



# SES Supplemental Guidance: Frequently Asked Questions (FAQs) on Applying Free Prior Informed Consent (FPIC)

*(Prepared for NCE-supported Projects<sup>1</sup>)*

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<sup>1</sup> UNDP's SES Guidance Notes (see [SES Toolkit](#)) provide guidance for implementing UNDP's Social and Environmental Standards (SES). The SES Guidance Notes help to explain the relevant policy requirements of the SES; they do not set policy. In the case of any inconsistency or conflict between the Guidance Notes and the SES, the provisions of the SES prevail. This guidance is prepared by UNDP's Nature, Climate, Energy (NCE) team. This is a living document, meaning that there will be periodic updates to this version based on its application. UNDP welcomes feedback on these FAQs from governments, indigenous peoples and local communities, practitioners and experts, partners and colleagues. For more information, questions or comments, please contact [NCESEsteam@undp.org](mailto:NCESEsteam@undp.org).

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## 1. Background

### 1.1 Why is this Guidance needed?

*Standard 6: Indigenous Peoples* of UNDP's Social and Environmental Standards (SES) requires that when developing and implementing projects that affect indigenous peoples, culturally appropriate consultation is carried out with the objective of achieving agreement and FPIC is ensured on any matters that may affect—positively or negatively — indigenous peoples' rights and interests, traditional livelihoods, lands, territories, natural resources, and Cultural Heritage.

Since the SES came into effect in 2015, there has been increasing demand from project developers, technical and oversight teams working on the NCE portfolio in particular, for clearer operational guidance on how to implement FPIC during the development and implementation projects that affect indigenous peoples. The SES stipulates that UNDP's work with indigenous peoples is guided by the international human rights legal framework<sup>2</sup>. Understanding how to implement FPIC processes in NCE projects is therefore essential, since: (i) UNDP as a UN agency is obligated by international law to apply FPIC in its projects when required; (ii) a significant proportion of the NCE portfolio affects indigenous peoples and their lands, territories and resources; and (iii) the Vertical Funds have specific requirements around FPIC and indigenous peoples.

While there are a growing number of good practice examples within the NCE project portfolio of FPIC implementation, there have also been several SECU cases in recent years involving NCE projects touching on issues related to the effective application of consultation as well as FPIC. The aim of this FAQ on FPIC is to help build on the good practice examples, as well as derive lessons learned from SECU cases, in order to strengthen overall consistency and commonality of our approach to FPIC throughout the NCE portfolio and beyond.

### 1.2 Who is this Supplemental Guidance for?

This guidance is for project developers and design teams, and UNDP staff in project oversight functions. The purpose of the guidance is to help raise awareness and understanding of how an FPIC process can be implemented throughout the different phases of project development and implementation. While this Guidance was developed with the NCE portfolio in mind, it has wider applicability across the whole of UNDP programming.

### 1.3 How should this Guidance be read?

This Guidance is complementary to and should be read together with the following UNDP SES S6 related materials:

- ❖ [SES S6 Indigenous Peoples](#), which stipulates UNDP's requirements around when an FPIC process should be implemented
- ❖ [SES S6 Indigenous Peoples Guidance Note](#), which explains the SES S6 requirements (see summary at Box 3), what FPIC is (Section 2.3 and Box 5), under what circumstances FPIC is required (*inter alia* Tables 1a and 1b, Sections 3.3, 4.1, 4.2), and an explanation of the overall steps in implementing an FPIC process (Section 4.2):

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<sup>2</sup> Normative Basis for Standard 6 (Partial Listing): Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Social, Economic and Cultural Rights; Convention Against all Forms of Racial Discrimination; Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169); Convention on Biological Diversity; The American Convention on Human Rights; The African Charter on Human and Peoples' Rights; UN Declaration on the Rights of Indigenous People. Also see the [Legal Companion to the UN-REDD Guidelines on FPIC](#) for a compendium of the existing international law and emerging State practice affirming FPIC.

- ❖ [Indicative Outline of an Indigenous Peoples Planning Framework \(IPPF\)](#), which addresses how FPIC processes should be documented within the overall planning framework
- ❖ [Indicative Outline of an Indigenous Peoples Plan \(IPP\)](#), which indicates how FPIC processes should be documented in the IPP
- ❖ [SES Stakeholder Engagement Guidance Note](#), which addresses UNDP’s requirements around stakeholder engagement.

## 2. [Background to FPIC in UNDP Requirements](#)

### 2.1 What is FPIC?

FPIC is a principle and a legal norm that was developed to protect indigenous peoples’ collective rights, and specifically their right to self-determination, their right to be consulted, their right to participate in decisions that may affect them, and most importantly their rights to their lands and resources. In practice, FPIC may be understood as a process where indigenous peoples who may be affected by a project are meaningfully engaged in project design, implementation and decision-making, are fully informed and are able to grant or deny consent prior to implementation of any activities that may affect them.

### 2.2 Why is FPIC needed?

Historically, indigenous peoples around the world have commonly experienced discrimination, land dispossession, and marginalization from decisions that affect them. In response to this, indigenous representatives and their advocates have campaigned for decades to have their rights recognized, particularly their rights to their lands and resources, and their right to determine their own developmental priorities. FPIC is derived from these rights and is a safeguard to ensure that indigenous peoples’ rights are respected in practice, and not just in theory.

### 2.3 What is the difference/relationship between FPIC and consultation with indigenous peoples?

Whereas consultation is always a key component of an FPIC process, consultation alone does not always require some of the key elements of FPIC, such as consent. While the SES define key principles for meaningful, effective and informed stakeholder consultation that apply to all projects and all stakeholders<sup>3</sup>, the meaning of ‘consultation’ in practice is often interpreted differently in different geographical and project contexts. Furthermore, experience has shown that there is often confusion amongst project teams over the difference between consultation and FPIC. It is worth therefore clarifying the different types of engagement that can be carried out between a project developer/team and project affected indigenous people.

In many domestic settings, public consultation for a proposed project will usually largely involve a project developer, and/or a government sponsoring agencies, sharing project information and gathering feedback from project affected peoples whose feedback will sometimes but not always be fed back into project design.

In order to comply with the UNDP SES, “meaningful, effective and informed stakeholder engagement in the design and implementation of all UNDP projects” is required throughout the programming cycle. This type of engagement stipulates that project developers/teams share and disclose all relevant project information with stakeholders early in project design, allow all project affected people to freely express their views, consider these views in project design and implementation, and ensure key criteria are respected during engagement such as gender and cultural sensitivity, non-discrimination

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<sup>3</sup> See [SES Guidance Note Stakeholder Engagement](#) Section 3.3.

and inclusivity. The overall objective of this kind of engagement is to enhance project acceptance and ownership and strengthen the social and environmental sustainability and benefits of supported interventions ([SES GN Stakeholder Engagement](#)).

