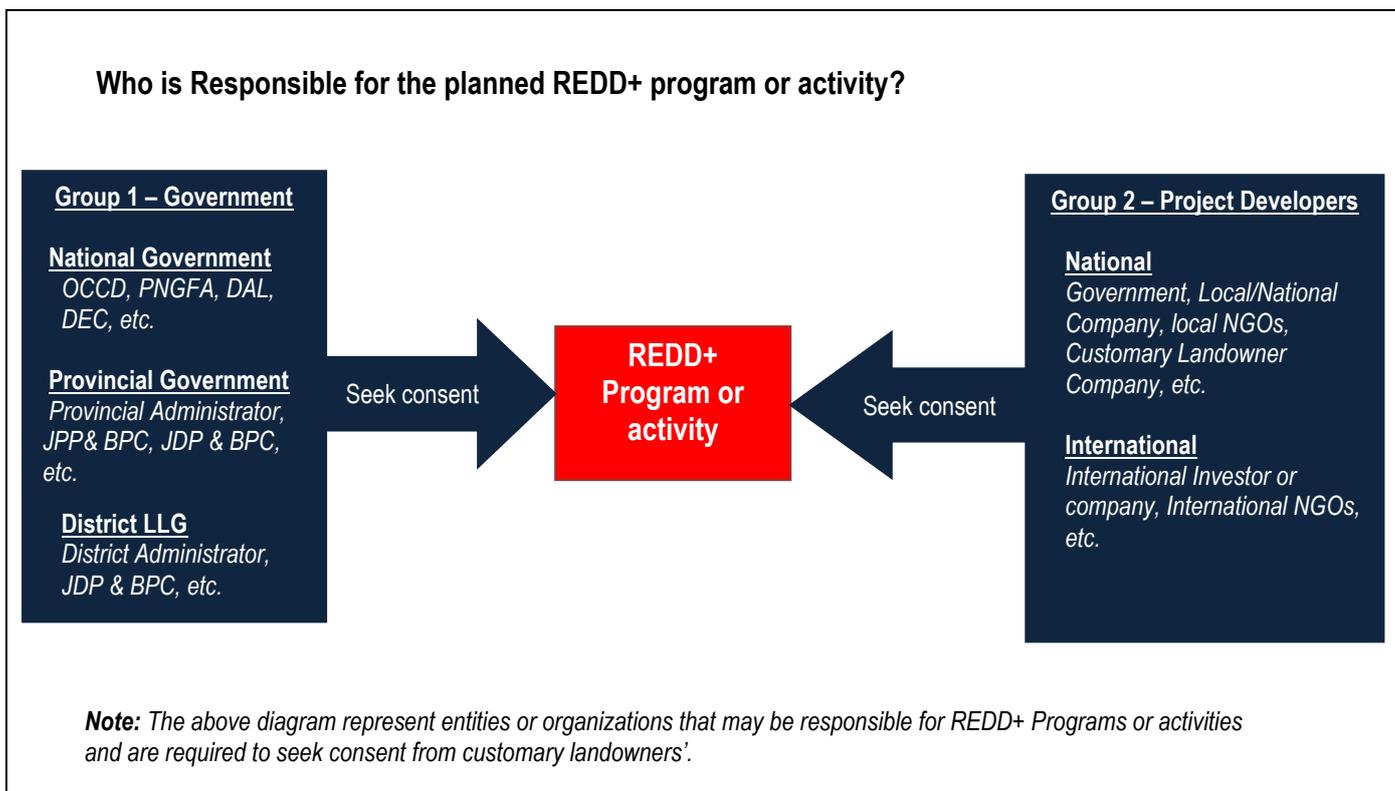
FPIC is most often applied at the community or village or clan level where the program or activity will happen. However, there may be components of a national REDD+ strategy that may affect the rights of customary landowners, such as policies, laws or regulations related to changes in land tenure or benefit sharing. These components will require some form of consent. As such, REDD+ proponents shall take note that when considering what level FPIC is applied, it is important to differentiate between **who seeks** and **who gives consent** at the national, provincial, district and village or clan levels.<sup>25</sup>

### 2.4 Who Seeks Consent?

There are generally two main groups of REDD+ proponents who will be required to seek consent for REDD+ programs or activities. The first is government agencies, further categorised into national, provincial, district and local levels. The second is project developers.

The following diagram illustrate on “Who is responsible for REDD+” and are required to “seek consent” from customary landowners. It is the government that is ultimately responsible for securing FPIC in the REDD+ activity. Accordingly, it is the duty and obligation of the government and a right of the affected landowner communities (project communities).

**Diagram 1: Who will seek consent?**



<sup>25</sup> Note that REDD+ Proponents hereafter referred to as National and Sub-national Governments, hence any activities of REDD+ in the country at the national and sub-national level will require **consultation** with respective governments before they can be implemented. Similarly, REDD+ customary landowners are the indigenous people within the identified REDD+ resource community and are required to give their **consent** to any activity of REDD+ taking place at their land or boundary.

## 2.5 Who Gives Consent?

### Village/Clan Level

REDD+ programs or activities are expected to take place at the village or community level, mostly on customary owned land. Therefore consent shall be given by customary landowners and/or local communities directly or indirectly affected by the REDD+ program or activity. Consent has to be obtained at the clan level, as the clan is the landowning entity able to make overall land and resource use based decisions.

Where landholders are represented through Incorporated Land Groups (ILGs) or any other body, the group or body shall be formed transparently, with the free and informed consent of clan members, including the free and informed consent of women:

- *On genealogy of the group.*
- *On the customary rules, norms and values that apply to land and resource rights.*
- *On the written constitution of the group which shall reflect their customary rules and laws and may refer to general verbal agreements on these in case of low literacy rates within the group.*
- *On the appointment of the groups dispute resolution authority.*

If no ILG or other representative body exists, free, prior and informed consent has to be given by all traditionally recognised landowning groups (at the minimum at the clan level representation) through public meetings at the village level. It is important that interviews with customary landowners and local community members at village level confirm that public meetings have been held at the village level and that free, prior and informed consent was given.

Hence, there shall be no evidence of a genuine dispute over the authenticity of the Incorporated Land Groups representation or any other body representing the customary owners within the REDD+ project area. Likewise, there shall be no evidence of a genuine dispute over the authenticity of the free, prior and informed consent of the clans/communities to join a REDD+ program or activity.

Furthermore, it is understood that in PNG, about five (5) per cent of the land is privately owned while 95 percent is traditionally owned. The latter also owns resources on the land. With exception, there are minorities who do not own the land that they live or reside in, but have user-rights over the land. These minorities may include women, youth, and the marginalized and vulnerable groups.

Also, while respecting the norms, values and customs of the customary landowners and local communities involved and the consultation and decision-making methods they utilize, it is strongly encouraged that women from the affected local communities or clans, are represented in the decision-making process (*Refer to Annex 2: Effective and Equitable Gendered Participation and Representation in Decision-Making*). PNG's national constitution also, openly proclaimed *Equality and Participation* as one of the country's four aims under the country's 'National Goals and Directive Principles'. Gender balance in participation and decision-making is declared in the country's national constitution and therefore it shall be strongly encouraged and followed by all interested parties of REDD+.

However, utmost care shall be taken by REDD+ proponents when facilitating consent from customary landowners or local communities to ensure that urban based clan/community members do not dominate or steer decision-making processes, as there are many examples of town based people using their privileged position in terms of education and access to take advantage of their own community/clan members. The preferred process is to point out the multiple benefits and risks (*or pros and cons*) of this possibility to the community/clan involved, who can then decide themselves on if and how their urban based community/clan members could best be included in the FPIC process. FPIC must be always conducted in the local community (project site) for transparency. Clan members if reside in urban areas shall be in the local community to participate in the FPIC process. Enough time shall be allowed for this to happen in order to safeguard the activity from future potential grievances that may affect the implementation of REDD+.

### National, Provincial and District Levels

In the development or implementation of a National or Provincial REDD+ strategies, it is possible that policies, laws and regulations may be introduced, revised or terminated. Some of these changes may impact the lives of many customary landowners, whose consent must be sought. It may not be possible or feasible to seek consent from each village or local community at one time. A suggestion is to get three to four neighbouring villages at a time for one meeting at a central location; however, this will depend on the overall costing of the exercise, again this may be

impractical for the government in terms of securing the required funding and resources to completely cover all the potentially affected communities. In this case, the key is to identify who the legitimate representatives of the customary landowners at each of these levels are, and where representation does not exist, how they will be selected in ways recognized by both the customary landowners and the government.

In practice, the government shall not only conduct good faith consultations with customary landowners associations and networks, but also with its three-tier governance system of national, provincial, district and local levels of government. **Table 1** below provides a summary of “*who seeks*” and “*who gives*” **consent** or **permission** at all the levels mentioned.

**Table 1: Summary of Who Seeks and Who Gives Consent/Permission**

Level	Consent points	Key proponents responsible to seek consent	Key proponents responsible to give or withhold consent?
<b>National</b>	<i>Policies, laws and regulations related to REDD+ that affect customary landowners</i>	National government through a designated agency such as OCCD, PNG FA, DEC, DLPP, DAL, etc.	National representatives of customary landowners
<b>Provincial</b>	<i>Land-use plans directly or indirectly related to REDD+ that affect the customary landowners, for example, provincial forest plan</i>	Provincial government through a designated agency nominated by the Provincial Administrator such as JPP & BPC, Provincial Executive Council, Provincial Management Team, Provincial Forest Officer, etc.	Provincial representatives of affected customary landowners
<b>District</b>	<i>Land-use plans directly or indirectly related to REDD+</i>	Provincial government through a designated agency nominated by the District Administrator such as district level JDP & BPC, District Executive Council, District Management Team, District Forest Officer, etc.	Provincial and/or District representatives of affected customary landowners
<b>Village/Clan</b>	<i>REDD+ activity</i>	Project proponent	Affected Clan and Village representatives
<b>Village/Clan</b>	<i>Interest to develop REDD+ activity</i>	Village / Clan representatives	OCCD PNG FA Provincial or District Administrators

## 2.6 Outcome of the FPIC Process

The outcome of the FPIC process shall be well-documented in writing and made publicly available and accessible. The written document shall clarify if consent was provided or withheld, what the terms and conditions of the consent were, and it shall affirm that the decisions therein are binding and enforceable.<sup>26</sup> Particular attention shall be given to the accuracy of records; the methods in which feedback from affected REDD+ customary landowners and/or local communities is incorporated; how the records are disseminated; and how these REDD+ customary landowners and/or local communities can access records.

It is the duty of the REDD+ proponents to document the whole FPIC process. Ideas, questions and concerns raised by different stakeholders, including related government institutions, NGO, CSOs, and women’s groups, private institutions, landowner groups, local village community and/or resource-owners, shall be captured, well documented and shared with the national government bodies responsible for REDD+ management. This is very useful in

<sup>26</sup> UN-REDD Programme (January 2013). ‘Guidelines on Free, Prior and Informed Consent’.

reviewing the whole process in the event a grievance or dispute arises. Moreover, it also helps in making it much easier for future evaluations of the whole FPIC process by a third party and to verify if consent is actually given by customary landowners and/or local communities. Documenting sensitive issues about the customary landowners and/or local communities can be very difficult. However, REDD+ proponents shall ask the potentially affected customary landowners *what is sensitive* and *what is not*, and *what is permissible* to document (i.e., location of sacred sites, details about cultural rites and other activities).<sup>27</sup>

REDD+ proponents are also expected to go back to the customary landowners and/or local communities and to inform them of the outcomes of the FPIC consultations implemented because not all members of the communities may be present and/or have participated in the entire consultation processes. Suggestions include verbal transmission and in writing. Also, it is important that customary landowners and/or local communities keep a written copy, provided in an appropriate language and format, of the outcome of the FPIC consultation for their future references.

Any land or forest resources belonging to customary landowners and/or local communities within the vicinity of the REDD+ activity that are not subject to the consent shall not be included in the proposed REDD+ activity. Where consent was given with conditions, these conditions must be monitored against mutually agreed timescale. If they are not met, customary landowners and/or local communities may review and either reaffirm or refuse consent.<sup>28</sup> Consent is therefore an interactive process between REDD+ proponents and customary landowners.

However, given the significant time and resources that may have been invested by REDD+ proponents during the process, customary landowners and local communities shall be responsible in its decisions and shall not withdraw consent arbitrarily; thus, if the conditions upon which the original consent was based are being met, on-going consent is implied.<sup>29</sup> If there is disagreement over whether conditions are being met or not, customary landowners and local communities can express their grievances with the relevant national-level grievance mechanism (which may have functions at the community and/or sub-national level).<sup>30</sup> However to avoid this situation, it is important that the original consent by customary landowners and local communities shall not be rushed based on proponents implementation schedule.

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<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

**PART A: NORMATIVE & POLICY FRAMEWORK**

## 3. Normative Framework

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The Normative Framework basically gives more emphasis on Papua New Guinea's national and international obligations. At this stage PNG does not have a national law that gives direct emphasis on FPIC. However, in the absence of a national law on FPIC, PNG has many obligations both at the national and international level. It is understood that these obligations provides the basis for a legal framework for FPIC in the country. Hence all REDD+ programs and activities in the country shall be developed in line with these national and international obligations.<sup>31</sup> Hence it shall be a requirement for REDD+ proponents to ensure these national and international obligations are followed in order to respect customary landowners' and local communities' rights in the establishment of REDD+ programs or activities.

### 3.1 National Obligations

PNG has made efforts to contribute to the global cause to promote a Greener Earth. PNG's National Constitution (*Refer to Annex 3: PNG National Constitution and Annex 4: PNG National Goals and Directive Principles*) reflects the aspiration to promote sustainable development and to be effective custodians of natural capital. A country filled with abundant natural resource, the government's obligation is to ensure the benefits derived from the extraction of these natural resources trickle down to all Papua New Guineans.

The National Constitution shares the same view as ILO Convention 169 and UNDRIP, thus making references to basic human rights and democratic good governance process to any form of developments in the country, thereby upholding the right of customary landowners to an informed consultation process before any form of developments can take place. The concept of *FPIC* spells out clearly the importance of human rights and is clearly written in the National Constitution of PNG that the rights of people need to be respected through informed consultation process before any development can take place. Further, various national laws under the Oil and Gas Act 1998<sup>32</sup> (No. 49 of 1998), and Forestry Act 1991 and Forestry (Amendment) Act 1993, 1996, 2000 and 2005 give some emphasis to the principle of free, prior and informed consent, but are more focused on the sectors and the industries (*Refer to Annex 5 for National and International Legal and Policy Frameworks*). FPIC is fundamental to the rights of participation, consultation, self-determination, indigenous property rights and the right to culture.

Sections 32-56 of the National Constitution comprise Basic Rights<sup>33</sup>, Qualified Rights<sup>34</sup> and Special Rights of Citizens.<sup>35</sup> Particularly Section 51 clearly emphasized on the right to freedom of information which is the underlying objective in FPIC. The enforcement of these rights by the Courts and other tribunals are governed by section 57 and 58 of the National Constitution. While these sections concentrate on the rights of citizens, Section 255 of the National Constitution however talks about having an effective stakeholder consultation process. Section 255 merely emphasized on having a meaningful consultation that will allow for genuine interchange of information and views between all parties concerned in the project activity<sup>36</sup>. This section is more supportive to the work of free, prior and informed consent, in the sense that it allows for an effective stakeholder consultation process that requires the right of all parties to seek equal consent when establishing a project.

PNG's National Constitution also openly declared the following five aims as crucial for the country when dealing with issues or activities that will affect all Papua New Guineans – *“Integral Human Development; Equality and Participation; National Sovereignty and Self-reliance; Natural Resources and Environment; and Papua New Guinean*

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<sup>31</sup> National Obligations refers to the National Constitution and relevant national laws of PNG, whilst International Obligations refers to relevant International laws, treaties and conventions which PNG is a party to and is obliged to follow when implementing REDD+ programs or activities.

<sup>32</sup> Division 5, Section 47 of the Oil and Gas Act, No. 49 of 1998 calls for 'Social Mapping and Landowner Identification Studies' as a condition to the issuance of petroleum prospecting license for participation in Papua New Guinea's oil and gas industry. This section allows for in-depth landowner consultation and agreement before any petroleum licenses are issued for any project developments in the oil and gas sector.

<sup>33</sup> Ss. 32-37 – The right to freedom, life, freedom from inhuman treatment and the right to protection of the law.

<sup>34</sup> Ss. 38-49 – Freedom of the person, freedom from forced labour, freedom from arbitrary search and arrest, freedom of conscience though and religion, freedom of expression, freedom of assembly and association, freedom of employment and the right to privacy. These rights are not absolute but qualified by having regard for what affects the general welfare of the nation and public order etc. (ss. 38-41)

<sup>35</sup> Ss. 50-56 – The right to participate in the political process and hold real property.

<sup>36</sup> Section 255 of the Constitution states that: In principle, where a law provides for consultation between persons or bodies, or persons and bodies, the consultation must be meaningful and allow for a genuine interchange and consideration of views.

Ways” as the country’s ‘*National Goals and Directive Principles*’, and thus directed all persons and bodies, corporate and unincorporated, to be guided by these directives in pursuing and achieving the countries national aims, consequently promotes the right of Papua New Guineans to be protected from any activities, whether economic, social or political that may have consequences on the livelihood, land and resources of the people.

### 3.2 International Obligations

Free, Prior and Informed Consent has now become a requirement for REDD+ under the UNFCCC. The Cancun Agreement gives more emphasis on respect for knowledge and rights of indigenous people and members of local communities by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples. Besides that, it also gives more emphasis on the full and effective participation of relevant stakeholders in particular indigenous peoples and local communities in REDD+ actions. In strengthening this, the UN-REDD Programme ‘*Guidelines on Free, Prior and Informed Consent*’ asserted that UN-REDD Programme partner countries are required to seek FPIC from right-holders who may be affected by the decision/policy/activity in question. As a partner country under the UN-REDD Programme and a signatory to the Cancun Agreement, it has become a requirement for GoPNG to ensure FPIC becomes an important safeguard for making decisions and policies concerning implementation of REDD+ in the country.

As the Legal Companion<sup>37</sup> to the UN-REDD Programme Guidelines on Free, Prior and Informed Consent demonstrates, Free, Prior and Informed Consent has been affirmed and elaborated upon in multiple binding regional and international instruments as well as the interpretative decisions of their monitoring bodies<sup>38</sup>. PNG’s national constitution and relevant laws in the extractive industries also give more emphasis on community consultation and engagement, and that people have the right to be consulted, and to give their consent on activity(ies) that may concern their land and resources.

### 3.3 PNG and UNFCCC

PNG has played important key roles in international negotiations on REDD+. As a key player in REDD+ negotiations, PNG was very instrumental in advocating REDD+ under the United Nations Framework Convention on Climate Change (UNFCCC) and related meetings. Since introducing the idea on REDD with Costa Rica at COP-11 in Montreal, Canada in 2005 as a new agenda item for negotiators to debate over at the UNFCCC, PNG has worked very hard over the years for the world to recognize the value of its forests as the world’s carbon stores. Over the course of the climate change negotiations, the concept has expanded to REDD+, i.e. reducing emissions from deforestation and forest degradation, and the role of conservation of forest carbon stocks, sustainable management of forests and enhancement of forest carbon stocks.

In COP-15 at Copenhagen, although the meeting did not lead to a legally binding agreement, the meeting however, recommended rapid action on REDD+. Papua New Guinea has therefore chosen to support the Copenhagen Accord and has worked through the Paris-Oslo process to promote an interim REDD+ agreement as a prelude to a globally applicable, legally binding climate change treaty.

