

## THE FOREST DIALOGUE (TDF)

« Free, Prior and Informed Consent (FPIC) »

New Haven, 13-14 April 2010

### *Making FPIC effective*

#### 1. Context

The FPIC is a concept used in many sectors (social, medical, etc.) to define and regulate relations between contractual parties. And today it is applied to natural resources management, and therefore is considered as an appropriate management relations tool between the indigenous populations and the logging companies.

The FPIC is a process which help to guide the forest management towards **an opened an equitable long term** relationship between indigenous populations and the logging industry, which as we know has an social and environmental Impact

In order to work properly, the forest community must be aware of what is on stake about the logging industry, therefore enabling them to decide, in full knowledge their place and role in the management of the forest.

Today, the FPIC is recognized by many international treaties, as the United Nation Declaration of Indigenous People.

#### 2. Why the FPIC?

As outlined above, the logging industry change the way the forest is managed as well as the way the resources are distributed locally.

The FPIC aims therefore to ensure that the resources are equitably shared and the forest is sustainably managed by the logging companies.

In order to get that objective, the governments and the logging companies must recognize the legal right of the forest community to express their points of view on the decisions relating to the use of the territories on which they live. And the first of these decisions concern the right to say yes or no to exploit the forest.

And more importantly, is the ability for the party which consent, to say no at any moment in the course of the process.

#### 3. The FPIC case in the Democratic Republic of Congo

The FPIC is a new concept which is being implemented in the DRC, in the context of the new forest law. Much has been achieved so far, but as outlined above, the FPIC is a long term process, with these most important steps taking place in DRC:

- (i) The new forest law implemented in 2005, gave a moratorium suspending all new logging concessions, and in the meantime obliging the current logging companies to comply with the new requirements put in place in order to the get a new concession certificate and keep on doing business;
- (ii) A multi actors Commission was put in place, comprising representatives of central government, representatives of local government, private sector, civil society and the representatives of indigenous and local community;

- (iii) The Commission reduce the total number of concessions from 165 to 69, representing more or less 17 million ha from 40 million ha previously granted by the state;
- (iv) The new forest law states that the lodging companies retained by the Commission must enter into negotiation with the local community to get a “social and environment responsibility charter” signed between the lodging company and the forest population; and it’s only when this document is signed than the state can grant the concession title;
- (v) A memorandum of understanding has been signed between the Ministry of Environment and the WRI (World Resources International) to set guidelines to help the two parties (forest community and lodging industry) to get into negotiations and find a common ground for the “social and environmental responsibility charter”.

#### 4. Principles

To make FPIC work effectively, focus must be put on the following 6 principles, with the three main parties in view (government, lodging companies and forest community).

##### 1. Consent

The consent is the bottom line of any contractual relation between parties. Therefore parties must have the same understanding of that relation and its implication; otherwise we get different interpretations of consent by the lodging companies and the local community, with many conflicts in perspective.

##### 2. Building capacity

It is Important to build capacity within lodging companies, if we expect FPIC to succeed. The quality and the efficacy of the social team is very critical.

##### 3. Information and communication

Very important because the forest community will not be able to give an informed consent without any relevant information and without a well understanding of this information.

##### 4. Participation

The participation of the forest community at each step of the process is very crucial in order to get an informed consent. It means that the population will have an active role in the process.

##### 5. Transparency

An important aspect to consider in any lasting relationship.

##### 6. Partnership

The presence of multi actors (government, lodging companies, forest community, conservation organizations, civil society, NGOs) interested in the management of the forest may be source of many conflicts. To solve these conflicts a global management partnership is a valuable solution.

## 5. Conclusions

The FPIC is a very complex concept, which found its nature in the fact that it is not easy to determine when exactly the consent of the populations has been really given. In order for the FPIC to work, the two parties must find satisfaction in their relationship and be convinced that whenever problems arise, they will be able to talk and find together a common and acceptable solution.

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