FPIC is a process of good faith consultation, between a project developer/team and project affected indigenous peoples, that includes outcomes of agreement or consent, or the withholding of consent. In practice this translates into a process of dialogue, between a project developer/team and project affected indigenous people, based on full project information disclosure, and key criteria such as transparency, respect for the indigenous peoples decision-making processes, inclusiveness, and cultural sensitivity. This type of consultation should be underpinned by a genuine objective of ensuring that project affected indigenous peoples meaningfully and effectively participate in decision-making on project matters that may affect them, and ultimately agree to the project components that will affect them. The key parameters of the FPIC process (for example, who will be consulted, on what and how often) are agreed as early as possible with the affected indigenous people as an outcome of early engagement with those communities. FPIC also opens the possibility that consent might not always be achieved in which case the relevant activities cannot be initiated. The overall objective of this kind of engagement is to ensure that project affected indigenous peoples' rights are respected, that their feedback has been included in the project design, and that the project components that affect them do not proceed without their consent.

#### **2.4 Is FPIC only about obtaining consent?**

No. While (as noted above in FAQ 2.3) part of what distinguishes FPIC is it has a discrete outcome of the granting or withholding of consent by the affected indigenous people, it should be noted that FPIC is both a process and an outcome. FPIC is a process between project affected peoples and a project developer/team that will involve full information disclosure about activities that may affect them, consultation and dialogue, as well as negotiations over project outcomes over the course of a project, and during all stages of the project cycle. FPIC is about indigenous peoples' meaningful and effective participation in project design and implementation (including benefit sharing and project closure), as well as their granting or withholding of consent on particular activities or components that may affect them.

#### **2.5 How and when do you determine if FPIC is required?**

UNDP's SESP is applied as early as possible (e.g. pre-SESP stage for NCE projects) to help determine if FPIC is required. If the answer to SESP checklist question 6.3 [*“Would the project potentially involve or lead to impacts (positive or negative) to the human rights, lands, natural resources, territories, and traditional livelihoods of indigenous peoples (regardless of whether indigenous peoples possess the legal titles to such areas, whether the project is located within or outside of the lands and territories inhabited by the affected peoples, or whether the indigenous peoples are recognized as indigenous peoples by the country in question)?”*] is 'yes', FPIC may be required. See [SES S6 Indigenous Peoples Guidance Note](#), Section 4.2, for more information in making this determination. Note that a precautionary approach should always be applied when responding to question 6.3 in the SESP. If it is unknown if indigenous peoples may be affected, the response should be “Yes” and subsequent due diligence and consultations will then be needed during project design to confirm if and when FPIC may be needed.

#### **2.6 Why is FPIC still required if the intention and expectation is that the project will only have positive impacts on indigenous peoples' rights, lands and resources?**

Because the project will still affect indigenous peoples' rights, lands and resources, and the affected indigenous people must have the opportunity to determine whether and how they want this project to be implemented. While a project might be designed with the intentional objective to provide positive impacts for indigenous peoples, this objective will be based on a value judgement, which indigenous peoples should have input into and ultimately decide whether they want the project.

Indigenous Peoples have the right to give or withhold their consent, regardless of whether they perceive the impacts of the project on them to be positive or negative. If project-affected indigenous peoples believe the project's impacts will be positive, they may be more likely to give their consent once it is sought. If they believe that the impacts could be negative, they may withhold their consent or seek project design changes to address their concerns before granting consent.

## **2.7 Is FPIC still required if all the project activities are voluntarily entered into, if the project activities have been designed, requested and/or will be managed by indigenous peoples themselves?**

If a project is submitted (or requested) by the indigenous peoples themselves to UNDP, an implementing partner and/or a responsible party, then FPIC may be required. The principle of FPIC requires that all projects with a potential or confirmed impact on the rights, lands, territories, resources and traditional livelihoods of the indigenous peoples in question should be assessed for the relevant risks and due diligence be performed.

In the case of low-value grant or Innovation Challenge funding applications submitted by indigenous peoples themselves, the written proposal/request itself could potentially be considered to address the requirements of FPIC; for these 'direct access' low-value grant proposals (max US\$150K but typically smaller), the names of both the community and the (nominated) indigenous peoples representatives should be included in the project proposal. In instances where national NGOs and/or other non-governmental intermediaries are partnering with indigenous peoples for small grants, documentation should be included in the project proposal describing the partnership arrangement between that intermediary and the indigenous peoples; documentation of the FPIC process may include signed documents, workshop reports, video evidence, and/or other culturally-appropriate forms of reciprocal agreement.

For all other cases (i.e. other than LVG/small grants or Innovation Challenge), projects that include a component or work package that is partnering with indigenous peoples to receive direct funding to implement proposals developed by those peoples, adequate due diligence should be performed by UNDP and the project team to screen and assess the relevant risks, including whether the implementing partner and/or responsible party has put in place a project screening, selection and approval process that ensures that the proposals received from the indigenous peoples are voluntary in nature.

In all cases, to the extent possible, an open, transparent and competitive selection process to receive project proposals from indigenous peoples should be prioritized over proposals/activities designed by external experts or individuals from outside the communities concerned. Where such project components are designed by international consultants and/or other experts, increased evidence of the due diligence with the indigenous peoples to conduct and document FPIC—including the project formulation, inception, implementation and evaluation stages—should be undertaken.

Once proposals are selected, based on due diligence and consideration of risks as noted above, any commitments related to FPIC (and overall social and environmental safeguards) that will be required during implementation of that proposal should be incorporated into the relevant agreement (e.g. Low-Value Grant Agreement).

### **3. FPIC in Practice in the Project Cycle**

#### **3.1 Who seeks FPIC?**

Under international law, both States and UN agencies<sup>4</sup> have a duty to ensure FPIC is applied and sought in the context of applicable activities. States have a duty to make effective and protect the rights of indigenous peoples, including through FPIC in the context of applicable activities, and UNDP has a duty to respect indigenous peoples rights and ensure their participation in UNDP projects, on all issues affecting them. If the State and its legal framework do not uphold their duty, this is a significant risk that UNDP must recognize in its SESP and, as a matter of its own duty to respect indigenous rights, either ensure a project approach is implemented that guarantees respect for these rights or decide not to pursue the project. This is the case whether the project is under National or Direct Implementation (NIM or DIM), as the UNDP SES apply equally under both. Within a project context, it is common for project teams to implement FPIC process(es). In the early stages of project development, before a project is approved and before the Project Management Unit (PMU) is formed, the UNDP Country Office, in coordination with the anticipated Implementing Partner, should take on the role of initiating required consultations to inform project design, ahead of an agreed FPIC process. Once the project in question has been approved, the PMU in collaboration with appropriate counterparts and partners, should implement and seek FPIC of affected indigenous peoples.

See FAQ 4.1 for how to address circumstances where the government of a State might not want to apply FPIC.

#### **3.2 From whom should FPIC be sought?**

An FPIC process should begin with engagement and consultation with the self-determined representatives of the indigenous peoples who may be affected by the project or activities. These might initially be regional organizations, and then as the project details become more granular, engagement could take place with more local representatives, and ultimately with the communities themselves. It is important to respect the governance structures, the norms, values and customs of the peoples and communities in question and the consultation and decision-making methods they utilize. However, project developers/teams will also need to ensure that all customary and formal rights-holders are represented in the decision-making process, especially women, and that no affected community is excluded or over-looked.