Later in 2010 at the Cancun COP-16 Climate Change Conference in Mexico, Papua New Guinea and other coalition of rainforest partner countries negotiated strongly to include REDD+ in the **Cancun Agreement**. The Cancun Agreement was considered as a success for REDD+. The Agreement contains important prerequisites vital to ensuring that REDD+ will yield positive results for forest, forest-dependent communities and the climate. These important prerequisites provides a safeguard to REDD+ and covers a range of issues including the conservation of natural forests and biological diversity, transparent and effective national forest governance structures, respect for the knowledge and rights of indigenous peoples and local communities, and the full and effective participation of stakeholders.

PNG has made significant progress domestically to meet its international obligations, in particular by establishing institutional and management arrangements related to climate change and REDD+. National climate change readiness efforts began in 2008 with the establishment of an Office of Climate Change and Environmental Sustainability, which was disbanded and later re-established in 2010 as Office of Climate Change and Development

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<sup>37</sup> [http://www.unredd.net/index.php?option=com\\_docman&task=doc\\_download&gid=8792&Itemid=53](http://www.unredd.net/index.php?option=com_docman&task=doc_download&gid=8792&Itemid=53)

<sup>38</sup> UN-REDD Programme (2013), *Guidelines on FPIC*, pg. 18, para. 4.

(OCCD). Since its creation OCCD has made broad progress in identifying and developing key overall climate change and REDD+ strategies. These have included a Climate-Compatible Development Strategy (CCDS), REDD+ Roadmap and national REDD+ Guidelines. GoPNG has also endorsed five REDD+ pilot initiatives, including demonstration activities initiated by conservation NGOs to learn from lessons gained to guide its policy development process on REDD+. The objective of these pilot activities is to test the strategies developed in collaboration with key implementing partners' in-country and abroad in order to guide REDD+ policy and legislative development process in the country.

### **3.4 PNG and Other Related Conventions**

Papua New Guinea signed and ratified many other international conventions and treaties that also recognized the importance of conserving the environment and human rights. PNG made its commitment to the protection of the environment by signing the Convention on Biological Diversity (CBD) on 13 June 1992 and later ratified to shows its full commitment to the Convention on 16 March 1993.<sup>39</sup> The CBD recognize that indigenous knowledge may only be used with prior approval and requires national governments to protect indigenous cultures and peoples. The signing and ratification of the Convention is a demonstration of PNG's commitment to its obligations under the Convention. This also provides the interests and opportunities and at the same time issues of concern that PNG expresses on the development and conservation of our rich and unique biological diversity, and to build linkages to UNFCCC and the United Nations Convention to Combat Desertification and Drought in those Countries Experiencing Serious Drought and/or Desertification.<sup>40</sup>

In the subsequent years, PNG also signed and ratified many other international treaties for the protection of environment and indigenous community rights.

### **3.5 International Treaties on Human Rights**

PNG has ratified five of the core human rights treaties ranking PNG, the third highest number in the Pacific behind New Zealand and Australia. These include the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention for the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Rights of the Child (CRC). More emphasis on the role women play can also be found in human rights law such as the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* and the *United Nations Declaration on the Rights of Indigenous People*, which assert that "women have the right to equality in the exercise of the right of indigenous peoples to participate in both internal and external decision-making processes and institutions".<sup>41</sup> PNG joined the United Nations in 1975 and on the 11 May 2011 extended a standing invitation to all the thematic mechanisms of the United Nations Commission on Human Rights to visit the country.

In 1997, GoPNG approved in principle the establishment of a human rights commission for PNG with the minimum standards set by the Paris Principles.<sup>42</sup> This commitment was reaffirmed in 2007 with the presentation of the 2007 Final Option Paper on the establishment of the PNG human rights commission;<sup>43</sup> and in 2008 a draft organic law on the establishment of human rights commission was prepared;<sup>44</sup> however, the draft Bill is yet to go through the parliamentary process to establish the institution.<sup>45</sup>

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<sup>39</sup> <http://www.cbd.int/information/parties.shtml>

<sup>40</sup> Government of Papua New Guinea (December 2006). Papua New Guinea's National Biodiversity Strategy and Action Plan.

<sup>41</sup> EMRIP Final Report on the right to participate, supra note 11, para. 36.

<sup>42</sup> [http://lib.ohcr.org/HRBodies/UPR/Documents/session 11/PG/A\\_HRC\\_WG.6\\_11\\_PNG\\_1\\_E.pdf](http://lib.ohcr.org/HRBodies/UPR/Documents/session%2011/PG/A_HRC_WG.6_11_PNG_1_E.pdf)

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> [http://en.wikipedia.org/wiki/Human\\_rights\\_in\\_Papua\\_New\\_Guinea](http://en.wikipedia.org/wiki/Human_rights_in_Papua_New_Guinea)

## 4. Policy Framework

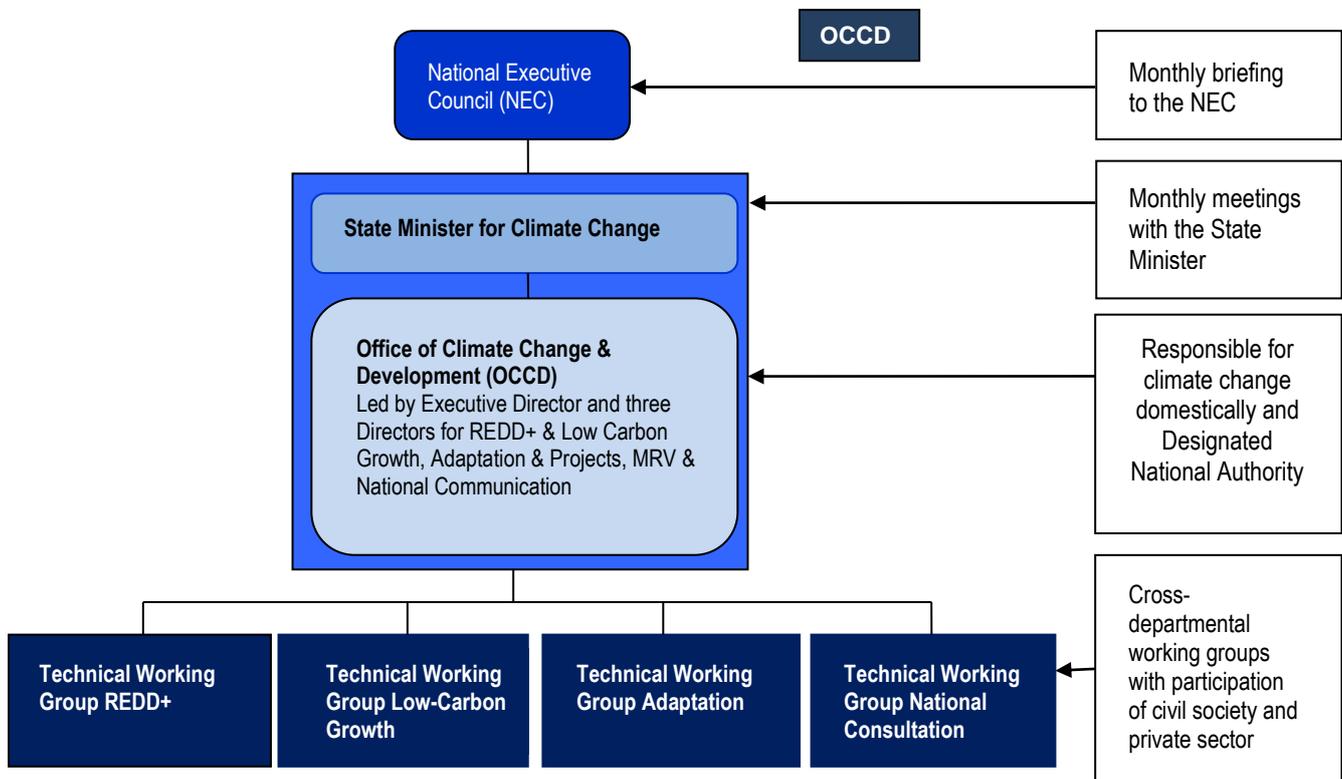
The Policy Framework of the Guideline stresses on the importance of having a government approach to implementing free, prior and informed consent in REDD+ programs or activities. Inter-agency collaboration in REDD+ is very important to ensure sustainability of REDD+. Proponents of REDD+ need to identify relevant key government institutions and agencies that may play an important role in the implementation of REDD+. These are key government institutions that need to be consulted and where necessary should be involved in the planning of the REDD+ activity or program. It is understood that having an effective government approach in implementing free, prior and informed consent process may lead to long-term sustainability of REDD+, thus minimizing the risks of reversal and allow for permanence in REDD+ project.

### 4.1 What is the role of the Government of Papua New Guinea?

Policy options for REDD+ are required to clearly determine and align key greenhouse gas abatement activities to national policies and strategies on climate change. This includes the identification of drivers of deforestation and forest degradation and proposed strategies to address these drivers in a coordinated manner taking into account the social and environmental impacts, safeguards and governance issues and overall impacts to PNG's development aspirations. It also includes the alignment of key sectors and stakeholders and the identification of synergies among these sectors to ensure successful REDD+ implementation. The role of the GoPNG is to ensure required policies, regulations and Guidelines are established to safeguard and support the coordination of REDD+ implementation in-country. In ensuring this happens, all key government agencies must collaborate and work together to ensure that required safeguards are established to protect the local communities rights during REDD+ implementation in-country.

### 4.2 National-level Governance Structure for REDD+ Management in PNG

**Diagram 2** below shows the overall relationship among the entities responsible for REDD+ in PNG.



### 4.3 Office of Climate Change & Development

GoPNG established the OCCD, a key government office that is responsible for the overall coordination of climate change mitigation and adaptation issues in the country. The OCCD is the national focal point of all climate change issues under UNFCCC, and is responsible for the establishment of PNG's National Climate Change Policy and Legislation. The National Climate Change Policy once approved by the National Parliament will provide the basis for which all cross-sectoral policies are developed to manage climate change mitigation and adaptation issues in the country.

The mandate for OCCD is founded upon the principles of the Fourth Goal of PNG's National Constitution, which stipulates that "Papua New Guinea's natural resources and environment are to be conserved and used for the collective benefit of all and are replenished for the benefit of future generations." The mandate is further derived from NEC decision 54/2010, which specifies:

1. The National Climate Change Committee (NCCC)<sup>46</sup> and the OCCD as its secretariat take full and exclusive responsibility for all policies and actions under Pillar Five of the Vision 2050, concerning Climate Change and Environment Sustainability;
2. That the OCCD engages and involves all stakeholders to build a common vision and pathway on action to tackle climate change; and,
3. That the OCCD works in close collaboration with, and in support of other departments and agencies to achieve these goals.

The OCCD is entirely responsible for the overall coordination and management of REDD+ programs and activities in the country, and is not directly involved in implementing them. The activity or program is implemented by respective government agencies, NGO's and private sector bodies or institutions. However, it is the sole responsibility of OCCD to ensure *relevant safeguards*<sup>47</sup> are put in place and followed by REDD+ proponents when implementing the activity in the country in order to protect customary landowners' rights and livelihoods.

To ensure good governance in the implementation of REDD+, OCCD is tasked to ensure relevant policies, Guidelines, and regulation are put in place by the national government to oversee and manage the implementation of REDD+ in the country.<sup>48</sup> The REDD+ Technical Working Group<sup>49</sup> directly influences the management and implementation of the activity or program in the country. It provides technical advice to the government on policy and legislative matters on climate change mitigation, particularly on REDD+, thereby ensuring a more coordinated approach to establish required policies, legislations and Guidelines to safeguard and manage REDD+ in the country. The technical working group is managed and coordinated by the OCCD through the role of its REDD+ and Mitigation Division.

### 4.4 Papua New Guinea Forest Authority

PNGFA takes the lead in driving REDD+ initiatives on the ground due to its existing policy framework on climate change<sup>50</sup> that guides the implementation of the activity. PNGFA is responsible for implementing the Forestry Act 1991 in its entirety and its associated regulations. The Act allows for the development of the *National Forest Development Guidelines* which gives a significant direction to the "National Forest Plan" which underpins all forest-based activities. As the leading government agency, PNGFA plays a very close collaborative role with the OCCD, NGOs and the Private Sector in trying to progress REDD+ initiatives, and utilize its technical expertise and experience from the field to influence policy development process at the national level. Like the Department of Lands and Physical Planning, PNGFA's position as the custodian of the Forestry Act 1991 brings with it wealth

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<sup>46</sup> The National Climate Change Committee (NCCC) has been disbanded following a NEC decision No.137/2012 of 27 November 2012, which came into effect on 18 February 2013 and all responsibilities to oversee PNG climate change policy and legislations has been transferred to the State Minister for Climate Change

<sup>47</sup> This include FPIC Guidelines, benefit sharing mechanisms, grievance mechanism, alternative livelihood options study for REDD+, REDD+ Project Guidelines, and others.

<sup>48</sup> This includes the national climate change policy and legislation, and specific sectoral regulations for the management of REDD+ in-country.

<sup>49</sup> The REDD+ Technical working Group consists of key government institutions (including OCCD, PNGFA, DEC, DAL, National Planning, etc.) NGO partners, Civil Societies, and Private Sector bodies. The TWG meets regularly on a monthly basis to discuss on REDD+ policies and implementation in PNG.

<sup>50</sup> Forestry Climate Change Framework for Action (2008).

of experience in ILG consultation and awareness in the forestry industries, and will provide useful contributions to the development and implementation of REDD+ safeguards. Also, as REDD+ implementing government agency, it will be directly involved in free, prior and informed consent implementation in REDD+ activities. Similar experience is seen in the mining, petroleum and the liquefied natural gas (LNG) sectors.

#### **4.5 Other related Agencies**

Other governmental bodies that will also play a crucial role in assisting REDD+ proponents to implement the FPIC Guidelines for REDD+ successfully in Papua New Guinea include, but are not limited to the following:

- (i) **Department of Lands and Physical Planning (DLPP)** – responsible for managing the alienated and customary land in PNG, including support for land use plans at the national, provincial and district levels. DLPP has wider experience in ILG consultation and awareness and its involvement with the local community in land-use planning is vital for successful implementation of REDD+. Also, its involvement in the establishment and implementation of REDD+ safeguards is very vital for successful REDD+ in the country;
- (ii) **The Papua New Guinea University of Technology (UNITECH)** – is mandated to build capacity in lands, surveying and forestry, involving research and training on GIS, remote sensing and biomass. UNITECH will prove useful in building the capacity of the potentially affected customary landowners on REDD+;
- (iii) **Department of Agriculture and Livestock (DAL) and/or National Agricultural Research Institute (NARI)** – responsible for managing agriculture and livestock in PNG. Managing food security is an important function of DAL/NARI. DAL/NARI's involvement in ensuring food security through provision of alternative livelihood options for the community is important for successful implementation of REDD+;
- (iv) **Department of National Planning and Monitoring** – is responsible for the overall national planning in PNG. A bottom-up planning is required for REDD+ activities at the community level. In order to plan development activities at the community level, national planning's involvement will ensure activities are captured in the district, provincial and eventually to the national level planning;
- (v) **Department of Education** – is responsible for the overall educational planning and implementation in the country. Its involvement will identify opportunities to improve the educational standards and the literacy level in the potentially affected communities;
- (vi) **Department of Health** – is responsible for the overall health planning and implementation in the country. Its involvement will ensure better health care and services are delivered to the community to improve their health standards and life expectancies, decrease infant mortality rates, decrease maternity death rates, and other health issues in the community;
- (vii) **Department of Community Development** – its involvement will ensure necessary development and associated community services are reached to the community, particularly the youths, the vulnerabilities and/or disabilities, and the womenfolk;
- (viii) **Department of Law and Justice Sector** – oversees the overall management and implementation of land court system through its national, provincial and district court systems. Particularly, for REDD+, the district court house will play an important role in solving land issues in the community in the event the village mediation process does not succeed. Their involvement as well in the design of the grievance mechanism is crucial to support the implementation of a national-level grievance mechanism for PNG.

In linking the national and sub-national government systems in the coordination and management of REDD+ activities, PNG has a three-tier governance system consisting of (i) National, (ii) Provincial, and, (iii) District and Local (Ward and Village) Levels of Government. Activities of REDD+ will be implemented in a coordinated manner using the three-tier system thus linking the sub-national level to the national level government system.

Consequently, all REDD+ related activities, including free, prior and informed consent will be implemented at the village community level in respective Provinces identified for REDD+ and reflected in policy decisions of the government on national-level REDD+ implementation. The government at the national level will use its existing three-tier government mechanisms to accommodate implementation at the community level. National Agencies

and/or Institutions at the national level include mainline government departments, central agencies and authorities. Most of these agencies have their headquarters located in the capital of Papua New Guinea, in Port Moresby, while they also have provincial offices throughout the country. This system will be adapted for the implementation of free, prior and informed consent processes in the country.

## **PART B OPERATIONAL FRAMEWORK**

## 5. Operational Framework

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The *Operational Framework* of the Guideline provides a step-by-step process to implementing the process of free, prior and informed consent in Papua New Guinea. The current approach adopted by GoPNG is a national approach to implementing free, prior and informed consent at all levels of government (i.e., national, provincial and district) and at the project or community level (see *section 3* below to distinguish type of users).

Users of the Guideline shall follow these steps and processes when they are undertaking a free, prior and informed consent process in a REDD+ program or activity in Papua New Guinea.

### 5.1 Objective of Operational Framework

The main objective of the operational framework of the Guideline is to provide guidance to its users in the design and implementation of a consultative and participatory process where free, prior and informed consent is required for REDD+ programs and activities. This component of the Guideline provides a step-by-step approach to implementing FPIC processes for REDD+ programs and activities at the National, Provincial/District, and at the Project Level (Village Level).

### 5.2 Type of Users

The different level of users of this Guideline includes – National Government, Provincial Government, District and Local Level Governments, and Project Developers/Proponents. However, to further distinguish type of users that are required to use this guideline in implementing the free, prior and informed consent process, the following are few examples; however this list may not be exhaustive:

- REDD+ proponents, including national and sub-national levels of government, as well as project proponents/developers.
- Non-Governmental Organizations (NGOs), Civil Society Organizations (CSOs) and other independent experts working to support customary landowners and local communities or supporting REDD+ proponents.
- Certifying bodies and independent observers/verifiers.

The guidelines also applies to stakeholders, in particular, customary landowners and local communities in or near REDD+ project areas whose free, prior and informed consent is sought for the proposed REDD+ program or activities.

As will be subsequently outlined, users need to be aware of the requirements of FPIC and therefore shall follow the guidelines accordingly when implementing REDD+ programs and activities in Papua New Guinea.

### 5.3 Three-Stage Approach

This Guideline uses a three-stage approach to guide its users to design a process for implementing free, prior and informed consent in REDD+ programs (i.e., development of policies, legislations or regulations on REDD+) and activities (i.e., projects). These approaches are further divided according to different categories and levels of users – national, provincial, district and LLG, and village/community level (i.e., project level).

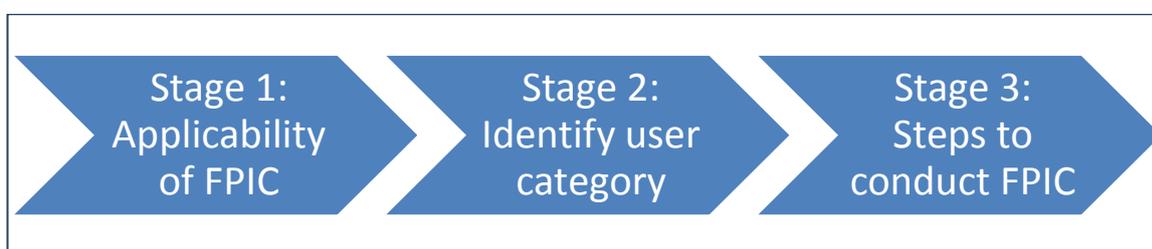
**Table 2** explains the three-stage approach in using the Guideline when conducting a free, prior and informed consent process.

