

Co-Chairs' Summary
of main interim conclusions from
field visits and yesterday's discussions

TFD Dialogue on Making FPIC Work
Hotel Aryaduta, Pekanbaru,
14th October 2010

Main issues

- Underlying legal deficiencies:
 - Rights in land are not clear
 - Customary rights are not recognised
 - Permits are allocated without taking community rights or views into account
- Community representation challenged
 - Government imposed admin. and customary systems in parallel
 - Outside manipulations of representatives and / or elections
 - Gender and class inequities in customary processes
 - Accountability of negotiating teams
- Unclear government responsibilities
 - Non participatory
 - Leave it to companies to deliver basic services and sort out conflicts

Main issues (cont.)

- Migrants
 - Officially sponsored transmigrants and independent settlers
- Wider issues
 - FPIC is only one right but other rights also need recognising: land, representation, livelihood
 - Other values need recognising: livelihoods, identities, survival, environmental health and good development for peoples and countries
- Capacity building needed to respect
 - Government
 - Company
 - Community

Free Prior Informed Consent

- Free, **Prior** and Informed Consent
 - We focused too much on conflict resolution
 - We need to look at conflict avoidance and real decisions **prior** to permits and operations
 - Companies need to accept the peoples' right to say 'no' or 'yes' or amend proposals to ensure better outcomes
 - Much more information needs to be shared
 - Companies need to recognise customary rights in land (shift burden of proof) and help advocate with them to be formalised (recognised by govt.)
 - Need to leave space for communities to freely reach their decisions not try to control the outcome
 - FPIC is a right, we need principles and tools to respect that right
- Who pays for the negotiation? Need for independent mediators or facilitators.
- What are people really agreeing to? Often not clear

FPIC (cont.)

- Need more clarity about how FPIC fits with peoples' own decision-making processes
- Inclusive mechanisms are needed to ensure involvement of marginalised sections of communities.
- What to do when communities cannot reach consensus? Who and how decide not to go ahead?
- Is FPIC enough to address unequal power relations?

Consensus points (tentative - so far)

- It is in everyone's best interest to avoid conflicts
- We need more time, better tools and more resources to make FPIC work
- Agreements once reached need to be secured through government endorsement

Break out group questions

1. What should be the role of Government in ensuring a sound basis for respect of right to FPIC? (legal, institutional, oversight) **Mubariq**
2. How should communities represent themselves and build consensus. (communities are not homogenous) **James Mayers**
3. What are the responsibilities of companies to respect and secure right to FPIC? **Agus Setyarso**
4. What must be done when communities are divided because of many/ majority of the people are settlers? **Amity Doolittle**