Both the process and the outcomes of FPIC will always be context specific (even within a project this context varies), therefore it is key that the FPIC processes are designed in partnership with the affected indigenous people in question – including by identifying exactly from whom FPIC would be sought and understanding how decision-making is done in those communities and on the issues in question. Some indigenous communities might have established leadership structures where only a few are designated by the peoples to make the decision on behalf of the community. Other indigenous communities might have practices and customary laws that require consensual decision-making at the community level. The aim of the early consultation phase is to gain an understanding of these norms and practices, in order to design and implement the FPIC process and outcomes in compliance with these norms. If a project will affect multiple indigenous communities, a one-size-fits-all approach to FPIC will not work. In such cases, tailored FPIC processes will need to be agreed with the affected indigenous communities and in relation to the particular activities that may affect them.

It should be noted that indigenous representative organizations, both at the regional and local level, are increasingly developing Consultation/FPIC Protocols, in which they outline how they expect a

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<sup>4</sup> UNDRIP Art. 42 requires UN bodies to respect and apply its provisions.



project developer to engage with them and seek their consent. Where these protocols have been developed, they should be followed by the project developers/teams, in consultation with the affected indigenous peoples and after confirming alignment with SES Standard 6. Where such protocols have not been developed yet, the project should support communities to clarify how they would like to be consulted.

Project developers/teams must engage early in the project cycle with affected peoples and their designated representatives and advisors, to clarify these issues so that they can be built into the FPIC process throughout project development and implementation.

### **3.3 When during the project cycle should FPIC take place?**

FPIC is an ongoing and iterative process and will involve various decision-making points during the project cycle. It should therefore be planned early and implemented throughout the project cycle. See Annex 1: Detailed Steps for Incorporating FPIC into the NCE Project Cycle.

If the project could take place in indigenous territories and/or affect indigenous peoples' rights, lands, territories, resources and traditional livelihoods, consultations on project design, potential impacts, and whether and how FPIC will be applied should be initiated as soon as is feasible in the project design phase. If it is clear that FPIC is required, the consultation process should begin before the project is approved, through early engagement with indigenous peoples through their designated representatives. If insufficient information is available regarding project sites and activities at this stage, engagement with a broader national or regional umbrella organization or selected indigenous leaders that are trusted and representative could be an effective means of gauging initial interest, support, needs, requests and concerns over the proposed project, and mapping out an initial plan for how FPIC could be implemented during project implementation. This first stage of engagement should then be ground-truthed and checked with the affected indigenous peoples' communities once project sites and activities are more clearly defined. Ultimately, consent should be sought from the affected indigenous peoples before implementing any specified project activity that might impact indigenous peoples' rights, lands, territories, resources, traditional livelihoods, and Cultural Heritage.

### **3.4 What is the appropriate scope/scale of FPIC?**

The FPIC requirement(s) for a given project should be determined based on the potential impacts of the project's activities (described in the ProDoc), individually and collectively. When one project activity requires FPIC that does not mean that FPIC is required for the entire project or all activities. However, if all project activities are located in indigenous peoples' lands, then FPIC would likely be required for the entire project.

### **3.5 What if the PMU/CO doesn't have direct channels or relationships with the self-determined representatives or communities that could be impacted?**

Collaboration and support can be sought through other parties that have a trusted relationship with the communities or the indigenous peoples' representative organizations in question. This could be a government or non-government organization or independent facilitator or expert consultants (see FAQ 3.7). These organizations and individuals can support the project in initially identifying the self-determined representatives with whom to start engagement. Note that, while trusted partners can provide support, the CO or PMU and Implementing Partner should remain part of the process. In order to participate effectively, UNDP project staff and/or Implementing Partner representatives supporting the FPIC process may require advanced training on topics such as the elements of FPIC consultation and agreement processes, human rights, cultural sensitivities, inclusivity, and gender equity.

### 3.6 What should be the role of an independent facilitator or expert supporting the FPIC process and outcomes?

If agreed by the communities that are a party to the FPIC process, the project can hire an independent facilitator with appropriate experience, knowledge, and cultural sensitivities.<sup>5</sup> To avoid bias or the perception of bias, the parties can agree in advance on the terms of reference for the facilitator and can jointly nominate candidates and select the facilitator. Facilitators are mutually accountable to UNDP, the PMU, the government counterpart and the community; they must be neutral, trustworthy and competent. See Annex II for more information on the role of a facilitator in an FPIC process. The project could also provide communities access to an independent technical expert to support their engagement in the process, if requested/needed.

### 3.7 How specifically should FPIC be reflected in project documentation?

See Annex II for detailed guidance on key aspects of the FPIC planning and implementation process and how they could be documented.

When FPIC is required, it needs to be reflected in the main text of the Project Document. At a minimum, this should include:

- ✓ Clarity on which outputs/activities of the project require FPIC prior to proceeding (in narrative as well as the results framework).
- ✓ Budget for the resources needed for FPIC processes (e.g. independent facilitator or indigenous peoples expertise, translation, engagement activities, etc.).
- ✓ Inclusion in the overall project Monitoring and Evaluation Plan.
- ✓ Accountabilities for FPIC embedded in project Governance and Management Arrangements.

In terms of ProDoc annexes, as appropriate (given the risks), all SES-related ProDoc annexes should at a minimum reference the project's FPIC requirement for relevant activities (e.g. the SESP, Risk Register, SEP, GAP, ESIA/ESMP, Plans related to Cultural Heritage, Livelihoods, Resettlement, GRM, etc.). If project siting and the specific affected communities are known at the time of project design, then documentation related to FPIC (as per FAQ Annex II) should be annexed to the ProDoc. The FPIC process would typically be outlined in the project's Indigenous Peoples Plan/Framework (IPP/IPPF) (see the S6 Guidance Note). If this information is not yet known, then the known information on FPIC (as per FAQ Annex II) should be annexed to the ProDoc with a framework plan for how FPIC will be applied during project implementation (e.g. as part of the project's IPPF).

## 4. Common FPIC Implementation Challenges<sup>6</sup>

### 4.1 What if a Government does not recognize indigenous peoples' rights and the need for FPIC?

While indigenous peoples' rights are recognized in international law, there are still many States who either do not recognize the presence of indigenous peoples within their borders or agree to the requirement of FPIC to safeguard indigenous peoples' rights. However, operating in such a context does not absolve UNDP of its obligations to respect the SES and international human rights. UNDP is still accountable to ensure FPIC is implemented where required even when the Government does not have an equivalent policy.

Dealing with this kind of situation is politically sensitive and the UNDP CO will need to find a suitable way forward to ensure compliance with the SES. This will likely require escalation to the RR for

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<sup>5</sup> Note, the SES S6 policy states "Projects with potentially significant adverse impacts require a full social and environmental assessment conducted by an independent and capable entity."