**Table 2. The Three-Stage Approach**

Stage	Approach
Stage One (1)	This Stage helps to guide the user of the Guideline to <b>determine if FPIC is required</b> , and if so, the level at which it is required.
Stage Two (2)	This Stage helps the user of the Guideline to <b>identify who they shall seek consent from and at which level</b> they fall under.
Stage Three (3)	Outlines “indicative steps to implement FPIC” and is further segmented into three (3) sections – <b>Section A</b> , at the National Level; <b>Section B</b> , at the Provincial and Sub-national Levels; and <b>Section C</b> , at the project level (or village/community level).

**Diagram 3** below represents the three-stage approach that will guide users of the Guideline to design a process for them to implement free, prior and informed consent:

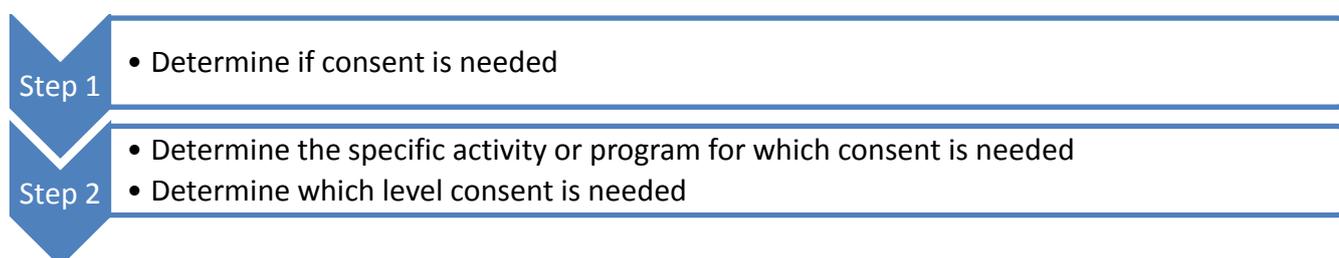
**Diagram 3. The Three-Stage Approach in implementing FPIC.**



## 5.4 Stage 1: Determine Applicability of FPIC

To determine whether an activity will require free, prior and informed consent, users should firstly determine if consent is required for the activity proposed, and if so, at which level. **Diagram 4** below indicates the steps that users of the Guideline shall take to determine the applicability of free, prior and informed consent.

**Diagram 4: Steps to determine Applicability of FPIC**



**Step 1:** Users shall start with a sample checklist<sup>51</sup> below and determine if consent is needed.

**Table 3** below provides a *checklist* to assist users in *appraising* their activity and whether or not the activity will require FPIC in the context of their REDD+ programmes or activities. The list is not exhaustive, however, it is useful that users of the Guideline shall take note of these requirements of free, prior and informed consent when

<sup>51</sup> Adapted from UN-REDD Programme (January 2013), “Guidelines on Free, Prior and Informed Consent”.

establishing REDD+ activities in the country. The proposed REDD+ activities shall always be checked against disaggregated customary landowners to include men, women, youth, marginalized and vulnerable groups.

Table 3. Checklist for Appraising whether an Activity will require FPIC	Yes/No
1. <i>Will the activity involve the relocation/resettlement/removal of men, women, youth, marginalized and vulnerable groups of an indigenous population from their lands?</i>	
2. <i>Will the activity involve the taking, confiscation, removal or damage of cultural, intellectual, religious and/or spiritual property from men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?</i>	
3. <i>Will the activity adopt or implement any legislative or administrative measures that will affect the rights, lands, territories and/or resources of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community (e.g. in connection with development, utilization or exploitation of mineral, water or other resources)?</i>	
4. <i>Will the activity involve mining an oil and/or gas operations (extraction of subsurface resources) on the lands/territories of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?</i>	
5. <i>Will the activity involve logging on the lands/territories of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?</i>	
6. <i>Will the activity involve the development of agro-industrial plantations on the lands/territories of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?</i>	
7. <i>Will the activity involve any decisions that will affect the status of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community's rights to their lands/territories or resources?</i>	
8. <i>Will the activity involve the accessing of traditional knowledge, innovation and practices of men, women, youth, marginalized and vulnerable groups from indigenous and local communities?</i>	
9. <i>Will the activity involve making commercial use of natural and/or cultural resources on lands subject to traditional ownership and/or under customary use by men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?</i>	
10. <i>Will the activity involve decisions regarding benefit sharing arrangements, when benefits are derived from the lands/territories/resources of men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community?</i>	
11. <i>Will the activity have an impact on the continuance of the relationship of the men, women, youth, marginalized and vulnerable groups from indigenous peoples/forest-dependent community with their land or their culture?</i>	

- Note, if any of the activities above are marked **YES**, users shall continue on to **Step 2**.
- If **NO**, no further action is required. However, it is recommended that good faith consultations shall still be implemented for activities proposed with a view to agreement.

**Step 2: Determine what and at which level consent is needed.**

- At the **National Level** – if consent is sought or needed at the *National Level*, users shall refer to **Stage 3, Section A**.
- At the **Provincial Level** – if consent is sought or needed at the *Provincial* or *District* or *Local Level*, users shall refer to **Stage 3, Section B**.
- At the **Project Level** – if consent is sought or needed at the project level, users shall refer to **Stage 3, Section C**.

## 5.5 Stage 2: Identify User Category.

In this stage, the user of the Guideline needs to identify which category he/she fall under. There are two categories in this stage – **Category A** “Government Proponent” and **Category B** “Project Developer”. This stage helps to identify who is required to seek consent on the REDD+ program or activity.

### Category A: Government proponent

- *If the user of the Guideline is a REDD+ Proponent at the National Level, he/she shall refer to **Stage 3, Section A**;*
- *If the user of the Guideline is a REDD+ Proponent at the Provincial and District Levels, he/she shall refer to **Stage 3, Section B**.*

### Category B: Project developer

- *If the user of the Guideline is a REDD+ Project Proponent, he/she shall refer to **Stage 3, Section C**.*

For affected customary landowners and local communities who want to be prepared for free, prior and informed consent process, they should refer to “Annex 6: Summary Guide for Affected Customary landowners in the FPIC Process” to help them prepare for the process.

## 5.6 Stage 3: Indicative Steps to Conduct FPIC.

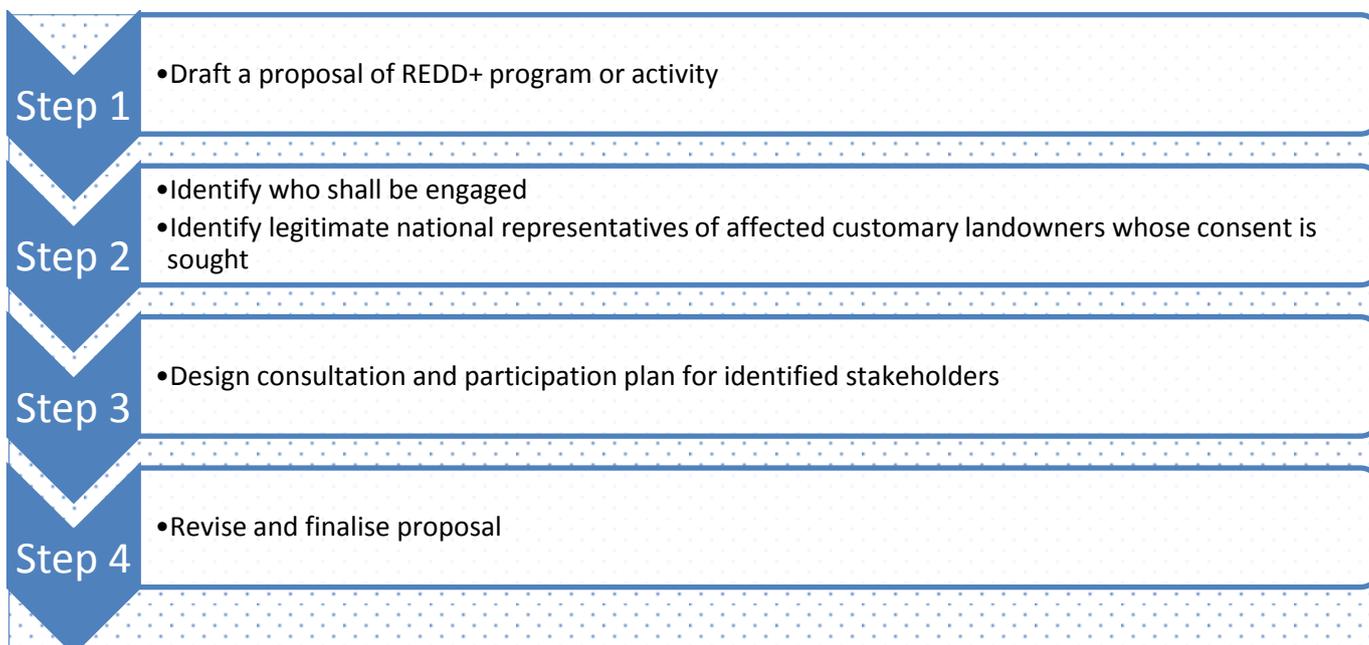
Stage 3 provides the **indicative steps for users to conduct a free, prior and informed consent process** using the Guideline. These steps are then further divided into three sections, i.e., **Sections, A, B and C**. Below explains in detail each section

- **Section A** applies to all responsible government agencies, for example, OCCD, PNGFA, DAL and others, at the **National Level**. Specific items for which consent is needed could be policies, laws and regulations on REDD+ that may affect customary landowners;
- **Section B** applies to government agencies at the **Provincial, District and Local Levels** for activities such as Provincial REDD+ Strategies or activities; and,
- **Section C** applies to proponents at the **Project Level** for REDD+ projects and activities.

### **5.6.1. Section A: Implementing FPIC at the National Level**

When implementing free, prior and informed consent process at National level, the user of the Guideline shall follow the key steps as highlighted in **Diagram 5**. Diagram 5 summarises the key steps for implementing FPIC process by Government agencies at the National level for policies, laws and regulations, etc. that relates to REDD+ which may affect the livelihood of customary landowners and local communities.

**Diagram 5: Key Steps in Implementing FPIC at the National Level**



**Step 1: Draft a proposal of REDD+ program or activity**

- Develop a proposal of the program or activity for which consent is required in consultation with relevant key stakeholders at the national and provincial levels including the private sectors, the non-governmental organisations, civil society organisations and community based organisations. For instance, policies, laws and regulations that may need to be created or revised in the development of a national REDD+ strategy.

**Step 2: Identify stakeholders to be engaged**

- In collaboration with relevant key stakeholders at the national and sub-national level (provincial and district levels), identify those stakeholders whose consent is required at the national and sub-national level including at the village community level. These may be those whose rights, livelihoods, identity, security, among others, are likely to be affected by the proposed activity, for example customary landowners. These stakeholders need to be disaggregated according to gender, by men and women, and shall include affected youths, marginalized and vulnerable groups.
- Assess substantive right of these affected stakeholders.
- Identify the roles, priorities and contributions these affected stakeholders play in forest management and forest use. For these affected stakeholders, identify legitimate national representatives, whether an entity or individual.
- Determine whether these national representatives have been accorded rights to negotiate and/or decide on behalf of the affected customary landowners.
- Identify other stakeholders that need to be consulted, for example, provincial or district government agencies, civil society, women’s organizations and private sector.
- Collaborate with relevant civil society organisations, community based organisations, non-governmental organisations, and women’s organizations to identify potential barriers to participation. Identify best practices in overcoming barriers to participation.

### Step 3: Design and implement appropriate consultation and participation plan for identified stakeholders

- Ensure design of consultation and participation plan is disaggregated by men, women, youths, marginalized and vulnerable groups. Where relevant, include best practices identified in **Step 2** above to ensure full and effective participation.
- Collaborate with relevant key stakeholders including the private sector, civil society organisations, non-governmental organisations, community based organisations, women's organizations and/or ministries etc., in the design process, if necessary.
- Identify resources available to design and implement appropriate consultation and participation plan at the national level.
- Determine what information shall be communicated.
- 'Develop *capacity development plans*'<sup>52</sup>, where necessary, and awareness raising materials appropriate to the capacity of affected stakeholders, by building on information collected in **Step 2** above: roles, priorities, contributions in forest management and forest use, best practices to address barriers to full and effective participation.
- Identify how materials will be disseminated, for example, online via email or uploaded to websites, or through meetings. These materials shall be easily accessible by all affected stakeholders. Ensure the fashion and format of these materials are easily understood by men, women, youths, marginalized and vulnerable groups. Written materials, where necessary, shall be developed to appropriate literacy levels of affected stakeholders.
- Determine how feedback and input will be received and documented, and how queries will be addressed.
- Consult affected national and sub-national (provincial, district and community) representatives to determine how consent will be given or withheld.
- Conduct consultation processes as frequently as necessary.

### Step 4: Revise and finalise proposal

- Incorporate feedback and ensure format of proposal can easily be understood by affected stakeholders.
- Disseminate to stakeholders in a timely manner, through various channels, while ensuring the duration for feedback is adequate and sufficient. Document whether consent from designated national representatives of affected stakeholders is given or withheld.
- Submit to relevant institutions for relevant action, for example, national Parliament or national executive council.

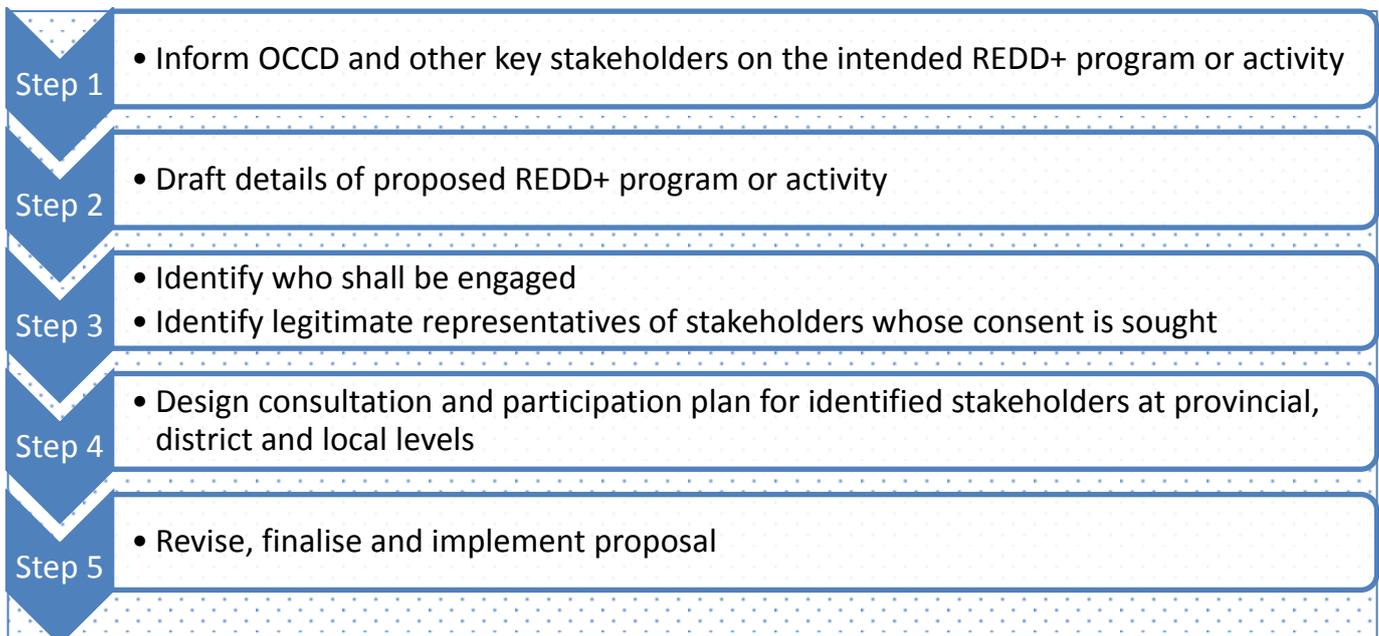
## 5.6.2 Section B: Implementing FPIC at the Provincial and District Levels

At the Provincial and/or District levels, when implementing free, prior and informed consent process for land use plans that directly or indirectly relates to REDD+, users of the Guideline shall follow the key steps as highlighted in **Diagram 6**. Diagram 6 summarises the steps to implement free, prior and informed consent process by government agencies at the Provincial and District levels for land use plans (i.e., Provincial and District forest plans, strategies, or REDD+ activities, etc.) that directly or indirectly relates to REDD+ and may have consequences on the livelihood of customary landowners.

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<sup>52</sup> Capacity Development Plans are very important to bring knowledge, experts and financial resources to build capacity of relevant key stakeholders including government, NGOs, CBOs, CSOs such that they can carry out their responsibilities in the consultation and consent process.

**Diagram 6: Key Steps in Implementing FPIC at the Provincial and District Levels**



**Step 1: Inform OCCD and other key stakeholders of its intention to participate in the intended REDD+ program or activity**

- The Provincial Administrator through its appointed designated representative agency or divisions, for example, Provincial Climate Change Office, and/or Provincial Forest Office, etc. shall inform OCCD and other related key stakeholders of the intended REDD+ program or activity. An example could be a Provincial/District REDD+ Strategy or land use plans.
- Upon receiving the intention of the Provincial Government, OCCD shall acknowledge their interest to participate in the intended REDD+ program or activity and thus advise them to pursue the intended REDD+ program or activity.
- The Provincial Government upon receiving acknowledgement shall initiate collaboration with OCCD and other key stakeholders (i.e., stakeholders at the national, provincial, district and village community levels) on the proposed REDD+ program or activity.

**Step 2: Draft details of proposed REDD+ program or activity**

- In collaboration with relevant key stakeholders at the National and Sub-national (i.e., Provincial, District and Village community) levels, the Provincial Government shall develop a proposal of the activity or program for which consent is required. For instance, a Provincial/District REDD+ Strategy that complements the National REDD+ Strategy or a Provincial/District forest plans, etc.

**Step 3: Identify who shall be engaged**

- In collaboration with relevant key stakeholders at the national and sub-national (i.e., provincial, district and village community) levels, the Provincial Government shall identify those stakeholders at the national and sub-national levels whose consent is required. These may be those whose rights, livelihoods, identity, security, among others, are likely to be affected by the proposed activity, for example customary landowners. These stakeholders need to be disaggregated according to gender, by men and women, and shall include affected youths, marginalized and vulnerable groups.
- Assess substantive right of these affected stakeholders.

- Identify the roles, priorities and contributions these affected stakeholders play in forest management and forest use.
- For these affected stakeholders, identify their legitimate representatives, whether an entity or individual.
- Determine whether these representatives have been accorded rights to negotiate and/or decide on behalf of the affected customary landowners.
- Identify other stakeholders that need to be consulted, for example, other provincial or district government agencies, civil society, women's organizations and private sector.
- Collaborate with relevant CSOs, NGOs, and women's organizations to identify potential barriers to participation and Identify best practices in overcoming these barriers in participation.