<sup>6</sup> Questions 4.5-4.7 are adapted from [Accountability Framework Operational Guidance on Free, Prior and Informed Consent](#) (2019).

negotiation with the Government. Possible solutions to addressing this situation could be to find ways to improve the national laws through a separate initiative, or other pragmatic and diplomatic ways, such as implementing consultation and consent processes without explicitly referring to them as FPIC. Given that such issues are often contextual and politically sensitive, a consistent approach is needed across the Country Programme portfolio to also ensure aligned communications with Government counterparts and affected people.

#### **4.2 How can you ensure gender equity in an FPIC process while also respecting traditional governance and decision-making processes?**

While an FPIC process should be implemented according to the traditional decision-making processes of a particular indigenous peoples, the process must also strike a balance between these traditional decision-making processes and international standards of inclusiveness, particularly ensuring that women are also included in FPIC processes. As there is no one-size-fits-all solution, the project developers/teams will need to consult with indigenous peoples' representatives, as well as with experts in implementing consultation processes with indigenous peoples, to ensure that all groups in a community are involved in FPIC processes. Support on this matter can be sought through other parties that have a trusted relationship with the communities or the indigenous peoples' representative organizations in question. This could be a government or non-government organization or independent facilitator or expert consultants. These organizations and individuals can support the project in initially determining the best approach to balancing cultural sensitivity and the rights of women. The approach taken to address inclusiveness should be documented in the Stakeholder Engagement Plan (SEP), Gender Action Plan (GAP) and IPP/IPPF.

#### **4.3 What if the FPIC process does not result in consent?**

In these cases, project developers/teams should first engage further to understand the basis for the rejection of the project or specific activities, and ascertain whether there are aspects that can be changed to address any potential concerns. If the lack of consent remains, then project developers/teams should carefully consider whether the project can continue while respecting indigenous peoples' rights and not impacting their territories as part of the project's area of influence. If so, the project should be revised to ensure that the activities for which FPIC was not achieved are no longer included in the project. The project developers/teams should also provide clear justification and evidence that the remaining activities of the project will not negatively impact indigenous peoples' rights. Finally, if the project is occurring entirely on lands where communities have withheld consent, the project will need to be reconsidered, redesigned or cancelled.

#### **4.4 The project is supporting a Government on upstream policy/planning processes (e.g. revise or draft a national law, policy or strategy) that will have impacts on indigenous peoples' rights, at what level should FPIC be sought?**

Given that an FPIC process often concerns a specific proposed activity with potential impacts on a specific community, and that consent is given or withheld collectively by the community, FPIC is most often applied at the community level. However, in certain circumstances, a project might involve developing and/or revising legislative or administrative measures that may have impacts on indigenous peoples' rights at the national level. In these circumstances, project developers/teams should develop a consultation process with national and regional indigenous representative organizations for the relevant activities (perhaps as part of SESA). If needed, a plan should be developed for further consultation and consent processes on the aspects that may have more explicit and direct impacts on specific sites and/or communities.

#### **4.5 What to do in cases where there are internal conflicts around representation within an indigenous community?**

It is not uncommon for multiple governing institutions, associations, or councils to claim representation of the affected community in question, but in many cases, only one is recognized by national law as the legal representative of the affected population. In such cases, a local governance structure imposed on indigenous peoples and their lands by the state's legal framework may consent to the UNDP project on behalf of the affected community. However, many community members may still reject the legitimacy of this consent because they are allied with a competing governing institution (i.e., a traditional structure such as a Council of Elders). This often arises where there is national legislation that creates and recognizes one governing structure over an indigenous territory, leaving its own traditional indigenous structures outside of the recognized legal framework. This also often leads to sharp divisions within the community and uncertainty for UNDP if one governing entity is supportive of the project while the other is not.

In these situations, UNDP project designers should recall that FPIC consultation and consent processes should be conducted with the representatives designated by the potentially affected community in accordance with their norms, values, and customs. This means that UNDP may have to take steps during its due diligence and consultations to understand the origins of these different governance structures, the extent to which they legitimately represent the will of the affected peoples, their inclusiveness of members of the community, and their respective relationships with the government. Analysis and documentation by respected human rights organizations and experts in the given area can help inform UNDP on these matters. In consultation with the affected community, UNDP may need to find mutually agreed mechanisms to accommodate the views of all and to facilitate joint solutions among differing representatives. This may mean postponing the FPIC process (while ensuring the activities that are the focus of the FPIC process do not proceed) until the internal conflict between governing entities is resolved or the people themselves agree internally on how their consent should be sought and obtained. While this may lengthen the process, it will also strengthen the legitimacy and durability of the outcomes.

#### **4.6 What if there are conflicts within the affected community with regard to who can participate in the FPIC process (see also FAQ 4.5 above)?**

Conflicts may arise around who is eligible to participate in consultations—specifically, who are considered “members” of the people or community. For example, an indigenous people may assert that only members of their people or community residing in the territory can participate in decisions affecting that territory, while non-indigenous individuals residing in their territory and members of the indigenous peoples living outside of the territory cannot participate. Those who feel marginalized may express objections to their exclusion.

Per the SES and international law, only the community in question can determine who is a member of their peoples or communities. Like governments that decide who can participate in local and national elections or hearings, it is the community that determines who is eligible to participate in consultation and FPIC processes. For instance, while complying with international human rights law, a community may limit participation to members of a certain age or members who have lived in the territory for a given length of time, or they may choose to exclude non-member residents living in their territory. It is the role of the community to inform the project about the community norms, values, and customs by which consultation or FPIC processes should be conducted, including who is eligible to participate. While consent processes may be triggered with respect to a specific community, this does not mean that the project cannot or should not engage other stakeholders that may live in or around the indigenous territories in separate fora. Indeed, the project should separately speak with other potentially affected stakeholders as part of their larger stakeholder engagement processes. This is part of the project's obligation to implement meaningful, effective and informed stakeholder consultation with all project affected people.

#### 4.7 What if the affected communities have insufficient capacity to engage in the FPIC process?

Some communities have weak traditional governance structures or lack financial and human resources to be able to engage constructively with the FPIC process and implement any agreement resulting from that process. For instance, community representatives or members may participate minimally in meetings; participants may act inconsistently from meeting to meeting; or participants may not know about agreements or materials from previous meetings, or not respect prior decisions. These scenarios can result from a lack of financial resources to build consensus, limited sharing of information, representatives or leaders that enjoy limited political support from community members, or the absence of sufficient mechanisms to ensure that prior decisions are known and respected when leadership transitions to new representatives. Regardless of the cause, these challenges can complicate FPIC processes.

Patience and effort are needed to understand why local governance structures may be weak and to respond in appropriate and constructive ways. Challenges often arise due to years of discrimination, marginalization, and erosion of the rights of communities to control their natural resources and establish and maintain their own governing institutions.

Sometimes the solution is to help support the indigenous capacity to engage with the FPIC process (e.g. the ability to make and distribute relevant materials throughout the community and store them appropriately for future governing representatives, or so that members have transportation to all relevant meetings, including both internal deliberations and those with UNDP and the government).

Other times, the solution to perceived capacity problems might simply involve addressing contextual challenges that may be impeding participation. For example, ensuring that meetings are scheduled at times that allow for maximal participation (i.e., times that accommodate women with child-rearing obligations during the day, or farmers with harvesting obligations during certain seasons, or that do not conflict with religious observances), and every consultation concludes with a written summary (“minutes”) knowingly endorsed by participants and made known to all relevant parties.

As much as possible, these challenges should be addressed by the project itself and integrated in the project design. The IPP/IPPF also has a section on capacity support and needs, which could address these challenges.

## 5. Additional FPIC Resources

### 5.1 Where can I find additional resources on implementing FPIC?

There are a number of publicly available resources on FPIC. Key resources that can be of particular use for NCE project developers, are as follows:

- [FPIC 360](#): Since 2017, Equitable Origin and the Roundtable for Sustainable Biomaterials (RSB) have been working jointly on a project funded through the ISEAL Innovations Fund to research and develop a means of helping assurance providers verify whether FPIC has been achieved. The key output from this project is a draft framework for a tool that can be used to aid the verification process. The tool is multi-sided, facilitating a “co-audit” process that is jointly implemented by the assurance provider and by the affected indigenous peoples’ community.
- [UN-REDD Guidelines on Free, Prior and Informed Consent](#) (2013): This resource provides detailed information on how to implement FPIC in the context of UN-REDD projects.
- [FAO guide on Respecting free, prior and informed consent: Practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition](#)

(2014): This guide breaks down an FPIC implementation process into suggested steps, including addressing various potential challenges.

- [Accountability Framework Operational Guidance on Free, Prior and Informed Consent](#) (2019): This Guidance describes 13 key elements of an effective FPIC process, as well as an Annex addressing common implementation challenges.
- [The Indigenous Navigator](#): The Indigenous Navigator is a framework and set of tools for and by indigenous peoples to systematically monitor the level of recognition and implementation of their rights. While this website is not specifically focused on FPIC, it can provide useful data for NCE project developers/teams seeking to develop and implement FPIC processes, as well as indicators to monitoring.
- [Global ICCA Registry hosted by the UNEP World Conservation Monitoring Centre](#): The ICCA Registry website is an online information platform for Indigenous and Community Conserved Areas, where communities themselves provide data, case studies, maps, photos and stories which result in useful statistics and analysis on featured ICCAs around the world.
- [LandMark](#): LandMark is an online, interactive global platform that provides maps and other information on lands that are collectively held and used by indigenous peoples and local communities. This platform can provide useful data for project developers/teams seeking to develop and implement FPIC processes.

## 5.2 Where can I find an example of an FPIC protocol developed by indigenous communities?

Indigenous peoples have increasingly been developing their own consultation and consent protocols, also known as “FPIC protocols”, defining how they are to be consulted and their FPIC sought. There are a number of webpages and databases where examples of these protocols can be found:

- The [Observatory of Community Protocols for Consultation and Free Prior and Informed Consent](#) provides a database of FPIC protocols largely from indigenous communities in Central and South America
- [Example of an FPIC Protocol](#) developed by communities in Nepal
- [Biocultural Community Protocols](#)

## Annex I: Detailed Steps for Incorporating FPIC in the UNDP NCE Project Cycle

Project Cycle Entry Points & FPIC-related Objectives	FPIC-related Actions
<b>DESIGN</b>	
<p><u>Formulation of project idea (if any):</u> Consideration of potential impacts on indigenous peoples and FPIC requirements in the <b>earliest stages of project origination</b></p>	<p>As soon as a project idea is being formulated, consider and identify potential impacts on indigenous communities, including opportunities for positive impacts.</p> <p>If appropriate and feasible, prepare a simplified Stakeholder Engagement Plan for initial/early consultations (towards FPIC), to be conducted during project design stage.</p> <p>For project ideas that go to a Pre-Investment Screening Committee (PISC):</p> <ul style="list-style-type: none"> <li>Indicate in the <a href="#">PISC submission form</a> if FPIC is or may be required, applying a precautionary approach (if unsure, assume FPIC will be required<sup>7</sup>).</li> <li>Discuss FPIC in the PISC meeting, to sensitize senior managers and ensure resources will be available to start consultations during concept development or project development at the latest.</li> <li>Include FPIC-related conditions as appropriate in the PISC decision.</li> </ul>
<p><u>Formulation of project concept (if any) and/or plan/budget for full project design:</u> Early stakeholder engagement and application of SESP (pre-SESP) to inform <b>Project Concept</b> (or early draft ProDoc) and <b>Initiation Plan</b> (when required/completed)</p>	<ul style="list-style-type: none"> <li>Initiate early consultations at the appropriate level<sup>8</sup>, if possible, to confirm FPIC requirement (if uncertain) and/or to discuss the proposed project. <ul style="list-style-type: none"> <li>If the FPIC requirement is confirmed<sup>9</sup>, then early consultations can also be used to (i) determine if relevant FPIC protocols/processes already exist; and (ii) communicate with the concerned indigenous peoples that their FPIC will be sought in accordance with international standards.</li> </ul> </li> <li>Apply the SESP as early as possible (and if required, e.g. pre-SESP for NCE projects) to reflect those early consultations and document if FPIC is or may be required, applying a precautionary approach. <ul style="list-style-type: none"> <li>If the FPIC requirement is confirmed in the pre-SESP, early decision should be made regarding whether an IPP(s) or an IPPF will be prepared during the full project design stage; also, an initial decision should be made regarding the scope/scale of FPIC that will be feasible and appropriate during the full project design stage. All such details should be reflected in the pre-SESP.</li> </ul> </li> <li>Reflect FPIC needs in the <a href="#">Initiation Plan</a> for the design of the full project (e.g. PPG/IP), to ensure sufficient budget and expertise are included in/for the project development team.</li> </ul>
<p><u>Formulation of full project:</u> Integration of FPIC considerations and early engagement to inform <b>project design (Project Document)</b></p>	<ul style="list-style-type: none"> <li>Engage to the extent (and at the level) possible with the concerned indigenous peoples (and/or their representatives) to discuss the potential impacts and possible management measures to address the adverse impacts and project activities that could promote the positive ones. <ul style="list-style-type: none"> <li>Based on this and as agreed with the concerned indigenous peoples, the early engagement process should also cover the proposed FPIC</li> </ul> </li> </ul>

<sup>7</sup> This assumption is necessary to avoid complicity in rights violations and ensure that the minimum standards are met.

<sup>8</sup> If for example it is known that certain indigenous peoples will be impacted, then this early consultation could involve organizations with which those IPs are engaged.

<sup>9</sup> If at any point it is confirmed, based on reliable evidence, that FPIC is *not* needed, then that evidence etc., should be documented, described and saved as a note-to-file. Ideally it should also be summarized in the SESP and ProDoc.