#### **Step 4: Design consultation and participation plan for identified stakeholders at Provincial, District and Local/Village levels**

- Provincial/District Administrator shall identify a designated agency to lead consultation and participation processes at Provincial, District or local levels.
- Ensure design of consultation and participation plan is disaggregated by men, women, youths, marginalized and vulnerable groups. Where relevant, include best practices identified in **Step 2** above to ensure full and effective participation.
- Collaborate with relevant CSOs, NGOs, women's organizations or ministries in the design process, if necessary.
- Identify resources available to design and implement appropriate consultation and participation plan at the provincial, district and local levels.
- Determine what information shall be communicated.
- Develop *capacity development plans*<sup>53</sup>, where necessary, and awareness raising materials appropriate to the capacity of affected stakeholders, by building on information collected in **Step 2** above: roles, priorities, contributions in forest management and forest use, best practices to address barriers to full and effective participation. Identify how materials will be disseminated, for example, online via email or uploaded to websites, or through meetings. These materials shall be easily accessible by all affected stakeholders. Ensure the fashion and format of these materials are easily understood by men, women, youths, marginalized and vulnerable groups. Written materials, where necessary, shall be developed to appropriate literacy levels of affected stakeholders.
- Determine how feedback and input will be received and documented, and how queries will be addressed.
- Consult representatives of affected stakeholders to determine how consent will be given or withheld.
- Conduct consultation processes as frequently as necessary.

##### Provincial level stakeholders shall include;

- Provincial Executive Council (PEC).
- Provincial Forest Management Committee (PFMC).
- Joint Provincial Planning and Budget Priority Committee (JPP & BPC).
- Representatives of affected customary landowners disaggregated by men, women, youth, marginalized and vulnerable groups.

##### District level stakeholders shall include;

- Joint District Planning and Budget Priority Committee (JDP & BPC).
- President of Local Level Government (LLG).
- Ward Councillors.
- Women's representatives, including women's groups/CSOs/NGOs and CBOs.
- Representatives of affected customary landowners disaggregated by men, women, youth, marginalized and vulnerable groups.

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<sup>53</sup> Capacity Development Plans are very important to bring knowledge, experts and financial resources to build capacity of relevant key stakeholders including government, NGOs, CBOs, CSOs such that they can carry out their responsibilities in the consultation and consent process.

## Step 5: Revise, finalise and implement proposal

- Incorporate feedback ensure format of proposal can easily be understood by affected stakeholders.
- Disseminate to stakeholders in a timely manner, through various channels, while ensuring the duration for feedback is adequate and sufficient.
- Document whether consent from designated representatives of affected customary landowners is given or withheld.
- Submit to relevant institutions for relevant action, for example, OCCD, National Parliament.
- Commence implementation of proposal in collaboration with relevant key stakeholders.

### 5.6.3 Section C: Implementing FPIC at the Project Level

At the project level there are three phases to implementing free, prior and informed consent process. As shown in **Diagram 7**, these phases include:

- **Phase 1** – *Project Establishment;*
- **Phase 2** – *Project Design, Validation and Certification; and,*
- **Phase 3** – *Project Implementation, Monitoring and Reporting.*

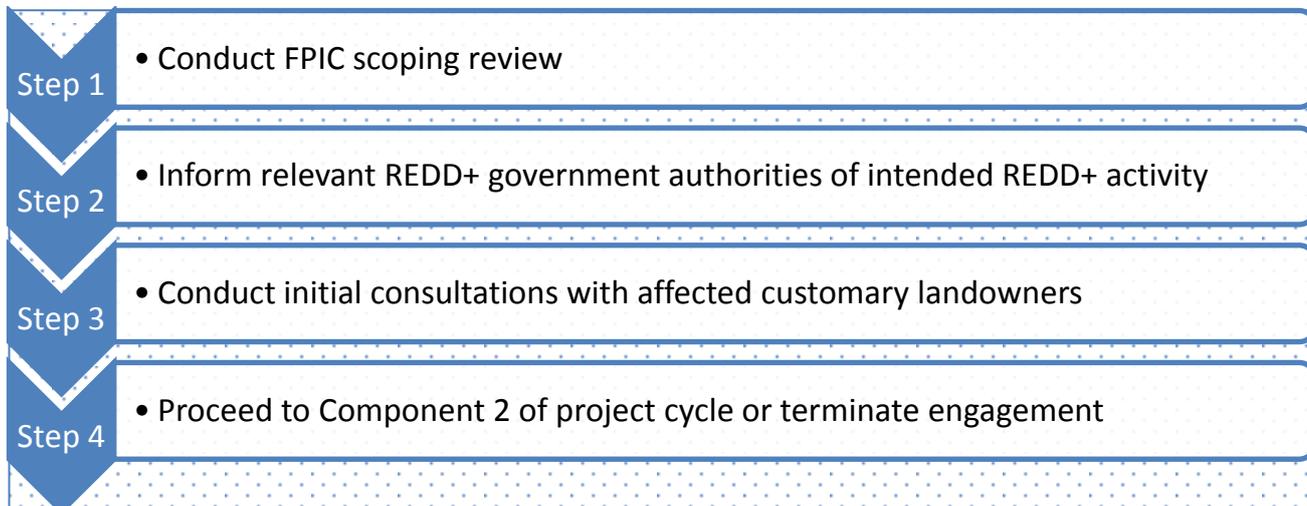
When implementing free, prior and informed consent process, the user of the Guideline shall follow the key steps highlighted in **Diagram 8** (see page 36 – *Phase 1, Consent during project establishment*). **Diagram 6** summarises the steps to implement a free, prior and informed consent process by REDD+ Project Developers (or Project Proponents) at the Project Level (i.e., Village or Community level) for REDD+ projects or activities that directly or indirectly affect the livelihood of concerned customary landowners in the project area.

**Diagram 7** below provides a summary of the **three key phases** in a REDD+ project cycle, while **Diagram 8** on the other hand summarises the **key steps** related to FPIC that REDD+ project proponents shall undertake for each phase in the project (*Refer to Annex 7: Obtaining and Verifying Consent*).

#### **Diagram 7: Key Phases of a REDD+ Project**



**Diagram 8: Phase 1 - Consent during project establishment**



### **Step 1: Conduct FPIC Scoping Review**

Conduct free, prior and informed consent scoping review at the project site or community. The scoping review shall consist of the following components:

- A description of proposed project activity;
- A description of affected customary landowners, how they are governed, how they wish to be engaged, who or what is empowered to represent them;
- A description of legal status of the affected land, territory and resources;
- A description of conflict over land-use or legal status of affected land, territory and resources, where applicable;
- A description of formal, informal and/or customary use by affected customary landowners. This shall include whether and how women have access to the formal, informal and/or customary use of land and resources;
- Assessment of social, environmental and cultural impacts of proposed activity on affected customary landowners, and how these impacts will be addressed. These stakeholders need to be disaggregated according to gender, by men and women, and shall include affected youths, marginalized and vulnerable groups.
- Identify the roles, priorities and contributions these affected stakeholders play in forest management and forest use;
- Assessment of substantive rights of affected customary landowners and local communities ; and
- Resources allocated to seek Free, Prior and Informed Consent.

### **Step 2: Inform relevant REDD+ Government Authorities of intended REDD+ Activity**

- At the National Level, project proponents shall inform and seek permission from relevant authorities such as OCCD, PNGFA, DAL, etc.
- At the Provincial Level, they shall seek permission from the Provincial Administrator and relevant Provincial authorising bodies.
- Similarly, at the District Level, project proponents shall inform and seek permission from the District Administrator and relevant District authorising bodies.

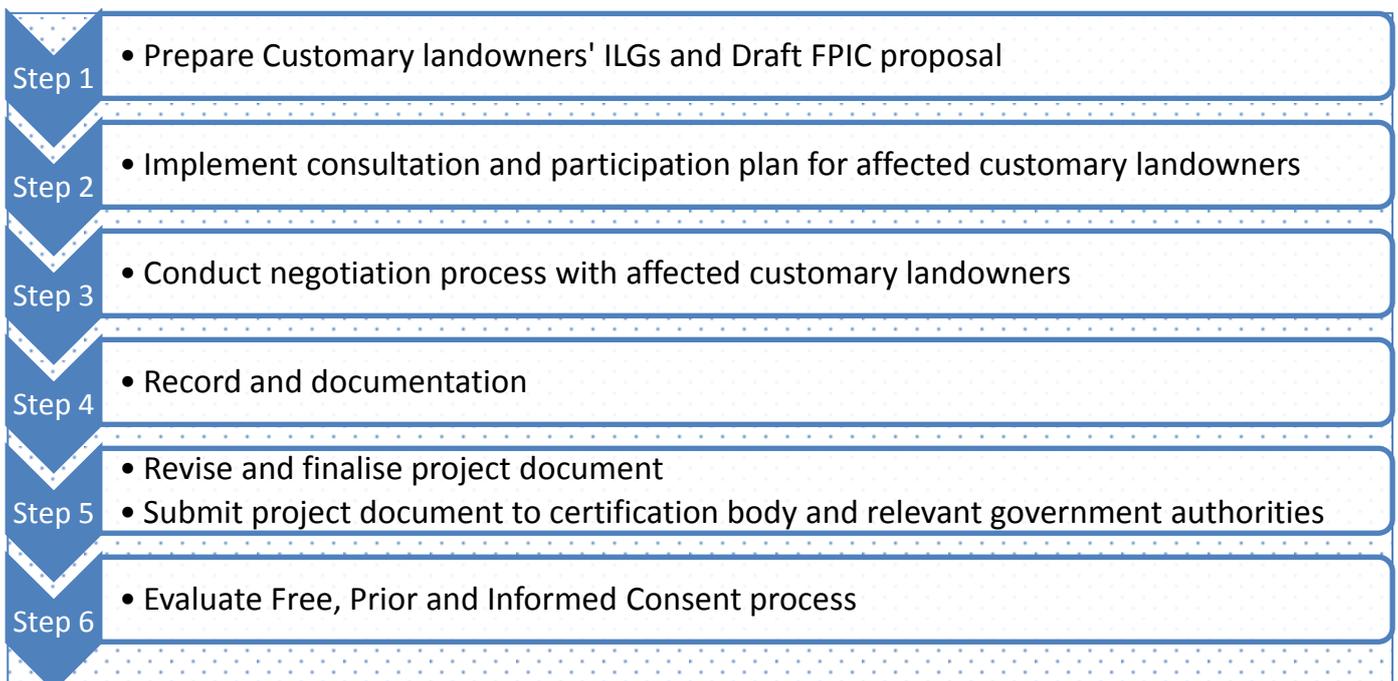
### Step 3: Conduct initial consultations with affected Customary Landowners

- Identify legitimate village or community representatives from areas that will be affected by the proposed project/activity to facilitate consultations with the community. These representatives could take the form of Village Chief, Incorporated Land Group (ILG) Chairman or designated representatives, Ward Councillors and Village Elders.
- Ensure the representative is recognized, accepted and authorized by the majority of the affected customary landowners.
- In consultation with the customary landowners and local community, determine if the representative is authorized to negotiate and/or to decide on behalf of affected customary landowners.
- Ensure the representative(s) actively consult and allow affected men, women, youths, marginalized and vulnerable groups identified in **Step 1** above to participate in this initial process.
- Consent sought from affected customary landowners shall be limited to whether project proponents shall proceed with project establishment.

### Step 4: Proceed to Phase 2 of Project Cycle or Terminate Engagement

- If consent is given, proceed to steps outlined in Component 2 below.
- If consent is withheld, project proponents shall not proceed with proposed activity.

### Diagram 9: Phase 2 - Consent during Project Design, Validation and Certification



### Step 1: Prepare Customary Landowners and Local Communities ILGs and Draft FPIC proposal

- Project proponents shall assist Customary landowners and Local Communities to prepare their Incorporated Land Groups (ILGs):
  - Consult the responsible government authority to prepare customary landowners and local communities ILGs, i.e., Department of Lands and Physical Planning, PNG Forest Authority, Department of Community Development (Civil Birth Registry), etc.*
  - All cost for ILG preparation and registration shall be met by the project proponent.*

- iii. *All original copies of completed certificates and other registered documents belonging to the customary landowners and/or local communities shall be given to customary landowners and local communities while the project proponent shall keep their copies (e.g., ILG certificates and Birth certificates, etc.).*
- Project proponent shall draft a FPIC Proposals. The FPIC proposal shall contain the following aspects<sup>54</sup>:
    - i. *Details of Project Proponent(s) – include name, address and contact details of project proponents both in PNG and overseas;*
    - ii. *A brief description of project proponents business plans;*
    - iii. *Description of project, location where project is implemented, type of greenhouse gas abated, and the projects contributions to sustainable development;*
    - iv. *A description of capacity and information needs of affected customary landowners and local communities that shall be addressed before the FPIC process can take place;*
    - v. *Determine whether the process will require a facilitator, and if so, who it shall be;*
    - vi. *A description of consultation and participation plan for affected customary landowners and local communities, including where and how it will be implemented;*
    - vii. *A description of how consultation with respective LLGs for the community that is participating in the REDD+ program shall be conducted;*
    - viii. *Ensure design of consultation and participation plan is disaggregated by men, women, youths, marginalized and vulnerable groups. Where relevant, include best practices identified in **Step 2 of Diagram 8** to ensure full and effective participation;*
    - ix. *Shall collaborate with relevant CSOs, NGOs, women’s organizations or ministries in the design process, if necessary;*
    - x. *Timeline for proposed consultation and participation plan;*
    - xi. *A description of how conflict over land use or legal status of affected land, territory and resources will be addressed, for example, through participatory mapping or land use planning, etc.;*
    - xii. *A description of appropriate language and media for information sharing and dissemination with affected customary landowners and local communities;*
    - xiii. *A description of how free, prior and informed consent will be given, recognized, recorded and documented in accordance with customary landowners and/or local communities’ traditions and customs. This shall include women and other vulnerable groups, and what special measures will be taken if existing practices do not include them;*
    - xiv. *A description of the roles National, Provincial, District government officials and other relevant stakeholders such as UN Agencies, institutions, donors and independent observers, may play, where applicable;*
    - xv. *A description of the methods to validate the process, including where relevant, participatory monitoring arrangements;*
    - xvi. *Describe the terms and frequency of review for the agreement between project proponent and affected customary landowners and local communities to ensure terms and conditions are upheld;*
    - xvii. *A description of the process to receive and address complaints or grievances for the free, prior and informed consent process and proposed REDD+ activity;*
    - xviii. *A description of the customary landowners Incorporated Land Groups (ILGs), business groups or other existing community groups and/or corporative society, etc.; and,*
    - xix. *Collaborate with relevant CSOs, NGOs, and women’s organizations to identify potential barriers to participation. Identify best practices in overcoming barriers to participation.*

## **Step 2: Implement Consultation and Participation Plan for affected Customary Landowners and Local Communities**

- Ensure the consultation and participation plan is developed jointly with the affected customary landowners and local communities. It shall be built on the capacity and information needs of the affected customary landowners and local communities, including an approach that respects their traditions and customs;
- Identify appropriate measures to include women and other vulnerable groups;
- Undertake consultation with customary landowners and respective LLGs for the local community that is participating in the REDD+ program;

<sup>54</sup> See **Annex 10** for more details on the “FPIC Proposal” outline.

- Ensure awareness-raising activities are implemented at suitable times that would facilitate broad participation. These activities shall include information related to:
  - *Associated benefits and risks;*
  - *Costs and implications involved;*
  - *Environmental and social safeguards to be introduced to mitigate impacts from the proposed activity;*
  - *The freedom for affected customary landowners to withhold their consent for the proposed activity;*
- Ensure affected customary landowners understand the information shared by:
  - *Allowing for sufficient time in between activities identified in the plan;*
  - *Allocating adequate financial and human resources, including seeking independent advice.*<sup>55</sup>

### **Step 3: Conduct negotiation process with affected Customary Landowners and Local Communities**

- Identify if the landowner representative has been delegated authority to negotiate and/or decide on behalf of the affected customary landowners and local communities;
- Prepare information on items to be negotiated, which may include:
  - *Impacts of the project, multiple benefits and risks, and possible mitigation measures to these risks.*
  - *What, and how benefit from the activity will be shared and distributed equitably among all registered ILGs in the project area, the project developer, the government, etc.;*
  - *What and how roles and responsibilities for both parties will be determined;*
  - *What alternative livelihood options exist;*
  - *What compensation, whether material or financial, will be required, if relevant, and*
  - *What milestones shall be set in place to determine when consent is required at other points during the project life cycle;*
- Ensure sufficient time is allocated for representatives to consult with affected customary landowners;
- Repeat process where necessary;
- Determine with designated representatives whether consent is given or withheld;
- Jointly draft an agreement, stipulating terms and conditions, where consent is given or withheld;
- Evidence of majority of people living in the affected village/or REDD+ project community agrees with the REDD+ project agreement; and,
- Identify roles and responsibilities in participatory monitoring of agreement.
- Conduct negotiation process at Provincial and LLG level of respective communities to allow good participation of landowner representatives.

### **Step 4: Record and Documentation**

- Document key outputs from implementation of the consultation and participation plan. Highlight points of contention or disagreement, and how these were addressed;
- Determine with the designated representative of the affected customary landowners how key decisions during the negotiation process shall be recorded and disseminated;
- Record how consent was given and its accompanying terms and conditions, where relevant;
- Document when consent given or withheld will be periodically reviewed against terms and conditions of the agreement or a set of indicators, whichever is applicable;
- Record milestones for seeking consent at different stages of the project life cycle;
- Disseminate records of consent to relevant REDD+ governing authorities at national, provincial and district levels;
- Ensure documented records are disseminated to participating communities in a simpler version.
- Ensure records of consent given are made available upon request by interested parties.

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<sup>55</sup> This means giving financial and human resources to the affected communities so that they can understand and process material, and hold meetings to discuss among themselves, and contract an expert to give them independent advice on the REDD+ activity.

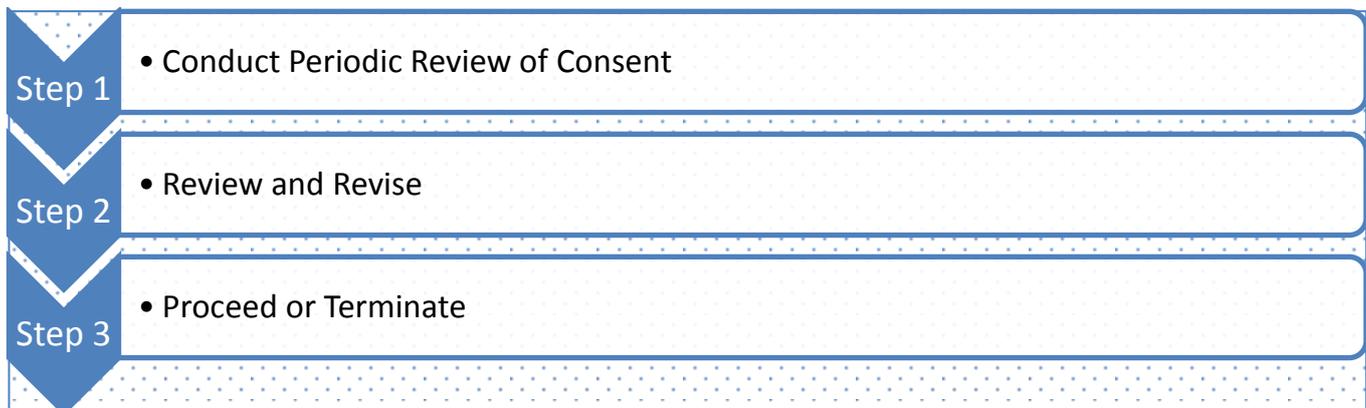
### Step 5: Revise and Finalise Project Document

- Revise project document to reflect terms and conditions of agreement between both parties;
- Submit project document to relevant government authorities (e.g. OCCD established REDD+ approval technical bodies, etc.) and certification bodies (*UNFCCC, CCBS, VCS, etc.*) to get approval and/or certification;<sup>56</sup>
- Inform affected customary landowners of the progress with approval from relevant government authorities and project validation/verification and certification.
- Continuously update the customary landowners and relevant government authorities on the status of progress in the REDD+ project/activity.