	<p>process(es) planned for relevant project activities. This could be done for example through workshops, targeted meetings and/or site visits (as agreed with the concerned indigenous peoples).</p> <ul style="list-style-type: none"> <li>○ If engagement/consultations towards FPIC are not possible at this stage, then an IPP/IPPF should be prepared, consulted and disclosed.</li> <li>○ If the concerned indigenous peoples request or require FPIC of the project and/or specific project component(s) before the project's endorsement, and an FPIC process is feasible at this stage, then consent should be sought, in accordance with that request.</li> </ul> <ul style="list-style-type: none"> <li>● Prepare and disclose the draft SESP and related safeguards documents (IPP/IPPF), ProDoc (in line with <a href="#">UNDP SES Supplemental Disclosure Guidance</a>), and consult with affected indigenous communities on those drafts as agreed with the concerned indigenous peoples.</li> <li>● Based on these consultations, due diligence and the final project design, prepare and finalize the "full" SESP and, if confirmed, incorporate FPIC framework/plan into project document and annexes.</li> </ul>
<p><u>Appraisal and Approval:</u> Ensure FPIC requirements and potential impacts on indigenous people are considered in <b>project appraisal/approval (LPAC/PAC)</b></p>	<ul style="list-style-type: none"> <li>● Include, as appropriate and feasible, relevant indigenous peoples' representatives in the Local Project Appraisal Committee (LPAC) Meeting to further ensure and document support for the project.</li> <li>● Ensure that any implications, risks, opportunities related to FPIC are discussed and disclosed in PAC to inform final decision making/project approval.</li> </ul>
<b>IMPLEMENTATION</b>	
<p>Ensure relevant FPIC capacities as part of the <b>inception phase</b></p>	<ul style="list-style-type: none"> <li>● Train PMU and Responsible Parties on relevant FPIC requirements.</li> <li>● Prepare ToRs for relevant indigenous peoples' expertise and recruitment/onboarding.</li> <li>● Continue consultations and complete Plans for FPIC processes, per the IPPF (where relevant).</li> </ul>
<p>Ensure agreed FPIC requirements are successfully <b>implemented and monitored</b></p>	<ul style="list-style-type: none"> <li>● Monitor and document the implementation of agreed FPIC process(s), including the FPIC agreement conditions, and update the process including any necessary corrective actions in consultation with affected communities as needed as part of project Monitoring Framework.</li> <li>● Report on the implementation of FPIC at appropriate milestones, including any annual reports (e.g. GEF PIR, GCF APR) and mid-term reports, as well as any additional reporting prescribed by the project's ESMP, IPP, etc.</li> <li>● Include the evaluation of FPIC implementation in mid-term evaluation/review, informing lessons learned and any changes/updates on the process that may be needed for the remainder of the project.</li> </ul>
<b>CLOSURE</b>	
<p>Ensure FPIC conditions have been fulfilled and lessons learned captured as part of <b>project closure</b></p>	<ul style="list-style-type: none"> <li>● Ensure FPIC agreement conditions have been fulfilled and undertake audits/remediation as needed for SES compliance.</li> <li>● Incorporate FPIC into terminal/final project evaluation methodology and output. Contract independent terminal evaluators with relevant FPIC expertise, as appropriate; provide documentation of FPIC to the project's terminal/final evaluation team; and ensure that the terminal/final evaluation report discusses the project's implementation of FPIC.</li> <li>● Ensure lessons learned related to FPIC are captured/shared across wider portfolio to inform future programming.</li> </ul>



## ANNEX II: INDICATIVE STEPS AND GUIDANCE FOR DOCUMENTING AN FPIC PROCESS AND OUTCOME

The tables below are adapted from an effort by Equitable Origin, in partnership with the Roundtable of Sustainable Biomaterials (RSB) and the Coordinating Organization of Indigenous Peoples of the Amazon Basin (COICA), drawing on an extensive literature review and inputs from indigenous peoples representatives in Colombia, Ecuador and Peru to develop a set of culturally relevant and measurable indicators – the aim of which is to provide a practical framework for monitoring and verifying FPIC. The tables are meant to inform the how project teams can effectively document the FPIC design process, FPIC implementation and outcomes – something Vertical Funds are increasingly requesting of UNDP.

### **GUIDANCE FOR DOCUMENTING THE FPIC PROCESS (As part of an IPP OR IPPF)**

Indicative Steps in an FPIC Process (to be further clarified in IPP/IPPF)	Examples of Documentation
<b>SCOPING: RELEVANT PROJECT ACTIVITIES, RIGHTS-HOLDERS, AND THE APPLICABLE LEGAL FRAMEWORK</b>	
<b>Define project activities that could have impacts on indigenous peoples</b>	<ul style="list-style-type: none"> <li>▪ <i>A list or schedule of known and expected project activities and their details, including their timeframes, locations etc.</i></li> </ul>
<b>Establish the project’s obligation to achieve FPIC:</b> Assessment of national and international legal obligations	<ul style="list-style-type: none"> <li>▪ <i>A description of the national legal obligations to promote and protect Indigenous Peoples’ rights.</i></li> <li>▪ <i>A description of the international legal obligations to promote and protect Indigenous Peoples’ rights, including the UNDP SES requirements</i></li> <li>▪ <i>Gap analysis of national legal obligations and international legal obligations, including UNDP’s SES requirements.</i></li> <li>▪ <i>Interviews, documented trainings, workshops, etc. with relevant project staff demonstrating that these obligations are understood.</i></li> </ul>
<b>Identify the potentially affected rights-holders:</b> Map the rights-holders who may be impacted by the project’s operations, through an appropriately gender-balanced, culturally appropriate and inclusionary assessment process.	<ul style="list-style-type: none"> <li>▪ <i>Inclusion of a rationale for any differential treatment between potentially affected Indigenous Peoples’ communities and other local communities.</i></li> <li>▪ <i>Documented evidence that customary rights have been identified and acknowledged within the rights-holder map, in addition to legal rights.</i></li> <li>▪ <i>Documentation of any conflicting claims, and measures that were taken to mediate and resolve these conflicts.</i></li> </ul>

	<ul style="list-style-type: none"> <li>▪ Interviews or surveys with community members that confirm there are not outstanding conflicts.</li> <li>▪ Interviews or surveys with community members that confirm they feel they were sufficiently trained to participate in the rights-holder mapping, and that they were able to participate effectively in the process.</li> <li>▪ Interviews or surveys with community members that confirms they were sufficiently compensated to be able to participate in the rights-holder mapping.</li> <li>▪ Interviews or surveys of how the results of this process have been communicated and made accessible to all other community members.</li> <li>▪ Interviews with community members that confirm the results of this process have been received and understood.</li> </ul>
<p><b>Establish the willingness of potentially affected rights-holders to consider the proposed project (or project activities):</b> Hold an initial meeting with rights-holders who may be impacted by the proposed project, to present the project and establish whether they would be willing to consider it.</p>	<ul style="list-style-type: none"> <li>▪ Documented evidence of a community meeting having been called.</li> <li>▪ Documented evidence of the presentation given by the Project Developer about the proposed project that clearly shows the content of the presentation and information communicated to the meeting attendees.</li> <li>▪ Interviews or surveys with meeting attendees clarifying that the content of the Project Developer’s presentation was presented in a format and language that was understood and culturally appropriate.</li> <li>▪ Signed meeting minutes that detail the willingness of the community to consider the proposed project.</li> </ul>
<b>SOCIAL AND ENVIRONMENTAL IMPACT ASSESSMENT</b>	
<p><b>Establish and communicate how the proposed project (activities) may impact identified rights-holders:</b> Undertake a social, cultural, environmental, and human rights impact assessment of the proposed activities that may have impacts on indigenous peoples (this could be done as part of a targeted impact assessment on IPs or an ESIA)</p>	<ul style="list-style-type: none"> <li>▪ Documented evidence that community representatives were engaged in advance of the impact assessment and participated in the design of the assessment.</li> <li>▪ Documented agreement on the format, scope and content of the assessment to be conducted, including who will conduct it.</li> <li>▪ Documented evidence that impacts on customary rights have been considered within the scope of the impact assessment, in addition to legal rights.</li> <li>▪ Documented evidence that the rights-holder map is properly considered in the impact assessment design.</li> <li>▪ Assessment of community capacity (time, resources, skills) to participate in the impact assessment and measures taken to ensure sufficient capacity.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ <i>Written or recorded evidence of interviews with relevant company personnel demonstrating that Indigenous Peoples' rights are understood and that they have all been considered within the design of the impact assessment.</i></li> <li>▪ <i>Documented interviews with community members that confirms they feel they were sufficiently trained and compensated to participate in the impact assessment design and implementation.</i></li> <li>▪ <i>Documentation of all potential impacts that may result from the proposed project and related activities in relevant languages and/or formats to maximise comprehension by as many community members as possible, including women, the elderly, children and other marginalised groups.</i></li> <li>▪ <i>Documented evidence of the methods used to communicate this process and its outcome to community members.</i></li> <li>▪ <i>Written or recorded evidence of interviews with relevant community representatives demonstrating that these impacts are understood.</i></li> </ul>
<b>COMMUNITY PARTICIPATION, REPRESENTATION, GOVERNANCE AND DECISION-MAKING STRUCTURE</b>	
<p><b>Establish if the community is willing to enter into negotiation</b> regarding the approval and implementation of the proposed project activities, based on the results of the impact assessment</p>	<ul style="list-style-type: none"> <li>▪ <i>Documented evidence of a community meeting(s) having been called.</i></li> <li>▪ <i>Signed meeting minutes that detail:</i></li> <li>▪ <i>The community has reached a consensus that they are willing to enter into negotiations based on the results of the impact assessment.</i></li> <li>▪ <i>Signed attendance register.</i></li> <li>▪ <i>Documented evidence of how the results of this process have been communicated to all other community members.</i></li> <li>▪ <i>Documented evidence of interviews with community members that demonstrate they are willing to enter into negotiation based on the impact assessment.</i></li> </ul>
<p><b>Establish who will be representing the community</b> throughout the FPIC process, and that they were selected by community members in a culturally acceptable manner.</p>	<ul style="list-style-type: none"> <li>▪ <i>Documented evidence of a community meeting having been called.</i></li> <li>▪ <i>Signed meeting minutes that detail the election of the community members or institutions who will represent the community during the FPIC process.</i></li> <li>▪ <i>Signed attendance register.</i></li> <li>▪ <i>Documented evidence of how the results of this process have been communicated to all other community members.</i></li> </ul>
<p><b>Establish how women participate in local decision-making mechanisms.</b></p>	<ul style="list-style-type: none"> <li>▪ <i>Documented analysis of local gender dynamics which identifies potential obstacles to meaningful participation in consultations for female community members</i></li> </ul>

	<ul style="list-style-type: none"> <li>▪ Documented evidence that community representatives maintain open communication with all community members. This may be via relevant community organisations and associations.</li> <li>▪ Documented participation of women in consultation meetings and/or meetings conducted exclusively with women.</li> </ul>
<p>Establish how marginalised or vulnerable groups, including children, the elderly, and those with disabilities, participate in local decision-making mechanisms.</p>	<ul style="list-style-type: none"> <li>▪ Analysis of local representation dynamics which identifies potential obstacles to meaningful participation in consultations for community members who are typically marginalised.</li> <li>▪ Documented evidence that the elected community representatives maintain open communication with all community members. This may be via relevant community organisations and associations.</li> <li>▪ Documented evidence that where traditional or customary systems do not allow for meaningful participation of marginalised groups in formal negotiations, that best efforts have instead been made to integrate these groups into other community engagement processes to ensure that their voice is heard and has bearing on the consultation processes.</li> <li>▪ Documented participation of marginalized or vulnerable groups in consultation meetings and/or meetings conducted exclusively with these groups.</li> </ul>
<p>Establish that the community has sufficient institutional and technical capacity to be able to effectively participate in an FPIC process.</p>	<ul style="list-style-type: none"> <li>▪ Documented evidence of existing decision-making, mediation and conflict resolution mechanisms.</li> <li>▪ Evidence that the community has the capacity to store and maintain agreements and ensure access to them for other members of the community e.g. via central archives, and also online.</li> <li>▪ Evidence of the community having the opportunity for knowledge exchange with other communities or those who have participated in FPIC processes previously.</li> <li>▪ Documented evidence of existing community protocols and/or “Planes de Vida” that detail: <ul style="list-style-type: none"> <li>○ The community’s cosmovision and how this informs their position vis-a-vis development projects</li> <li>○ How this intersects with international and national rights.</li> <li>○ This should include evidence of how they were developed via an inclusionary, participatory process.</li> </ul> </li> <li>▪ Documented evidence of a gap analysis carried out in collaboration with community representation to identify gaps in institutional and technical capacity. Documentation of efforts made to bridge any identified gaps and to strengthen community capacity by supporting the community to identify and recruit suitable third-party experts and/or organizations to advise on e.g. the development of a Plan de Vida via an inclusive,</li> </ul>