### Step 6: Evaluate FPIC Process

- Identify an independent entity to evaluate the process of seeking consent at the proposed activity site (*Refer to Annex 8: Role of Independent Evaluators*);
- Ensure all parties are involved in reviewing and revising future milestone for the REDD+ project.
- Take corrective action if the independent evaluators identified discrepancies in the process;
- If discrepancies cannot be addressed, the process may be nullified, with agreement from both parties; and
- Ensure the final evaluation report is made available upon request by interested parties.
- Continuously update the customary landowners and relevant government authorities on the status of progress in the REDD+ project/activity.

### **Diagram 10: Phase 3 - Consent during project implementation, monitoring and reporting**



### Step 1: Conduct Periodic Review of Consent

- When consent is required at other points during the project life cycle, identify how and when it shall be reviewed;
- Measure compliance to the terms and conditions of the agreement, or evaluate against a set of indicators, whichever is applicable;
- Ensure there is documented evidence of compliance or non-compliance by both parties;
- Determine a time period where non-compliant parties shall respond to discrepancies in fulfilling terms and conditions of the agreements;
- Take corrective action to address non-compliance, if mutually agreed by both parties; and
- Revisit negotiation process, if applicable; and

- Consider terminating agreement and project, subject to agreement by both parties, if non-compliance cannot be satisfactorily addressed.

### **Step 2: Review and Revise**

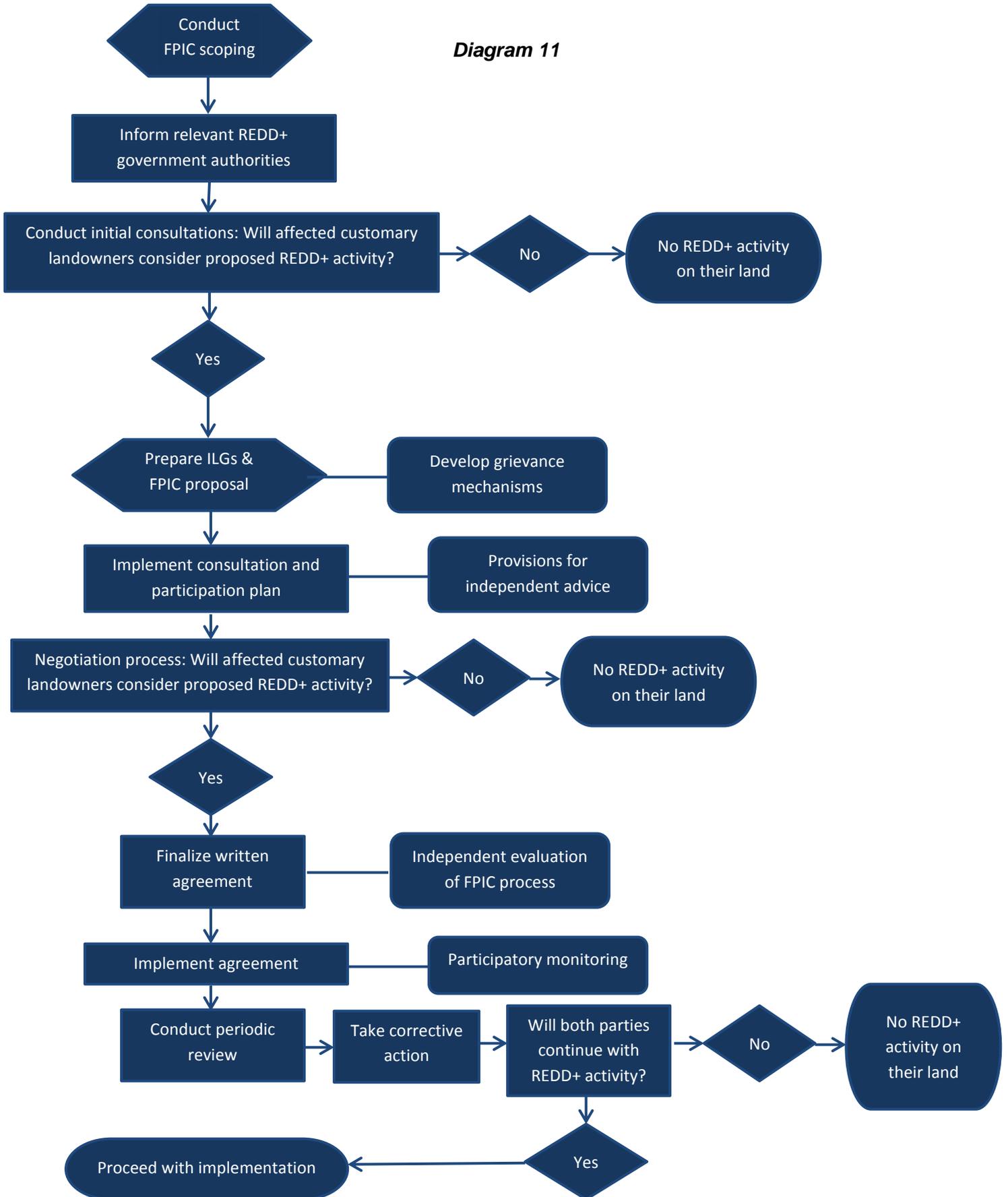
- Determine if both or either parties wish to review and revise future milestones for the project;
- Review consultation, participation and negotiation processes, if applicable; and
- Document and disseminate key changes to relevant parties, for instance, project updates to relevant government authorities.

### **Step 3: Proceed or Terminate REDD+ Project/Activity**

- Subject to **steps 1** and **2** in **Diagram 10**, both or either parties may decide to proceed with project implementation with revised milestones, terms and conditions; or terminate the project;

5.6.4 **Diagram 11** below summarizes the indicative steps for REDD+ project proponents to conduct a FPIC process.

**Diagram 11**



## 6. National-Level Grievance Mechanisms

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Establishing culturally appropriate grievance resolution mechanism based on local requirements and circumstances are very important for resolving issues and grievances at an earlier stage. It helps prevent the issues and/or grievances from growing and become much bigger issues later on in the future, thus affecting the implementation of the REDD+ activity or program.

Also, it provides a way to reduce risk for projects, offer affected customary landowners an effective avenue for expressing concerns and achieving remedies, and promote a mutually constructive relationship between the REDD+ project developer and affected customary landowners. The latter needs a trusted way to voice and resolve concerns linked to REDD+ development activity, and therefore project proponents (*either the national government or the company involved in the REDD+ Project*) need to have an effective way to address concerns raised by the affected customary landowners.

In PNG, traditional methods of solving grievances exist and are very effective at the community level. All grievances from customary landowners within the project area shall be taken into account considering the severity of issue at hand, and resolved accordingly using appropriate methods and/or measures applicable in the community. A locally based grievance resolution mechanism provides a promising avenue to solving disputes, thus offering a reliable structure and set of approaches where the local right-holders/people and the project proponents can find effective solutions together. Where customary practices are inadequate, the grievances related to land may be subsequently referred to the legal system, either the Village Court or Local Land Court at the District level who, as a first step of settlement, requests assistance from land mediators appointed by the Provincial Land Disputes Committee. When mediation proves to be unsuccessful, the land-related grievance or dispute is referred back to the Local Land Court. An appeal of a Local Land Court decision may be directed to the Provincial Land Court, with a further final appeal to the National Court.

It is the responsibility of the national government to ensure appropriate national-level grievance mechanism is established and in operation such that the right of customary landowners (affected communities), like others, is to a prompt, fair and effective remedy. If the legal personality of an affected community is not recognized such to affirm their legal standing to access a national-level grievances mechanism, this must be addressed by the project if not through legal or administrative reform (whichever applicable) than through a mitigation measure ensuring that the absence of such recognition is not an impediment for the affected community in its own right to seeking recourse and remedies for violations of their rights.. Having a well-functioning grievance mechanism may provide a fast, predictable, transparent, and credible process for all parties involved in the activity, resulting in outcomes that are seen as fair, effective and long-lasting. Critical in this process is having a gender-sensitive grievance mechanism in place that is able to help address violations and allows stakeholders, including civil society, women and other marginalized groups, to raise complaints and grievances and have them adequately addressed. Consequently, it builds trust between the customary landowners, stakeholders, and the REDD+ proponents, thereby strengthening the overall relationship between all relevant parties towards enabling more systematic identification of emerging issues and trends and facilitating corrective action and pre-emptive engagement to solving conflicting issues arising from the activity.

A national-level grievance mechanism established in the context of REDD+ will be critical to ensuring grievances and disputes are addressed in a proper manner, including in FPIC processes.<sup>57</sup> The proposed grievance mechanism shall adhere to the principles and standards outlined in the UN-REDD Programme Guidelines on FPIC and the UN-REDD Programme Guidance on National-level Grievance Mechanisms (Refer to Annex 9: National-Level Grievance Mechanism).

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<sup>57</sup> UN-REDD Programme (2013), "Guidelines on Free, Prior and Informed Consent".

## 7. ANNEXES

### 7.1 ANNEX 1: KEY PRINCIPLES OF FPIC PROCESS IN REDD+ DEVELOPMENT

REDD+ standards can help address a number of key objectives, within the context of a national approach to REDD+ development, such as:

- Ensuring the REDD+ policies and actions are developed in ways that minimize risks and enhance benefits to local communities and to the nation as a whole. These risks may be environmental, social, governance or economic in nature. Concerns may be raised by stakeholder groups (such as customary landowners) who may be, (or are) impacted by the implementation of the REDD+ programme.
- Ensuring that the process for developing, implementing and overseeing REDD+ actions at national and local levels is done in an inclusive and participatory manner, involving those groups who may be impacted (either positively or negatively) by these actions.
- Ensuring that outcomes from REDD+, during and after implementation, generate positive outcomes and that negative impacts are reported and mitigated in future.
- Ensuring that outcomes from REDD+, during and after implementation, generate positive outcomes and that negative impacts are reported and mitigated in future.
- Identifying gaps in national policy and law. These gaps may be areas of law that are not adequately covered within existing legislation. Alternatively, gaps may occur during implementation, and be caused by lack of capacity / resources from the state or vested interests that actively seek to undermine implementation of laws and policies.

Attempt by GoPNG to put in place the required Social and Environmental Safeguards for REDD+ in PNG has resulted in the formulation of the following key principles by the Office of Climate Change & Development for implementation of FPIC in REDD+ programs and activities. **Table 4** below provides the key principles of FPIC adopted from the “*Draft REDD+ Social and Environmental Standards for Papua New Guinea*”.<sup>58</sup> These key principles include:

<b>Principle 1</b>	The REDD+ programme <sup>59</sup> recognizes and respects <sup>60</sup> rights to lands and resources <sup>61</sup> .
<b>Principle 2</b>	The benefits <sup>62</sup> of the REDD+ programme are shared equitably <sup>63</sup> among all relevant <sup>64</sup> rights holders and stakeholders <sup>65</sup> .
<b>Principle 3</b>	The REDD+ programme improves long-term livelihood <sup>66</sup> security and well-being of customary landowners and local communities with special attention to women and the most marginalized and/or vulnerable people. <sup>67</sup>

<sup>58</sup> See the Office of Climate Change and Development established “Draft Social and Environmental Principles, Criteria and Indicators for Papua New Guinea, Version II, July 2014, pg. 6-23”.

<sup>59</sup> The REDD+ programme to which these indicators are being applied must be defined in a published document that should include the following elements, and should indicate the progress that has been made towards their definition (i) the objectives; (ii) identification of the drivers of deforestation and forest degradation; (iii) description of the policies, measures and activities, and plans for their design and implementation; (iv) identification of the geographical areas in which activities will be implemented, where relevant; (v) identification of the institutional arrangements for programme design, implementation and evaluation.

<sup>60</sup> ‘Respect’ is taken to include not undermining or prejudicing rights.

<sup>61</sup> ‘Resources’ is understood to include ecosystem services provided by these resources.

<sup>62</sup> The term ‘benefits’ in Principle 2 is understood to reflect a full consideration of benefits, costs and risks.

<sup>63</sup> ‘Equity’ and ‘equitable’ are defined as just, impartial and fair to all parties including marginalized and vulnerable people.

<sup>64</sup> ‘Relevant’ rights holder and stakeholder groups are identified by the REDD+ programme in accordance with criterion 6.1 ‘Principle 6’.

<sup>65</sup> ‘Stakeholders’ are those who can potentially affect or be affected by the REDD+ programme.

<sup>66</sup> ‘Livelihoods’ can be defined by five capital/assets: socio-political, cultural, human, financial, natural and physical.

<sup>67</sup> ‘Vulnerable’ people are those with high exposure to external stresses and shocks (including climate change); and with high sensitivity and low adaptive capacity to adjust in response to actual or expected changes due to their lack of secure access to the assets on which secure livelihoods are built (socio-political, cultural, human,

<b>Principle 4</b>	The REDD+ programme contributes to good governance <sup>68</sup> , broader sustainable development and to social justice <sup>69</sup> .
<b>Principle 5</b>	The REDD+ programme maintains and enhances <sup>70</sup> biodiversity, ecosystem services and ensures integrity of greenhouse gas emissions.
<b>Principle 6</b>	All relevant <sup>71</sup> rights holders and stakeholders participate fully and effectively in the REDD+ programme.
<b>Principle 7</b>	The REDD+ programme complies with applicable local <sup>72</sup> and national laws and international treaties, conventions and other instruments <sup>73</sup> .

Source: "Draft REDD+ Social and Environmental Principles, Criteria and Indicators for Papua New Guinea", Version II, July 2014, Office of Climate Change and Development.

Moreover, similar standards could also be found in the work of Climate Community Biodiversity Alliance and Care International and relates to the rights of indigenous people under the 'REDD+ Social and Environmental Standards'<sup>74</sup>. The UN-REDD Programme and FCPF have also jointly developed its "Guidelines on Stakeholder Engagement in REDD+ Readiness With a Focus on Participation of Indigenous Peoples and Other Forest Dependent Customary landowners". Added to that, the Programme has also adopted the UN-REDD Programme Social and Environmental Principles and Criteria as a proposed guiding framework to enhance the multiple benefits of, and reduce risks from REDD+. The seven principles are:

- Apply norms of democratic governance, as reflected in national commitments and Multilateral Agreements;
- Respect and protect stakeholder rights in accordance with international obligations,<sup>75</sup>;
- Promote sustainable livelihoods and poverty reduction;
- Contribute to low-carbon, climate-resilient sustainable development policy, consistent with national;
- development strategies, national forest programmes and commitments under international conventions and agreements;
- Protect natural forest from degradation and/or conversion;
- Maintain and enhance multiple functions of forest including conservation of biodiversity and provision of ecosystem services; and,
- Avoid or minimise adverse impacts on non-forest ecosystem services and biodiversity.

Note the above set of *Principles and Criteria* was developed as the UN-REDD Programme's response to the safeguards for REDD+ as agreed to at UNFCCC COP 16 in Cancun<sup>76</sup>. The "Social and Environmental Principles" emerge from the understanding of the major potential opportunities and risks from REDD+, together with commitments that have been made in the context of Multilateral Environmental Agreements (MEAs), and other REDD+ relevant standards. The Cancun Agreement may help us to understand the extent to which Parties to UNFCCC are committed to safeguarding and enhancing the multiple benefits of REDD+ which they agree to

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financial, natural and physical). Forest dependency may be an important factor affecting vulnerability particularly where the REDD+ programme itself may change access to forest resources. In many situations marginalization exacerbates vulnerability, e.g. marginalization by gender.

<sup>68</sup> Good governance is characterised by accountability, effectiveness, efficiency, fairness/equity, participation and transparency.

<sup>69</sup> 'Social justice' is understood to mean 'respect, protection and fulfilment of human rights'. Human rights are the fundamental rights and freedoms that belong to every person in the world, based on core principles like dignity, fairness, equality, respect and autonomy, including but not limited to the rights enshrined in relevant international treaties, conventions and other instruments.

<sup>70</sup> Impacts on biodiversity and ecosystem services including conversion and degradation are relative to the reference scenario which is the most likely land-use scenario in the absence of the REDD+ programme.

<sup>71</sup> The 'relevant' rights holder and stakeholder groups are identified by the REDD+ programme in accordance with criterion 6.1 (see Draft Principle 6 of the Draft REDD+ Social and Environmental Principles, Criteria and Indicator for Papua New Guinea, Version II, July 2014, pg. 19)

<sup>72</sup> Local laws include all legal norms given by organs of government whose jurisdiction is less than the national level, such as departmental, municipal and customary norms including those of customary land owners.

<sup>73</sup> Including, but not limited to, the Universal Declaration of Human Rights, the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity, the United Nations Declaration on the Rights of Indigenous Peoples, the Convention on the Elimination of All Forms of Discrimination against Women, the International Labor Organization Convention 169. "Instruments" refers to any legal processes recognized in the constitution, such as decrees, ministerial statements and other processes.

<sup>74</sup> See Climate Community Biodiversity Alliance and CARE International (2010, June). 'REDD+ Social and Environmental Standards', Version 1.

<sup>75</sup> This Principle talks about respect for the knowledge and rights of indigenous peoples and members of local communities/customary landowners, by taking into account relevant international obligations, national circumstances and laws, and noting that the General Assembly has adopted the UNDRIP. Thus give clear emphasis of FPIC as an important criterion under this principle.

<sup>76</sup> Cancun Agreement: Outcome of the work of the Ad Hoc Working group on Long-term Cooperative Action (AWG-LCA) under the Convention, Annex 1 ([http://unfccc.int/meetings/cop\\_16/items/5571.php](http://unfccc.int/meetings/cop_16/items/5571.php))

'promote and support' the safeguards listed and to provide information on how the safeguards are being 'addressed and respected' throughout the implementation of REDD+ activities.

'REDD+ has the potential to deliver substantial benefits beyond carbon. However, there is also a possibility that risks will be incurred in the implementation of REDD+'.<sup>77</sup> Hence, it is important for project proponents of REDD+ to take note of these key principles of community engagement that respects the right of customary landowners to FPIC when developing REDD+ activities in the country. These principles are established to protect and safeguard the rights of customary landowners from potential risks incurred by REDD+ programs or activities. Besides, they were established also to provide guidance to project proponents when developing REDD+. The bottom line is, the rights of the customary landowners are been respected by proponents of REDD+ when entering into a project agreement on REDD+ activities that may have potential impact on their normal livelihoods in their local communities.

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<sup>77</sup> UN-REDD Programme Social And Environmental Principles And Criteria, March 2012.

## 7.2 ANNEX 2: STAKEHOLDER ENGAGEMENT: EFFECTIVE AND EQUITABLE GENDERED PARTICIPATION AND REPRESENTATION IN DECISION-MAKING

Women and men's specific roles, rights and responsibilities, as well as their particular use patterns and knowledge of forests, shape their experiences differently. As such, gender-differentiated needs, uses and knowledge of the forest are critical inputs to policy and programmatic interventions that will enable the long-term success of REDD+ on the ground. To ensure that national REDD+ systems and programmes are inclusive and resilient, specific attention must be paid to the specific roles, requirements and contributions of women and men at every stage of policy and programme development, from design through implementation and evaluation.

A gender-responsive "*REDD+ Stakeholder Engagement Strategy*" is very crucial for REDD+ programs as it recognizes the role of women as primary users of forest resources in REDD+ policy and programme design, as well as implementation and evaluation. REDD+ Proponents shall consult the UN-REDD Programme Guidance Note on Gender Sensitive REDD+ to guide them to develop their gender-responsive REDD+ stakeholder engagement strategy. According to data from the health, nutrition and education sectors, the engagement of both women and men in consultation processes advances the understanding of women's practical needs and therefore the relevance of the consultations' outcomes. Moreover, whenever possible while maintaining respect for the customary laws and practices of the community or peoples (i.e., customary landowners) in question, a participatory REDD+ initiative would take appropriate steps to ensure that women have appropriate and adequate representation in **decision-making**. This has been shown to better address their strategic needs, resulting in greater uptake of the desired shifts in behaviour.

Participatory REDD+ interventions that effectively engage both women and men in decision-making could also result in greater likelihood of sustained change in the way forest resources are used, thereby contributing to the sustainability of the REDD+ mechanism. If women are to be involved in decision-making, their full and effective participation may depend on additional training.

Gender-responsive participatory processes include the use of women-only interviews and gender-specific focus groups and group consultations. These approaches enable women to fully participate and make their voices heard with minimal distortion of message. Other methods to support women's engagement that are not meeting-based are also worth considering.

It is important to note, however, that this is not a "box-ticking" exercise: getting women into meetings, ensuring that they actively participate in those meetings and finally enabling women as decision-makers requires addressing the asymmetries of power and other cultural norms that influence gender equality. Ultimately, increasing the role of women in consultations can help increase implementation efficiency, increasing women's full and effective participation will increase efficacy, increasing women's roles as decision-makers will increase sustainability.

### 7.3 ANNEX 3: PAPUA NEW GUINEA NATIONAL CONSTITUTION

The Constitution of Papua New Guinea entered into force on the 16 September 1975. It is one of the few unique constitutions around the world that contains almost all the rights and freedoms enshrined in the United Nations Charter and the Universal Declaration of Human Rights 1948. The constitution contains many civil and political rights that are able to be enforced by the judiciary. These include right to freedom (Section 32); right to life (Section 35); freedom from inhuman treatment (Section 36); freedom from conscience, thought and religion (Section 45); freedom of expression (Section 46) and right to vote and stand for public office (Section 50). Thus Section 32-56 of the *Constitution* comprises *Basic Rights, Qualified Rights* and *Special Rights of Citizens*. Further enforcement of these rights by the Courts and other tribunals is governed by Section 57 and 58 of the *Constitution*. Economic, social and cultural rights are not included in the constitution and are instead provided for in the National Goals and Directive Principles. These remain as Guidelines and are non-justiciable.

Moreover it has been observed that the Constitution of Papua New Guinea “is perhaps one of the world’s most prolific constitutional documents”<sup>78</sup> and that it is supported by numerous Organic Laws.”<sup>79</sup> The genesis of the Human Rights provisions of the Constitution is traceable to the *Human Rights Act 1971*, which was later to influence the deliberations of the Constitutional Planning Committee in its task of devising an appropriate Constitution for Independent Papua New Guinea.

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<sup>78</sup> Ibid., 56.

<sup>79</sup> Loc. Cit.

## 7.4 ANNEX 4: PNG NATIONAL GOALS AND DIRECTIVE PRINCIPLES

A paramount attribute of the *Constitution* is the “National Goals and Directive Principles”. In 1975, Papua New Guinea’s Constitutional Planning Committee (CPC) foresaw the problems of the western form of economic development. Through the wisdom of the *Constitutional Planning Committee* the “*National Goals and Directive Principles*” was developed and entrenched into the *National Constitution* of Papua New Guinea. Under the National Goals and Directive Principles, five main goals and directive principles were identified by the CPC, which include (i) Integral Human Development, (ii) Equality and Participation, (iii) National Sovereignty and Self-Reliance, (iv) Natural Resource and Environment, and (v) Papua New Guinea Ways.

The following portrays the Papua New Guinea’s *National Goals and Directive Principles* and the *Basic Rights and Basic Social Obligations* of Papua New Guinean citizens as per the “*Constitution of the Independent State of Papua New Guinea*”.

**WE HEREBY PROCLAIM** the following aims as our National Goals, and direct all persons and bodies, corporate and unincorporated, to be guided by these our declared Directives in pursuing and achieving our aims:

### 1. INTEGRAL HUMAN DEVELOPMENT

*We declare our first goal to be for every person to be dynamically involved in the process of freeing himself or herself from every form of domination or oppression so that each man or woman will have the opportunity to develop as a whole person in relationship with others.*

WE ACCORDINGLY CALL FOR;

- (1) everyone to be involved in our endeavors to achieve integral human development of the whole person for every person and to seek fulfillment through his or her contribution to the common good; and
- (2) education to be based on mutual respect and dialogue, and to promote awareness of our human potential and motivation to achieve our National Goals through self-reliant effort; and
- (3) all forms of beneficial creativity, including sciences and cultures, to be actively encouraged; and
- (4) improvement in the level of nutrition and the standard of public health to enable our people to attain self-fulfillment; and
- (5) the family unit to be recognized as the fundamental basis of our society, and for every step to be taken to promote the moral, cultural, economic and social standing of the Melanesian family; and
- (6) development to take place primarily through the use of Papua New Guinean forms of social and political organization.

### 2. EQUALITY AND PARTICIPATION

*We declare our second goal to be for all citizens to have an equal opportunity to participate in, and benefit from, the development of our country.*

WE ACCORDINGLY CALL FOR;

- (1) an equal opportunity for every citizen to take part in the political, economic, social, religious and cultural life of the country; and
- (2) the creation of political structures that will enable effective, meaningful participation by our people in that life, and in view of the rich cultural and ethnic diversity of our people for those structure to provide for substantial decentralization of all forms of government activity; and
- (3) every effort to be made to achieve an equitable distribution of incomes and other benefits of development among individuals and throughout the various parts of the country; and
- (4) equalization of services in all parts of the country, and for every citizen to have equal access to legal processes and all services, governmental and otherwise, that are required for the fulfillment of his or her real needs and aspirations; and
- (5) equal participation by women citizens in all political, economic, social and religious activities; and
- (6) the maximization of the number of citizens participating in every aspect of development; and

- (7) active steps to be taken to facilitate the organization and legal recognition of all groups engaging in development activities; and
- (8) means to be provided to ensure that any citizen can exercise his personal creativity and enterprise in pursuit of fulfillment that is consistent with the common good, and for no citizen to be deprived of this opportunity because of the predominant position of another; and
- (9) every citizen to be able to participate, either directly or through a representative, in the consideration of any matter affecting his interests or the interests of his community; and
- (10) all persons and governmental bodies of Papua New Guinea to ensure that, as far as possible, political and official bodies are so composed as to be broadly representative of citizens from the various areas of the country; and
- (11) all persons and governmental bodies to endeavour to achieve universal literacy in *Pisin*, *Hiri Motu* or English, and in “*tok ples*” or “*ita eda tano gado*”; and
- (12) recognition of the principles that a complete relationship in marriage rests on equality of rights and duties of the partners, and that responsible parenthood is based on that equality.

### 3. NATIONAL SOVEREIGNTY AND SELF-RELIANCE

*We declare our third goal to be for Papua New Guinea to be politically and economically independent, and our economy basically self-reliant.*

WE ACCORDINGLY CALL FOR;

- (1) our leaders to be committed to these National Goals and Directive Principles, to ensure that their freedom to make decisions is not restricted by obligations to our relationship with others, and to make all of their decisions in the national interest; and
- (2) all governmental bodies to base their planning for political, economic and social development on these Goals and Principles; and
- (3) internal interdependence and solidarity among citizens, and between provinces, to be actively promoted; and
- (4) citizens and governmental bodies to have control of the bulk of economic enterprise and production; and
- (5) strict control of foreign investment capital and wise assessment of foreign ideas and values so that these will be subordinate to the goal of national sovereignty and self-reliance, and *in particular* to control major enterprises engaged in the exploitation of natural resources; and
- (6) the State to take effective measures to control and actively participate in the national economy, and *in particular* to control major enterprises engaged in the exploitation of natural resources; and
- (7) economic development to take place primarily by the use of skills and resources available in the country either from citizens or the State and not in dependence on imported skills and resources; and
- (8) the constant recognition of our sovereignty, which must not be undermined by dependence on foreign assistance of any sort, and *in particular* for no investment, military or foreign-aid agreement or understanding to be entered into that imperils our self-reliance and self-respect, or our commitment to these National Goals and Directive Principles, or that may lead to substantial dependence upon or influence by any country, investor, lender or donor.

### 4. NATURAL RESOURCES AND ENVIRONMENT

*We declare our fourth goal to be for Papua New Guinea’s natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations.*

WE ACCORDINGLY CALL FOR;

- (1) wise use to be made of our natural resources and the environment in and on the land or seabed, in the sea, under the land, and in the air, in the interests of our development and in trust for future generations; and
- (2) the conservation and replenishment, for the benefit of ourselves and posterity, of the environment and its sacred, scenic, and historical qualities; and
- (3) all necessary steps to be taken to give adequate protection to our valued birds, animals, fish, insects, plants and trees.

## 5. PAPUA NEW GUINEA WAYS

*We declare our fifth goal to be to achieve development primarily through the use of Papua New Guinean forms of social, political and economic organization.*

WE ACCORDINGLY CALL FOR;

- (1) a fundamental re-orientation of our attitudes and the institutions of government, commerce, education and religion towards Papua New Guinean forms of participation, consultation, and consensus, and a continuous renewal of the responsiveness of these institutions to the needs and attitudes of the People; and
- (2) particular emphasis in our economic development to be placed on small-scale artisan, service and business activity; and
- (3) recognition that the cultural, commercial and ethnic diversity of our people is a positive strength, and for the fostering of a respect for, and appreciation of, traditional ways of life and culture, including language, in all their richness and variety, as well as for a willingness to apply these ways dynamically and creatively for the tasks of development; and
- (4) traditional villages and customary landowners to remain as viable units of Papua New Guinean society, and for active steps to be taken to improve their cultural, social, economic and ethical quality.

With these National Goals and Directive Principles, are the *Basic Rights* and *Basic Social Obligations* of Papua New Guinean citizens as recognized in the *Constitution*. Below depicts these rights and social obligations.

### **Basic Rights**

**WE HEREBY ACKNOWLEDGE** that, subject to any restrictions imposed by law on non-citizens, all persons in our country are entitled to the fundamental rights and freedoms of the individual, that is to say, the right whatever their race, tribe, places of origin, political opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the legitimate public interest, to each of the following:

- (a) life, liberty, security of the person and the protection of the law; and
- (b) the right to take part in political activities; and
- (c) freedom from inhuman treatment and forced labour; and
- (d) freedom of conscience, of expression, of information and of assembly and association; and
- (e) freedom of employment and freedom of movement; and
- (f) protection for the privacy of their homes and other property and from unjust deprivation of property,

and have accordingly included in this Constitution provisions designed to afford protection to those rights and freedoms, subject to such limitations on that protection as are contained in those provisions, being limitations primarily designed to ensure that the enjoyment of the acknowledged rights and freedoms by an individual does not prejudice the rights and freedoms of others or the legitimate public interest.

### **Basic Social Obligations**

**WE HEREBY DECLARE** that all persons in our country have the following basic obligations to themselves and their descendants, to each other, and to the Nation:

- (a) to respect, and to act in the spirit of this Constitution; and
- (b) to recognize that they can fully develop their capabilities and advance their true interests only by active participation in the development of the national community as a whole; and
- (c) to exercise the rights guaranteed or conferred by this Constitution, and to use the opportunities made available to them under it to participate fully in the government of the Nation; and
- (d) to protect Papua New Guinea and to safeguard the national wealth, resources and environment in the interests not only of the present generation but also of future generations; and
- (e) to work according to their talents in socially useful employment, and if necessary to create for themselves legitimate opportunities for such employment; and
- (f) to respect the rights and freedom of others, and to co-operate fully with others in the interests of interdependence and solidarity; and

- (g) to contribute, as required by law, according to their means to the revenues required for the advancement of the Nation and the purposes of Papua New Guinea; and
- (h) in the case of parents, to support, assist and educate their children (whether born in or out of wedlock), and in particular to give them a true understanding of their basic rights and obligations and of the National Goals and Directive Principles; and
- (i) in the case of the children, to respect their parents.

IN ADDITION, WE HEREBY DECLARE that all citizens have an obligation to themselves and their descendants, to each other and to the Nation to use profits from economic activities in the advancement of our country and our people, and that the law may impose a similar obligation on non-citizens carrying on economic activities in or from our country.

## 7.5 ANNEX 5: NATIONAL AND INTERNATIONAL LEGAL AND POLICY FRAMEWORK

**Tables 5** and **6** provides both National and International Legal and Policy requirements that indirectly supports the implementation of *FPIC* in REDD+ projects<sup>80</sup>. While the concept of *FPIC* is still evolving, elements of it are recognized by a number of international and national agreements and instruments. Although there are no specific legislations in PNG that gives additional emphasis on *FPIC*, there are however, national domestic laws on PNG that somewhat recognize the principles of *FPIC* and gives some prominence to the role it plays in having access to customary landowners land and resources. These legal mechanisms accordingly oblige activities of REDD+ to respect the rights of customary landowners' in project establishment.

### 7.5.1 National Legal and Policy Framework

**Table 5: National Legal and Policy Frameworks that needs to be taken into consideration when implementing Free Prior and Informed Consent**

No.	Legal Frameworks	Administered Organization	Remark
1.	Papua New Guinea National Constitution		National Goals and Directive Principles; section 32-56 (Basic Rights and Basic Social Obligations, Qualified Rights, and Special Rights of Citizens). Section 57-58 provides for the enforcement of these rights.
2.	National Climate Change Act	Office of Climate Change and Development	Still pending.
3.	National Climate Compatible Development Management Policy	Office of Climate Change and Development	
4.	National Forest Policy (1991)	Papua New Guinea Forest Authority	
5.	The National Forest Plan (1991)	Papua New Guinea Forest Authority	
6.	Forestry Act (1991)	Papua New Guinea Forest Authority	
7.	Forest Regulation No. 15 (1992)	Papua New Guinea Forest Authority	
8.	Forestry (Amendment) Act (1993).	Papua New Guinea Forest Authority	
9.	The National Forest Development Guidelines (1993)	Papua New Guinea Forest Authority	
10.	Forestry (Amendment No.2) Act (1996).	Papua New Guinea Forest Authority	
11.	Logging Code of Practice (1996)	Papua New Guinea Forest Authority	
12.	Forestry Regulations (1996)	Papua New Guinea Forest Authority	

<sup>80</sup> Note that, customary landowners need to be made aware of their legal rights to participate or not to participate in REDD+ projects; made aware of the theory and practices in implementing REDD+; made aware of the benefits (both monetary, socio-economic and environmental developments) from the project; and, that customary landowners shall also be made aware of the consequences that may come about when implementing REDD+.

13.	Forestry Regulation (1998)	Papua New Guinea Forest Authority	
14.	Forestry (Amendment) Act (2000).	Papua New Guinea Forest Authority	
15.	Forestry (Amendment) Act (2005)	Papua New Guinea Forest Authority	
16.	Forestry (Amendment) Act (2007)	Papua New Guinea Forest Authority (PNGFA)	
17.	Mining Act 1992	Department of Mining	
18.	Oil and Gas Act, No. 49 1998	Department of Petroleum and Energy	Division 5 - Social Mapping and Landowner Identification Study,
19.	Mineral Resource Authority Act	Mineral Resource Authority (MRA)	
20.	Land Act (1996)	Department of Lands and Physical Planning (DLPP)	
21.	Environmental Act (2000),	Department of Environment and Conservation (DEC)	An Act that provides the administrative mechanism for environmental impact assessment and evaluation of activities regulating impacts on the receiving environment through an established environmental approval and permitting system.
22.	Fauna (Protection and Control) Act (1966)	Department of Environment and Conservation	This Act provides the mechanism for the protection and control of faunal species involved in international trade activities
23.	International (Fauna and Flora) Trade Act (1978)	Department of Environment and Conservation	This Act provides the mechanism for the control of exportation and importation and introduction of flora and fauna from the sea, whether dead, alive, their by-products, parts or derivatives.
24.	Crocodile Trade Act (1978)	Department of Environment and Conservation	This Act provides the mechanism for the management and control of crocodile exports and other related activities.
25.	Conservation Areas Act (1978)	Department of Environment and Conservation	This Act provides the mechanism for the management and control of resources in protected areas

			including flora and fauna and sites of cultural and historical importance.
26.	National Parks Act (1982)	Department of Environment and Conservation	This Act provides the mechanism for the management and control of protected areas in PNG including flora and fauna
27.	Flora and Fauna Act (1968)	Department of Environment and Conservation	
28.	Water Resource Act 1982	PNG Water Board/DEC	This Act provides the mechanisms for management of national water resources and responsibility for that management
29.	Provincial Health Authorities Act (2007)	Health Department	
30.	Industrial Relations Act (1962)	Department Labour and Employment	
31.	Industrial Health Safety and Welfare Act (1962)	Department of Labour and Employment (DLPP)	
32.	Land Groups Incorporation Act (1974),	Department of Lands and Physical Planning	
33.	Land Registration (Customary Land) (Amendment ) Act 2009	Department of Lands and Physical Planning	
34.	Land Groups Incorporation (Amendment) Act (2009)	Department of Lands and Physical Planning	
35.	Land Disputes Settlement Act (1975)	Department of Lands and Physical Planning	
36.	Investment Promotion Act (1992)	Investment Promotion Authority (IPA)	
37.	Company Act (1997)	Investment Promotion Authority (IPA)	
38.	Relevant PNG Customary Laws		

## 7.5.2 International Legal and Policy Framework

<b>Table 6: International Legal and Policy Framework that needs to be taken into consideration when implementing Community Rights to FPIC</b>		
<b>No.</b>	<b>Legal and Policy Framework</b>	<b>Remarks</b>
1.	International Labour Organization's Convention No.169	Guarantees the rights of indigenous people (customary landowners) to their land and to be consulted whenever consideration is being given to legislative or administrative measures or projects which may affect them with the objective of achieving agreement or consent to the proposed measures.
2.	The Convention on Biological Diversity (1993)	Recognize that indigenous knowledge may only be used with prior approval and requires national governments to protect indigenous cultures and peoples.
3.	The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)	The UNDRIP does have a significant descriptions of the circumstances when FPIC is required, and has FPIC clear obligations on States regarding the rights of indigenous peoples, including their right to own and use their traditional territories.
4.	The United Nations Framework Convention on Climate Change (UNFCCC)	Refers to UNDRIP in Annex 1 of decision Conference of the Parties 16 – the Cancun Agreement. This annex details the safeguards that countries shall promote when undertaking activities under REDD+. By 'noting' that UNDRIP has been adopted by the United Nations General Assembly, the document implies (but does not specify) that the obligations concerning FPIC as expressed in UNDRIP also apply in the context of REDD+.
5.	The UN Collaborative Programme on REDD+ (UN-REDD)	Strongly worded, explicit commitment to the principles of the UNDRIP and FPIC are included in the guidance and adopted by the Programme (see Appendix.....; UN-REDD Guidelines on FPIC).
6.	The World Bank's Forest Carbon Partnership Facility (FCPF) and Forest Investment Program (FIP)	Both refer to the right to 'Free, Prior, Informed Consultation', but this does not guarantee the right of communities to withhold their consent to proposed developments. While it does not expressly speak of consent, the meaning of "good faith consultations means with a view to achieving agreement or consent". Note that, Free, Prior and Informed Consultation could only be the same if consultation is conducted with a view to agree other than just consultation.
7.	Voluntary Carbon Market Standards (VCS)	The Voluntary Carbon Market Standard (VCS) makes reference to 'community consultations', but not to FPIC. The Climate, Community, and Biodiversity Standards (CCB) on the other hand, require documentation of a process that respects the right to FPIC of indigenous peoples and local