	<i>participatory process; capacity building trainings for strengthening institutional capacity, negotiation or public speaking skills.</i>
<b>SUSTAINABILITY OF THE FPIC PROCESS</b>	
<b>Establish a mechanism for facilitating ongoing and open, two-way dialogue between the community and project team.</b>	<ul style="list-style-type: none"> <li>▪ <i>Documentation of official and routine meetings both with community representatives on at least a monthly basis and with the wider community at least quarterly, detailing the number of consultation and participation activities that occur, including meetings, information dissemination, distribution of brochures/flyers and training.</i></li> <li>▪ <i>Demonstrated commitment to maintain and nurture relationships.</i></li> <li>▪ <i>Demonstrated commitment to continue consultation to maintain consent beyond its initial achievement.</i></li> <li>▪ <i>Documented evidence of consultation processes and agreements.</i></li> <li>▪ <i>Demonstrate the existence of open channels for communication, when possible e.g. phone, social media, radio, community groups etc.)</i></li> </ul>
<b>Establish a participatory mechanism for monitoring and evaluating compliance of the FPIC process against the documented agreement.</b>	<ul style="list-style-type: none"> <li>▪ <i>Documented evidence of an agreement between the community and the project developer that includes:</i> <ul style="list-style-type: none"> <li>○ <i>What constitutes ‘consent’</i></li> <li>○ <i>Criteria and indicators to be used for monitoring compliance with the agreed process.</i></li> <li>○ <i>Who will provide independent verification.</i></li> </ul> </li> <li>▪ <i>Assessment of community capacity (time, resources, skills) to participate in the monitoring and evaluation of the process.</i></li> <li>▪ <i>Documented evidence taken of measures to ensure sufficient community capacity.</i></li> <li>▪ <i>Documented evidence of a positive and collaborative relationship existing between the community and the implementing partner.</i></li> </ul>
<b>Establish a grievance redress mechanism for addressing claims in the event that the negotiated agreement is breached.</b>	<ul style="list-style-type: none"> <li>▪ <i>Documented evidence of an agreement regarding how the grievance redress mechanism should be designed and how it should function.</i></li> <li>▪ <i>Interviews or surveys with community members that demonstrate familiarity with the grievance mechanism, how it can be accessed and how it should be used to make claims.</i></li> <li>▪ <i>Assessment of claims made using the grievance mechanisms, including:</i> <ul style="list-style-type: none"> <li>○ <i>Types of grievances, including the FPIC process itself.</i></li> <li>○ <i>Whether they have been resolved.</i></li> <li>○ <i>Length of time they have taken to be resolved.</i></li> </ul> </li> <li>▪ <i>Total number of people / groups to have used the grievance mechanism.</i></li> </ul>

## GUIDANCE FOR DOCUMENTING THAT THE TENETS OF FPIC WERE ADHERED TO

FPIC Tenet	Examples of Documentation
<p><b>Free</b> - Demonstrate that all community engagement and consultation is undertaken in good faith, free of coercion and manipulation.</p>	<ul style="list-style-type: none"> <li>▪ <i>Documented evidence of community consultations regarding the proposed project and impact evaluation taking place before discussion of compensation or economic benefits.</i></li> <li>▪ <i>Interviews or surveys with relevant community representatives confirming that no money or goods have been offered by the project developer in advance of, or during consultation processes.</i></li> <li>▪ <i>Interviews or surveys with relevant community representatives confirming that the project developer has not used any form of intimidation, including the presence of security personnel or law enforcement in the community.</i></li> <li>▪ <i>Establishment of a reporting mechanism for community members to make complaints or comments regarding the FPIC process itself.</i></li> </ul>
<p><b>Prior</b> - Demonstrate that the FPIC process was initiated prior to any decisions being taken regarding the project’s advancement, including with regards to the impact assessment and design of the process itself and that the timeline has been established and agreed upon by/with the community.</p>	<ul style="list-style-type: none"> <li>▪ <i>Documented evidence that consultation processes began in advance of the proposed activity for which consent is being sought.</i></li> <li>▪ <i>Documented evidence (including interviews with relevant personnel) demonstrating that local, customary systems are understood and respected, including the time required to reach a decision.</i></li> </ul>
<p><b>Informed</b> - Establish a communications strategy to be followed for engaging with community representatives, and also for ensuring that information regarding the FPIC process is disseminated to, and accessible by the wider community.</p>	<ul style="list-style-type: none"> <li>▪ <i>Documented communications and engagement strategy specific to engagement with community representatives.</i></li> <li>▪ <i>Documented communications and engagement strategy for dissemination of information about the FPIC process to the wider community.</i></li> <li>▪ <i>Documented evidence that these strategies are implemented in all necessary languages that are relevant both locally and nationally in order for all communications to be fully understood by the community.</i></li> <li>▪ <i>Documented evidence that the community has the capacity to disseminate written and/or audio or visual information about the FPIC process</i></li> <li>▪ <i>Documented evidence that the community has capacity to store and maintain written and/or audio or visual information about the FPIC process and ensure access</i></li> </ul>

	<p><i>to them for other members of the community e.g. via central archives in community building, online.</i></p> <ul style="list-style-type: none"> <li>▪ <i>Interviews or surveys with community representatives and the wider community that clarify the above strategies are effective at communicating and disseminating information about the FPIC process.</i></li> </ul>
<p><b>Consent</b> - Establish that the community has reached a consensus through an appropriately gender-balanced and inclusionary process.</p>	<ul style="list-style-type: none"> <li>▪ <i>Documented evidence of a community meeting having been called.</i></li> <li>▪ <i>Signed meeting minutes that detail:</i> <ul style="list-style-type: none"> <li>○ <i>The community has reached a consensus that they will consider the proposed project.</i></li> <li>○ <i>The election of the community members or institutions who will represent the community during the FPIC process.</i></li> <li>○ <i>The preferred location chosen by the community for consultations regarding the FPIC process to take place.</i></li> <li>○ <i>The community decision-making mechanism and processes that the FPIC process needs to respect, including the amount of time the community representatives estimate they will need for communicating and consulting with the wider community.</i></li> <li>○ <i>Reference to relevant community protocols or “Planes de Vida.”</i></li> </ul> </li> <li>▪ <i>Signed attendance register.</i></li> </ul>

## Annex III: Role of Facilitators in an FPIC Process<sup>10</sup>

**Facilitators, in cooperation with the Government and other stakeholders, can play a key role in ensuring, among other things, that the following arrangements are part of the FPIC process:**

- Full, accurate information is communicated that is easily understandable for everyone, including thru innovative and creative forms, in the most appropriate language and medium, to communicate issues, as well as access to other sources of information;
- Decision-making process is determined by the community without interference;
- Timeline to undertake the decision-making process is decided by the community;
- Respect for the customary laws and practices of the community in question;
- The language in which they wish to be addressed, including the language used for written materials and to convey decisions, is determined by the community;
- Additional information be sought from community members and they should be encouraged to verify information;
- Transparent, accurate, and complete information is communicated; positive and negative and potential short-term and long-term impacts, risks and benefits are described;
- Information reaches all community members, albeit consistent with the community's mechanisms for information sharing;
- A secure, culturally appropriate and trusted decision-making environment.

**Facilitators can support the affected communities to determine and document the collective decision-making process:**

- Use, build on, or improve existing transparent and participatory consultation and consent processes (e.g., raising hands, voting, signing, deferring to leaders, etc.);
- Document process, discussion, comments, questions asked for decision, the decision, and/or terms of agreement;
- Maintain a record of the result/decision (disaggregated by gender, income level, if possible), announce the result, and hold a self-evaluation process (e.g., village head signs) - if information is disaggregated, record the relevance of this disaggregation to the decision, and to follow-up activities;
- Respect at all times that role as a facilitator, which is not a mediator, or a decision-maker

**Facilitators can support capacity building for the affected communities to effectively review agreement conditions to ensure that they are met, including the delivery and proper distribution of benefits agreed.**

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<sup>10</sup> From [UN-REDD Guidelines on FPIC](#) (2013)