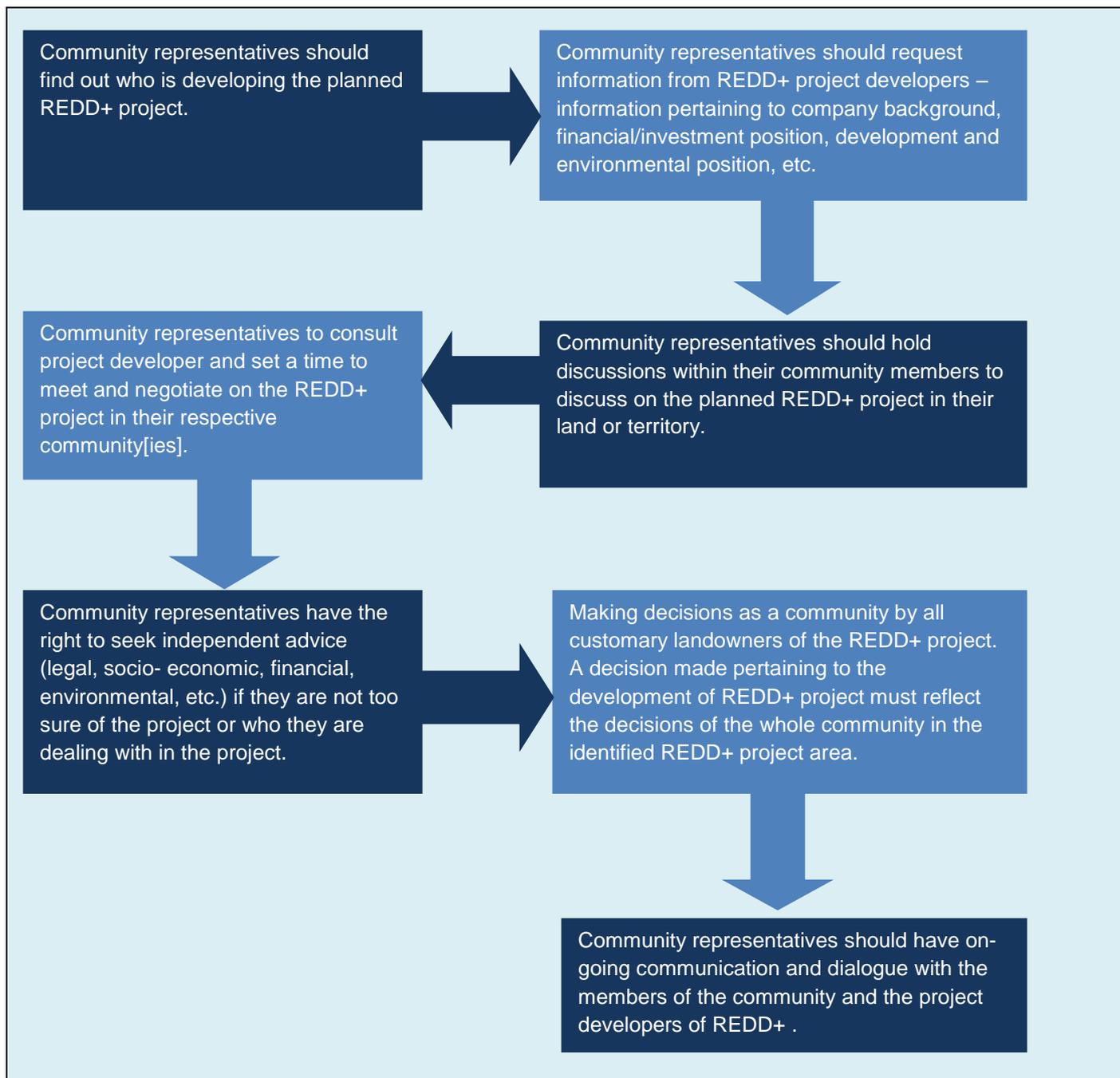
		communities whose rights may be affected by the project.
8.	REDD+ Social and Environmental Standards	Designed specifically to apply to national or sub-national level REDD+ programs, rather than projects, these standards explicitly require adherence to FPIC for indigenous peoples and local communities. The standards are the result of a collaborative process, led by southern civil society organizations and facilitated by CARE International and the Climate, Community, and Biodiversity Alliance.
9.	Convention to Combat Desertification (CCD, 2000)	The Convention aimed at delivering a new integrated approach to solving the problem of land degradation and to support sustainable development at community level
10.	Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973)	This Convention was ratified by PNG Government in 1975 and is for the protection of endangered species from being used as commercial products within PNG and abroad.
11.	Convention on Wetlands of International Importance, especially as Waterfowl Habitats (RAMSAR, 1971)	PNG has ratified this Convention in 1993. The Convention requires PNG to use its wetlands and associated flora and fauna in a sustainable manner.
12.	Convention for the Protection of the World Cultural and Natural Heritage (1972)	PNG ratified the Convention in 1997. In 1999 a National World Heritage Committee was established to consider sites in PNG to be declared as World Heritage Areas base on the criteria and Guidelines of the Convention.
13.	Basel Convention on the Trans-boundary Movement of Hazardous Wastes and their Disposal (1989)	This Convention was formulated as a result of increasing frequency and quantity of hazardous wastes being transported from developed countries to developing countries.
14.	Protocol on Biosafety (Cartagena Protocol)	The Protocol seeks to protect biological diversity from the potential risks posed by living modified organisms resulting from modern biotechnology.
15.	Stockholm Convention on Persistent Organic Pollutants (POPs Convention)	This Convention is aimed at controlling the important and/or exportation of twelve (12) identified persistent organic substances.
16.	Rotterdam Convention on the Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention)	The aim of the Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm.
17.	Vienna Convention for the Protection of the Ozone Layer (1985)	This Convention provides is an agreement for Party Countries to take action to protect the protection of the ozone layer.
18.	Montreal Protocol on Substances that deplete the Ozone Layer.	The Montreal Protocol is a further agreement to the Vienna Convention which focuses on the phasing out of potential Ozone Layer depleting substances.

19.	Convention to Ban the Importation in Forum Islands Countries of Hazardous Wastes and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Waigani Convention).	Objective of the Convention is to prohibit the importation of hazardous and radioactive wastes into the Pacific Islands Developing country parties.
20.	Convention on Conservation of Nature in the South Pacific Region (Apia, 1996).	This Convention was ratified by PNG in 1996 and deals with the conservation of nature in the South Pacific Region.
21.	Convention for the Protection of the Natural Resources and Environment of the South Pacific Region and related Protocols (SPREP, 1986)	This Convention forms the basis for the establishment of SPREP and outlines the broad objectives of SPREP.
22.	Other International Human Rights Law	<p>Whilst not specifically mentioning FPIC, there is a body of international law and instruments that protect human rights, within which many of the principles are the same as those contained in FPIC. A robust process that respects the right to FPIC would guard against accusations of breaches of human rights or environmental conventions. There are eight human rights treaty bodies that monitor implementation of the core international human right treaties:</p> <ul style="list-style-type: none"> <li>- <i>Human Rights Committee (CCPR)*</i>.</li> <li>- <i>Committee on Economic, Social and Cultural Rights (CESCR)*</i>.</li> <li>- <i>Committee on the Elimination of Racial Discrimination (CERD)*</i>.</li> <li>- <i>Committee on the Elimination of Discrimination Against Women (CEDAW)*</i>.</li> <li>- <i>Committee Against Torture (CAT) &amp; Optional Protocol to the Convention against Torture (OPCAT) – Subcommittee on Prevention of Torture (SPT)</i>.</li> <li>- <i>Committee on the Rights of the Child (CRC)*</i>.</li> <li>- <i>Committee on Migrant Workers (CMW)</i>.</li> <li>- <i>Committee on the Rights of Persons with Disabilities (CRPD)</i>.</li> </ul> <p>The monitoring committees for the instruments with asterisks noted above have affirmed that treaties protection of the rights of indigenous peoples (including to their cultures, self-determination, and lands, resources and territories) and the rights to meaningful participation, consultation and consent.</p>

## 7.6 ANNEX 6: SUMMARY GUIDE FOR AFFECTED CUSTOMARY LANDOWNERS IN THE FPIC PROCESS

The following diagram illustrates some of the important procedures that community representative institutions (i.e., ILG/Landowner Company/Business Group/Public Company, etc.) in the identified REDD+ territory shall follow in order to effectively participate in the process of *FPIC* in REDD+ activities or projects. These procedures can also be applicable to any other activities that concern the rights of indigenous peoples and customary landowners.

***Diagram 12: Summary guide for affected customary landowners in FPIC process***



### 7.6.1 Guiding questions for affected landowner representatives and affected customary landowners.

During FPIC process, it is important that customary landowners ask many questions to project developers or responsible government agencies to find out more about the planned REDD+ project that may be developed in their area. The following questions may provide to customary landowners and their representatives some hints when discussing with project developers about the REDD+ project.

#### 1. Understanding the Project

- (a) *What is the project? What will the project do?*
- (b) *How big is the REDD+ project? When will the REDD+ project commence? How long will the REDD+ project be implemented in the area? What is the crediting period of the REDD+ project.*
- (c) *Who are the project developers (for example private company, government)?*
- (d) *What is the history or past performance of the company? Does the company have a good or bad reputation?*
- (e) *Who is providing the funding for the project (for example, commercial banks, World Bank, UN-REDD Programme, investment fund, private entities and corporations, etc.)*
- (f) *What is the project developers'/participants main business activities?*
- (g) *What is the nationality of the project developer/ investor?*
- (h) *What will be built for the project (for example roads, dams, large electricity poles, schools, health center, telecommunication system, etc.)?*
- (i) *What support is the Government providing to the project developer?*
- (j) *What is the opinion of the local governing bodies (National Government, Provincial, District and Local Level Government, etc.) regarding the REDD+ project?*

#### 2. Project Impact

- (a) *What land will be affected by the REDD+ project?*
- (b) *Are there any maps showing affected lands? Will any effects on the land and other resources be permanent? What are the effects on the land and other resources?*
- (c) *Will the project developer conduct human rights, environmental, gender and social impact assessment? What are the likely economic impacts of the project? Will there be any voluntary resettlement involved in the project area?*
- (d) *Are there any map showing the leakage area? What activities can take place in the leakage area?*
- (e) *What are the likely benefits of the project? What are the potential risks that will be involved in REDD+ in their area (for example entering into a sacred site, boundary overlaps, etc.) and community?*
- (f) *What mitigation measures are being put in place, what the options are, as well as how can the project developer and/or REDD+ proponent make sure that the rights of the affected community under applicable laws (domestic and international) are analysed and conveyed to the communities so that they are aware of their rights?*
- (g) *Are there any independent reports detailing these risks and are they available for the community?*
- (h) *What benefits will there be for local customary landowners? Will the benefits be permanent or temporary?*
- (i) *What will the company contribute to the community (for example schools, roads, hospitals and other social development programs)?*
- (j) *Will the project contribute to securing community land holdings? If the project developers take away their (community) land, will they be compensated equally? And, how much will the compensation package be for the project?*
- (k) *Will the community need to be resettled in another area? If so, how can this be done, and who will facilitate with what resources and support?*

#### 3. During Community Consultation and Negotiation Processes

- (a) *What inputs will the customary landowners contribute to the project design document (PDD)? How will this happen? And, who will manage this process?*
- (b) *Will community be afforded resources to enable it to better exercise its rights and uphold its side of the consultation and consent process? What money is in the project budget for these consultations and support to my community to carry out these consultations (i.e., financial resources, experts, etc.)?*
- (c) *How can customary landowners be involved in the environmental and social impact assessment process? How can customary landowners also be involved in the economic impact assessment of the project?*

- (d) *If there are environmental, social and economic impact assessments carried out on the project, who has conducted the impact assessment study? Will the impact assessment study be translated into local language of the customary landowners affected in REDD+? Will the assessment report be released to the community?*
- (e) *Who has been consulted by the company on the REDD+ project? Does the company think they have the full consent of the customary landowners affected by the REDD+ project?*
- (f) *Is there any middleman, project negotiators or attorney involved in the project? What benefit will they receive from the project, and in what percentage will that be from the project?*
- (g) *In the event, if there are any changes to the project design document, what process will be applied by the project developer to seek landowner's consent?*
- (h) *Will the company negotiate with customary landowners at each stage of the project?*
- (i) *How will the project developer respond to community concerns, and how will this happen? What are the processes that will be involved by the project developer?*
- (j) *Is the project developer prepared to disclose any financial statements, including all profits and payments connected with the project?*
- (k) *Where will the revenues from the REDD+ project go?*
- (l) *What kind of funding mechanisms for REDD+ are in place (for example; Sovereign Wealth Fund, REDD+ Trust Fund, etc.)?*
- (m) *What is the likely benefit sharing percentage of the customary landowners?*
- (n) *How will the benefits from REDD+ be distributed? And to what specific projects or programs will REDD+ monies be sent on?*
- (o) *What grievance mechanisms will be available and will my community have standing to use that mechanisms and what remedies are available (stopping projects, remediation, compensation, etc.).*

The above suggested questions are not exhaustive. Affected customary landowners can ask as many questions as they wish to project developers or responsible government institutions in order to know more about the REDD+ project that will impact their lands, resources and territorial boundary.

## 7.7 ANNEX 7: OBTAINING AND VERIFYING CONSENT

The subsequent **Tables 7, 8, 9, 10, and 11** present some of the possible *points* that need to be considered in designing a robust process for obtaining *FPIC* in the context of REDD+. According to Anderson (2011), the whole process is pivoted around three levels of consent<sup>81</sup>: (a) consent to discuss the idea for a REDD+ project that will affect community forests; (b) consent to participate in developing a detailed plan for a project; and, (c) consent to the implementation of the project. It is understood that the whole process leading to each of the three different levels of agreements will require gradually more intense surveys, analysis, and negotiation by all parties concerned in the project.

**Table 7: Free**

Free	Affected customary landowners are free from coercion, intimidation and influence from making decisions on whether to give or withhold their consent on the REDD+ activity(ies) that may affect their rights and interests, lands, resources, territories and traditional livelihoods.
	Having a meeting or discussion in an agreed location and time by all parties concerned in the project.
	Project developers clearly state their assurance not to continue without consent from customary landowners at all stages of REDD+ project development and implementation where FPIC is sought;
	Customary landowners have been informed of their right to say no and to negotiate conditions with project developers.
	Affected customary landowners are given enough time to study the information provided to them by project developers, and to take on agreed decision-making processes thoroughly. However, deadlines and schedule for meetings shall be mutually agreed upon by both parties and not imposed by the project developer on the landowner community.
	Outside facilitators or those assisting with project development are reasonably neutral and able to work in a competent manner to reach the outcome of consent processes (they shall acknowledge their interest in developing the REDD+ project, disclose their sources of funding, etc.).
	An independent verification process needs to be carried out to confirm that the FPIC process was carried out correctly.
	Customary landowners shall be able to access third party assistance (legal representation) at any point of time if they decide to, and not only when there is a break down in the discussion process.
Where consent is not agreed, the time before which it can be sought or agreed again is jointly decided by both parties, plus the conditions in which consent reversals can have effect.	

**Table 8: Prior**

PRIOR	The initial consent of REDD+ project is vital at the project identification or at the conception stage. Consent from customary landowners shall also be required even when governments, both national and sub-national, are developing REDD+ Programs;
	Consent is required as well as been preserved at various agreed points in the project development process prior to continuing on to the next phase;
	Consent is sought prior to REDD+ development through landowner/community initiatives on forest conservation and management programmes, etc;
	Consent is sought via a customary landowners/customary landowners approaching different support institutions to help conserve and protect their forests from deforestation activities from logging, agriculture, mining, petroleum, etc., that will degrade their forest.

<sup>81</sup> Anderson, P. (2011); *Free, Prior, and Informed Consent in REDD+: Principles and Approaches for Policy and Project Development*. Published by RECOFTC – The Center for People and Forests.

**Table 9: Informed**

<b>INFORMED</b>	<i>Who is informed and how?</i>	The wider community (including women, youth and vulnerable groups) are also fully informed concerning all aspect of REDD+ project development. All groups must also be involved in the decision-making process in addition to be fully informed of the REDD+ project.
		All information is made available in local languages and communicated in a way consistent with community educational needs (as well as time, location, support etc.). All meetings between project proponents and local customary landowners must be carried out in the local language.
		Direct communication (through face-to-face meeting and other inventive, interactive techniques) shall be the default technique or method of informing the people in the designated project area unless there is evidence of high level literacy in the area.
		All information about the REDD+ project shall be disseminated to the people or project area as widely as possible by proponents of REDD+ – transmission from individual clan leaders or community elders representing the community cannot be assumed that the community is well informed.
		Information distribution strategies are sufficiently resourced – for instance financial, human resources and time-wise in order to aid better community understanding of the REDD+ project.
		Landowner’s customary landowners understanding of scientific/technical content of information and agreements reached during the consultation process may need to be appraised and where necessary, strengthened.
		The efficiency of communication techniques or methods ought to be constantly assessed, and from time to time verified independently.
	<i>Informing about the right to consent:</i>	Information about the right of the customary landowners to consent through FPIC process; when and to what (stages); and how (agreed consent process decided by indigenous peoples and local customary landowners) is broadly disseminated at the local community level.
		When REDD+ proponents’ may want to stop their activities at certain points along the way.
		Project proponents must publicly disclose the process that is used to facilitate customary landowners’ consent with all the details of the agreement in ways people can have access to. For instance, in writing, or though audio, and video recordings, etc.
		Project Proponents, responsible state bodies shall inform the customary landowners of available mechanisms for them to register and seek redress for any grievances and also local customary landowners’ right to seek legal assistance regarding the consent process if they need to. Information on legal services and community costs of engaging any legal services shall be provided by project proponents. Note, there shall always be a mechanism available for customary landowners to seek redress for grievances. This shall be provided as part of the national REDD+ strategy, but in addition to this customary landowners have the right, at any time, to take their grievances to national or regional/international courts.
	<i>Informing about REDD+ projects:</i>	Equally fair treatment of potential positive and negative impacts of REDD+ projects taking place, as identified by both parties, including direct and opportunity costs.
		Project proponents must tell the people about the potential benefits of the project as well as the potential negative impacts of the project to the livelihood of the community.
		The community and the project proponent receive updates of their legal rights regarding aspects of the proposed project as they evolve.
		Customary landowners are engaged in all stages of project development, especially the Social and Environmental Impact Assessment.
Voluntary participation of customary landowners in monitoring aspects of the REDD+ project implementation in order to provide information on an on-going basis for both parties consumption (not just paid data collection).		

**Table 10: Consent**

CONSENT	<i>The principles of consent include:</i>	Neither customary landowners' engagement nor consultation in order to be informed is the same as consent. Engagement and consultation are only the necessary means to receiving consent for the project.
		Varying degrees of capacity building will be required to educate the people to understand the process of consent depending on previous or any recent authorizations to making decisions which can have greater consequences for the entire community.
		The whole process of consent must be agreed to and respected by the community (customary landowners) and the project proponent.
		Customary landowners will be allowed to develop their preferred process and institutions for making decisions regarding the REDD+ project. However, minimum standards for general representation including by women and young people will be promoted.
	<i>Who gives consent?</i>	<p><i>Identifying</i><sup>82</sup> genuine customary landowners or community representatives to go into negotiations between different forest-dependent customary landowners within a geographic area (participatory mapping):</p> <ul style="list-style-type: none"> <li>- Recognizing the user rights of those within the community that shares the same forest is a good practice in order to minimize potential future conflict;</li> <li>- Where several groups are affected with conflicting claims to land, there is a need to establish whether there are differential rights. FPIC may need to be tiered or ranked starting with those with the most recognized customary or legally supported claim (consent) to those with interests rather than rights (consulted).</li> </ul>
		<p><i>Identifying institutions</i><sup>83</sup> within the local project customary landowners that can go into negotiations (participatory institutional analysis), requires:</p> <ul style="list-style-type: none"> <li>- Identifying local customary landowners' preferred decision-making institutions for REDD+ projects. This can be an existing one (traditional or formal, such as a State-sanctioned village committee, genuine ILGs associations and landowner companies, etc.), or a specially formed institution to meet expectations of inclusive representation and the potentially increased sophistication required for REDD+ decisions. What is important is that the community decides on this, rather than having to conform to a pre-determined decision-making institution.</li> <li>- Periodic community review of their chosen decision-making entity and process to meet emerging needs, including identification of capacity building needs to strengthen this entity. Are women, youth, other marginalized groups (as identified by rights-holder groups) satisfied that they are represented by existing decision-making institutions and processes?</li> <li>- Making sure relevant decision-making institutions are functioning well according to wider expectations of the community.</li> <li>- In the case of policy setting that will have an effect on numerous indigenous customary landowners and local customary landowners, such as the development of national or provincial laws and regulations on REDD+, consent cannot be sought or attained from each community. In practice, governments shall consult widely with representatives of customary landowners as well as local customary landowners association and networks, based on a schedule that is transparent and iterative. For example, draft policies that were developed based on initial consultations and presented again to community representatives for their consideration and consent. Adequate time and support will be needed so that community representatives can consult within their networks and association.</li> </ul>

<sup>82</sup> Cautioned must be made when identifying genuine customary landowners or community representative to go into negotiations between different forest-dependent customary landowners within the geographic area. It is important to note that identification of landowner representative is by the customary landowners or the landowner community(ies) themselves, while it is the job of the government and/or project proponent to acknowledge that designation assuming a bit of due diligence has been done to establish that the individual(s) in question do have the designation and authority of the affected community in accordance with their own decision-making systems, their norms, values and custom.

<sup>83</sup> Ibid.

<i>How is consent given?</i>	Identify the community's (i.e., customary landowners') preferred procedures for consent and its actual form (existing or revised), including what constitutes consent for a given rights-holder group.
	Determine the form consent takes. It is required that all consent is written on paper to satisfy the need for documentation but it may not be the most appropriate form culturally. This will need to be mutually agreed.
	The level of detail and format required to specify what was consented to will need to be agreed.
	Consent to individual stages of the REDD+ project needs to be explicitly documented – including information on the next stage requiring consent.
<i>What is being consented to?</i>	That consent shall be given only to the project described by the information given to the customary landowners. This will link both the <i>informed</i> and <i>consent</i> aspects of <i>FPIC</i> in the whole implementation processes of <i>FPIC</i> in the REDD+ project development.

7.7.1 Table 11: Issues and questions to be considered when verifying consent<sup>84</sup>

Issues	Key Questions
<b>FPIC facilitation team: Suitability and competency</b>	Can the team communicate directly with local people without intermediate translation?
	Does the team reflect the ethnic variation of the customary landowners in the FPIC process?
	Does the gender balance of the team allow for gender equity in the FPIC process?
	Is the age profile of the team conducive to full disclosure by local customary landowners?
	Can the team demonstrate competency in participatory consultation processes?
	Do all team members understand the principles, progress and current status of the UN-REDD country program?
	Does the team understand the international legal basis of the FPIC process?
<b>FPIC process design</b>	Were relevant existing national Guidelines for FPIC processes taken into consideration in the FPIC process?
	Is the local governance context understood by the team and reflected in the FPIC process design?
	Has the legal framework supporting or otherwise affecting the FPIC process been understood and reflected in FPIC design?
	Has the team distinguished between indigenous peoples and other forest-dependent customary landowners, and their respective customary practices?
	Were the limitations to the FPIC process foreseen and addressed?
	Was a system for recording views and concerns incorporated into the FPIC process?
	Did the affected communities contribute to and approve of the FPIC process design?
<b>Initiation of consultation process</b>	Did the team obtain a clear invitation from the customary landowners themselves to engage?
	Did the team communicate through valid/legitimate representatives of the local customary landowners?
	Were the initial meetings arranged in a way to generate local ownership of the FPIC process?
	Did local customary landowners have control over the movement between stages of the FPIC process?
	Were community representatives held accountable for their role in the decision-making process?
	Were discussions in the community conducive to full participation of all community members, including women and youth?
	Was the decision-making process recorded faithfully?
	Did FPIC process allow a mechanism for internal and independent discussions of community members and did it identify and address gaps in the ability of customary landowners to hold these discussions?

<sup>84</sup> (Adapted from an early draft of a toolkit for evaluation of FPIC developed by the UN-REDD Vietnam Country Program in 2010)

	Where the consultations conducted in a culturally appropriate manner given the circumstances and actors involved?
<b>Information and communication strategy</b>	Was information about the program disseminated to ensure maximum possible awareness among all individuals and in a language and form appropriate to their level of literacy/understanding?
	Was the information accurate and relevant to the concerns of local people, providing answers to their key questions?
	Were the customary landowners able to obtain information on REDD+ from alternative sources?
	Was sufficient time allowed for customary landowners to understand the REDD+ program before making a decision?
<b>Transparency and 'good faith' indicators</b>	Is there evidence of UN-REDD Program being misrepresented through the FPIC process?
	Were community representatives or other important influencers of local opinion provided with incentives to deliver consent, or threats of negative consequences from withholding consent?
	Did the FPIC process favour the involvement of individuals or organizations for their political or intellectual viewpoints?
	Do the documents produced through the FPIC process represent the actual process and/or outcome?
<b>Grievance and review mechanism</b>	Did a grievance and review mechanism (GRM) exist during the FPIC process? Was this effectively available to all members of all customary landowners involved?
	Was the GRM linked in any way with the FPIC team?
	Was the GRM linked in any way to a particular political or intellectual agenda?
	Were actions and decisions taken under the GRM enforceable?
	Did the make-up of the GRM reflect the gender, ethnic, religious and political balance within the area under the FPIC process?

## 7.8 ANNEX 8: ROLE OF INDEPENDENT EVALUATORS

The role an **Independent Evaluator** play is very important in ensuring that the process is applied correctly and in accordance to the principle of FPIC. Independent evaluators are mutually accountable to the government and the customary landowners, and must be neutral, trustworthy and competent. To ensure that an independent evaluator is mutually accountable to the government and customary landowners, their selection would be by mutual consent between the government/project proponent and the affected people or landowner communities.

Given the country's national circumstances, independent evaluators shall be sensitive to the cultural context of the customary landowners in question and play a neutral role in the evaluation of the whole FPIC process. Thus, when conducting FPIC evaluation, independent evaluators are required to work closely with the government and relevant concerned stakeholders to confirm that the following requirements are taken into account in the FPIC implementation process;

- *Information communicated are complete, accurate and understood clearly by everyone in the community, including appropriate languages, medium and time frame used to communicate the issues to the community and to have access to other sources of information;*
- *Appropriate language format (English, Tok Pisin, Motu, etc.) is determined by the community on how it wished to be addressed, used on written materials and in conveying decisions are taken into consideration and applied in the process;*
- *Appropriate information and literatures on REDD+ are tailored to suit local community's knowledge and understanding of the activity, as well as their level of literacy;*
- *Legitimate representatives to negotiate and/or make decision on behalf of the customary landowners have been correctly identified and engaged throughout the process;*
- *Decision-making process is determined by the community without any interference from the project proponents, government or any other interest groups;*
- *A secure, culturally appropriate and trusted decision-making environment exist;*
- *Gender, equality and discrimination is addressed and does not have any impact on effective representation, participation and decision-making in the community;*
- *The timeline for undertaking decision-making process is decided by the community and that adequate time is given to build community knowledge and understanding of the activity;*
- *Respect for customary laws and practices of the community[ies] involved must be adhered to by REDD+ proponents during implementation of the process;*
- *Community members are encouraged to consult project proponents, government, NGOs, and other interest groups to verify their information shall they require additional information on the activity;*
- *Information communicated to the community is transparent, accurate and complete, outlining the advantages and disadvantages, including potential short-term and long-term impacts, risks and benefits;*
- *All community members are made aware of the activity through information dissemination process that are consistent with the community's mechanism for information sharing; and,*
- *Existence of appropriate mechanisms for addressing grievances and dispute resolutions in the community.*

## 7.9 ANNEX 9: NATIONAL-LEVEL GRIEVANCE MECHANISM (FCPF Readiness Fund: Guidelines for establishing Grievances and Redress Mechanism at the country level)

As outlined in Attachment 4 of the Readiness Preparation Proposal:

*“The complexity of issues and diversity of stakeholders may lead to numerous questions, inquiries, and potentially grievances about the REDD-plus strategy or process. A feedback and grievance redress mechanism is part of the country’s REDD-plus management framework. Such a mechanism needs to be available to stakeholders early in the R-PP implementation phase, in order to be ready to handle any request for feedback or complaint that stakeholders may have about the Readiness activities.*

*A grievance mechanism is a process for receiving and facilitating resolution of queries and grievances from affected customary landowners or stakeholders related to REDD-plus activities, policies or programs at the level of the community or country. Typically, these mechanism focus on flexible problem solving approaches to dispute resolution through options such as fact findings, dialogue, facilitation or mediation. Designed well, a feedback and grievance mechanism shall improve responsiveness to citizen concerns, help identify problems early, and foster greater trust and accountability with program stakeholders. Additionally data on complaints or feedback can be used to improve performance.*

*Effective grievance redress mechanisms shall address concerns promptly and fairly, using an understandable and transparent process that is culturally appropriate and readily accessible to all segments of the affected stakeholders, and at no cost and without retribution or impeding other administrative or legal remedies. Effective grievance redress mechanism are also typified by a number of characteristics, such as multiple grievance uptake locations and multiple channels for receiving grievances; prompt, clear, and transparent processing Guidelines (including reviewing procedures and monitoring systems); the availability of variety of dispute resolution approaches for flexible response to specific grievances; and an effective and timely system for informing complainants of the action taken. If appropriate, the grievance mechanism shall provide special provisions for women, and the youth”.*

*Grievance mechanisms are not substitutes for legal or administrative system or other public or civic mechanisms. They do not remove the right of complainants to take their grievance to other more formal recourse options. Ideally local grievance process will have been accessed, but may not have provided adequate resolution. Alternatives to more formal grievance mechanisms also may prove useful and can be considered (e.g., a dialogue based multi-party dispute resolution)”.*

## 7.10 ANNEX 10: FPIC PROPOSAL TEMPLATE

Below is an outline of an example FPIC proposal. Information generated from an FPIC proposal can also be used in a project design document for REDD+ activities.

### Part A: Details of Project Proponent(s) in PNG and overseas.

1. Name(s) of Project Proponent in PNG, address and contact details (including telephone, fax, email, office and residential address).
2. Name(s) of Project Proponent overseas, address and contact details (including telephone, fax, email, office and residential address).
3. A brief description of Project Proponents business plans.

### Part B: Project Information

1. Description of Project, location where project is implemented, the type of greenhouse gas abated, and the projects contribution to sustainable development in project community.
2. A description of capacity and information needs of affected customary landowners and local communities that shall be addressed before the FPIC process can take place;
3. Determine whether the process will require a facilitator, and if so, who it shall be;
4. A description of *consultation* and *participation* plan for affected customary landowners and local communities, including where and how it will be implemented;
5. A description of how consultation will be conducted with respective LLGs for the community that is participating in the REDD+ program (ensure design of consultation and participation plan is disaggregated by men, women, youths, marginalized and vulnerable groups. Where relevant, include best practices identified in **Step 2 of Diagram 6 Phase 1 “Consent during project establishment”** to ensure full and effective participation);
6. A description of how project proponents shall collaborate with relevant CSOs, NGOs, women’s organizations or ministries in the design process of FPIC, if necessary;
7. A Timeline for the proposed consultation and participation plan;
8. A description of how conflict over land use or legal status of affected land, territory and resources will be addressed, for example, through participatory mapping or land use planning, etc.;
9. A description of appropriate language and media for information sharing and dissemination with affected customary landowners and local communities;
10. A description of how free, prior and informed consent will be given, recognized, recorded and documented in accordance with customary landowners and/or local communities’ traditions and customs. This shall include women and other vulnerable groups, and what special measures will be taken if existing practices do not include them;
11. A description of the roles National, Provincial, District government officials and other relevant stakeholders such as UN Agencies, institutions, donors and independent observers, may play, where applicable;
12. A description of the methods to validate the process, including where relevant, participatory monitoring arrangements;
13. Describe the terms and frequency of review for the agreement between project proponent and affected customary landowners and local communities to ensure terms and conditions are upheld;
14. A description of the process to receive and address complaints or grievances for the free, prior and informed consent process and proposed REDD+ activity;
15. A description of the customary landowners Incorporated Land Groups (ILGs), business groups or other existing community groups and/or corporative society, etc.; and,
16. Collaborate with relevant CSOs, NGOs, and women’s organizations to identify potential barriers to participation. Identify best practices in overcoming barriers to participation.

## Glossary

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<b>Abatement</b>	Refers to reducing the degree or intensity of greenhouse gas emissions.
<b>Adaptation</b>	Adjustment in natural or human systems in response to actual or expected climatic variability or their effects, which moderates harm or exploits beneficial opportunities.
<b>Afforestation</b>	Planting of new forests on lands that historically have not contained forests.
<b>Carbon market</b>	A popular but misleading term for a trading system through which countries may buy or sell units of greenhouse gas emissions in an effort to meet their national limits on emissions, either under the Kyoto Protocol or under other agreements, such as that among member states of the European Union. The term comes from the fact that carbon dioxide is the predominant greenhouse gas and other gases are measured in units called “carbon-dioxide equivalents”.
<b>Carbon sequestration</b>	The process of removing carbon from the atmosphere and depositing it in a pool.
<b>Certified Emission Reduction (CER)</b>	A credit issued for mitigation achieved by a CDM project activity, equal to one metric ton of carbon dioxide equivalent.
<b>Climate Change</b>	A change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.
<b>Conference of the Parties (COP)</b>	The supreme body of the Convention. It currently meets once a year to review the Convention’s progress. The word “conference” is not used here in the sense of “meeting” but rather of “association” which explains the seemingly redundant expression “fourth session of the Conference of the Parties.”
<b>Clean Development Mechanism (CDM)</b>	The mechanism defined in Article 12 of the Kyoto Protocol to assist developing countries in achieving sustainable development and in contributing to the ultimate objective of the Convention and to assist developed countries in complying with their mitigation targets under the Kyoto Protocol.
<b>Deforestation</b>	The conversion of forest to non-forest.
<b>Designated National Authority (DNA)</b>	An office, ministry, or other official entity appointed by a Party to the Kyoto Protocol to review and give national approval to projects proposed under the Clean Development Mechanism (CDM).
<b>Emissions</b>	In the climate change context, emissions refer to the release of greenhouse gases and/or their precursors and aerosols into the atmosphere over a specified area and period of time.
<b>Forest degradation</b>	Occurs when the structure or function of a forest is negatively affected, reducing the ability of the forest to provide services or products.
<b>Gender</b>	The term "gender" refers to the socially-constructed differences between men and women, as distinct from "sex", which refers to their biological differences. In all societies, men and women play different roles, have different needs, and face different constraints. Gender roles differ from the biological roles of

men and women, although they may overlap. For example, women's biological roles in child bearing may extend their gender roles to child rearing, food preparation, and household maintenance. Gender roles demarcate responsibilities between men and women in – social and economic activities; access to resources; and, decision-making authority.

<b>Greenhouse gases (GHG)</b>	The atmospheric gases responsible for causing global warming and climate change. The major GHGs are carbon dioxide (CO <sub>2</sub> ), methane (CH <sub>4</sub> ) and nitrous oxide (N <sub>2</sub> O). Less prevalent – but very powerful greenhouse gases are hydro fluorocarbons (HFCs), per fluorocarbons (PFCs) and sulphur hexafluoride (SF <sub>6</sub> ).
<b>Human Right</b>	The basic rights and freedom to which all human are entitled, often held to include the right to life and liberty, freedom of thought and expression, and equality before the law.
<b>Kyoto Protocol</b>	An international agreement standing on its own, and requiring separate ratification by governments, but linked to the UNFCCC. The Kyoto Protocol, among other things, sets binding targets for the reduction of greenhouse gas emissions by industrialized countries.
<b>Mitigation</b>	In the context of climate change, a human intervention to reduce the sources or enhance the sinks of greenhouse gases. Examples include using fossil fuels more efficiently for industrial processes or electricity generation, switching to solar energy or wind power, improving the insulation of buildings, and expanding forests and other “sinks” to remove greater amounts of carbon dioxide from the atmosphere.
<b>Payment for Environmental Services (PES)</b>	Payment for environmental services (PES) is a market-based approach to conservation based on the twin principles that those who benefit from environmental services (such as users of clean water) should pay for them, and those who generate these services should be compensated for providing them. In a PES mechanism, service providers receive payments conditional on their providing the desired environmental services (or adopting a practice thought to generate those services). Participation is voluntary.
<b>REDD+</b>	REDD refers to “Reducing Emissions from Deforestation and forest Degradation”. The “+” symbol refers to additional activities, such as the sustainable management of forests and the enhancement of forest carbon stocks.
<b>REDD+ safeguards</b>	REDD+ safeguards are set of principles, rules and procedures put in place to ensure protection against social and/or environmental damage or harm caused by REDD+ programs or activities.
<b>Reforestation</b>	refers to converting land that was not forested into forest.
<b>UNFCCC</b>	An international agreement that was signed in 1992 and entered into force in 1994, with the ultimate objective of achieving the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with climate system.

## References

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Anderson, Patrick (2011). *FPIC in REDD+: Principle and Approaches for Policy and Project Development*. RECOFTC – The Center for People and Forests. Bangkok.

Climate Community Biodiversity Alliance & CARE International (2010). *REDD+ Social & Environmental Standards, Version 1*.

<http://www.redd-oar.org/>

<https://www.cia.gov/library/publications/the-world-factbook/geos/pp.html>

<http://www.forestry.gov.pg/site/page.php?id=40>

[http://unfccc.int/files/meetings/application/pdf/pngcphaccord\\_app2.pdf](http://unfccc.int/files/meetings/application/pdf/pngcphaccord_app2.pdf)

<http://www.tradingeconomics.com/papua-new-guinea/population>

Oxfam Australia (2007). *FPIC: The Role of Mining Companies*. Carlton, Victoria, Australia.

Oxfam Australia (2010). *Guide to FPIC*. Carlton 3053, Victoria, Australia.

Papua New Guinea Forest Authority (1995). *Village Guide to Land Group Incorporation*. A.P. Power, Ivin Enterprises, Wewak, Papua New Guinea.

*PNG's Economy 2012 – past, present and future prospects*, by Paul Barker, Institute of National Affairs.

*Readiness Preparation Proposal for Papua New Guinea, submitted 28 September 2012, Version 9 Working Draft*, p. 30-31.

*Report of the Special Rapporteur on the Rights of Indigenous Peoples, supra note 12, para. 49*.

Tate, Bob, *Trade in Challenging Times – A Role for ITTO?* PNG Forest Industry Association, <http://www.fiapng.com>

United Nations Commission on Human Rights, 2004.

UN-REDD Programme (January 2013), *Guidelines on Free Prior and Informed Consent*.

UN-REDD Programme. *Legal Companion to the UN-REDD Programme Guidelines on Free, Prior and Informed Consent (FPIC): International Law and Jurisprudence Affirming the Requirement of FPIC*.

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

UN-REDD Programme (2011). *Papua New Guinea National Programme Document*.