



Forest Peoples Programme

1c Fosseyway Business Centre, Stratford Road, Moreton-in-Marsh GL56 9NQ, UK
tel: +44 (0)1608 652893 fax: +44 (0)1608 652878 info@forestpeoples.org www.forestpeoples.org

Briefing Note for

Technical Workshop on Integrating

High Conservation Values, the

High Carbon Stock Approach and

Free, Prior and Informed Consent:

Social Perspectives

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Marcus Colchester
Senior Policy Advisor
Forest Peoples Programme¹

Declaration of interest: The author of this paper is also the (co-) author of several Guides to FPIC and related literature. He was Co-Chair of the High Conservation Values Resource Network from 2006-2015 and remains a member of the HCVRN Management Committee. He is a member of the HCS Approach Steering Committee and was on the Editorial Committee of the HCS Toolkit to which he contributed a chapter as lead author. He is also the lead researcher for FPP contributing to two pieces of research for the Science Study of the consortium of signatories of the 'Sustainable Palm Oil Manifesto'. FPP is a member of RSPO and founder member of the Palm Oil Innovation Group.

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Introduction: assumptions and limitations

This note has the purpose of briefing workshop participants on some of the key social considerations relevant to efforts to integrate communities' right to 'Free, Prior and Informed Consent', with the land use management method referred to as the 'High Conservation Values' system and with the more recent natural forest identification procedure referred to as the 'High Carbon Stocks Approach'. The note is drafted based on the assumption that a sought for outcome of the integration process, of which this workshop is a preliminary step, is:

Effectively integrated and accepted land-use plans, which ensure sustainable habitats, ecosystem services, livelihoods and cash cropping, while respecting laws and rights.

The briefing note seeks to succinctly summarise the state of play with Guides relating to FPIC and the challenges to implementation, some of the key social considerations that have emerged in the last 15 years with respect to HCVs, and the emerging lessons from the way pilot application of the High Carbon Stocks Approach has impacted communities. Links are provided for those seeking to explore these issues in more detail. Many of the reports and publications referred to in these links provide detailed references and thereby a more informed exploration of the matters raised.

The right of indigenous peoples to give or withhold their 'free, prior and informed consent' to measures which may affect their rights is now an accepted principle of international law. International law likewise recognises the rights of indigenous peoples to the use, ownership and control of the lands, territories and resources they have traditionally owned, occupied or otherwise used. Indigenous peoples also have the right to recognition of their customary institutions and exercise of their customary laws, all these rights being observed so long as their exercise does not diminish the rights of persons under other international human rights norms.²

Free, Prior and Informed Consent is not a stand-alone right: it emerges as a principle of international human rights law through a conjunctive reading of existing rights, notably but not only the rights of all peoples to self-determination and the right of all persons to property, which rights also give rise to indigenous peoples' rights to their lands, territories and resources.

This briefing note accepts these rights as given and only highlights a few other considerations of international law. The note does however refer to some of the national and local legal realities linked to implementation of FPIC, HCV and the HCS Approach, which substantially limit, or enable, the extent to which they may be put into effect practically.

Guidance on 'Free, Prior and Informed Consent':

Although FPIC is a matter of international law, most Guides to FPIC have been tailored to fit specific circumstances. There are several Guides which are embedded in specific certification schemes to aid compliance with their negotiated 'principles and criteria, indicators and guidance' or equivalent. These include Guides for use with the standards of the Forestry Stewardship Council,³ the Roundtable on Sustainable Palm Oil⁴ and the Roundtable on Sustainable Biomaterials.⁵

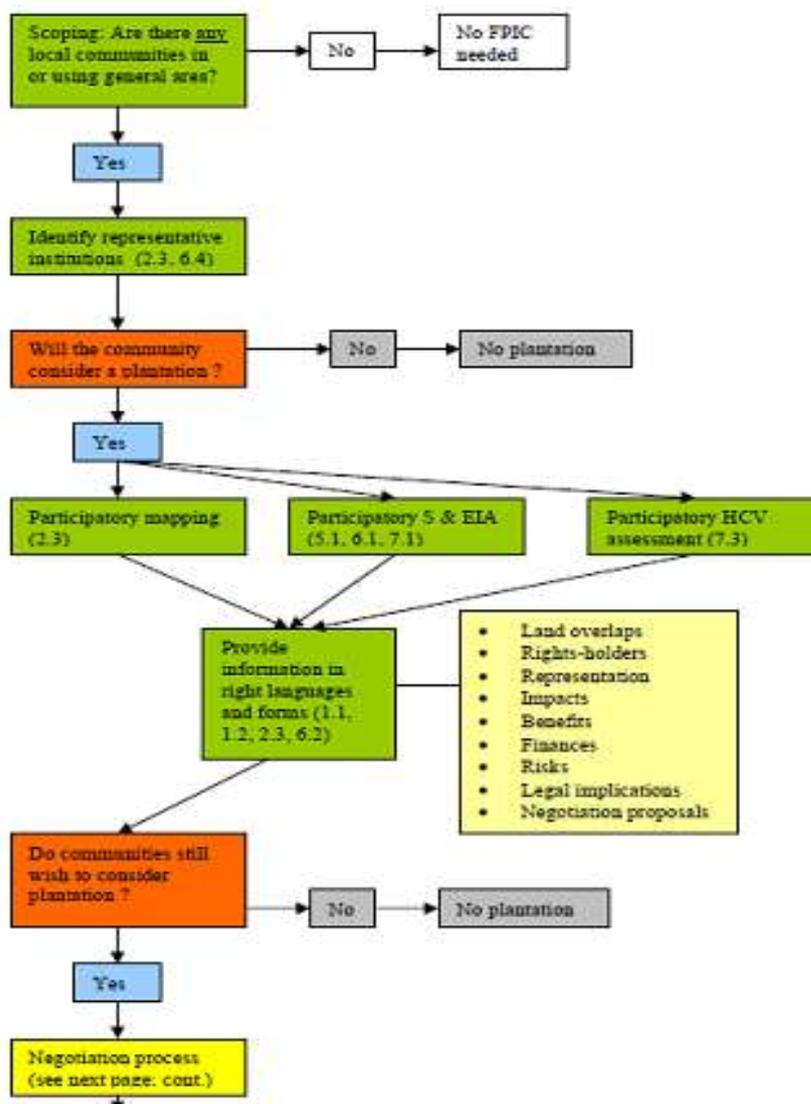
Other FPIC Guides have been developed for indigenous peoples or local community use and some for communities in specific countries.⁶ Template 'protocols' have been developed for use by communities as model agreements with the aim of ensuring consideration is given to their decision-making procedures, systems of representation and customary rights.⁷ There are some FPIC guides for specific sectors like mining and REDD+.⁸ A general guide to FPIC, not embedded in a particular certification scheme or sector but aimed at Governments has been produced for FAO within the framework of the *Voluntary Guidelines on the Governance of Tenure to Lands, Fisheries and Forests*.⁹

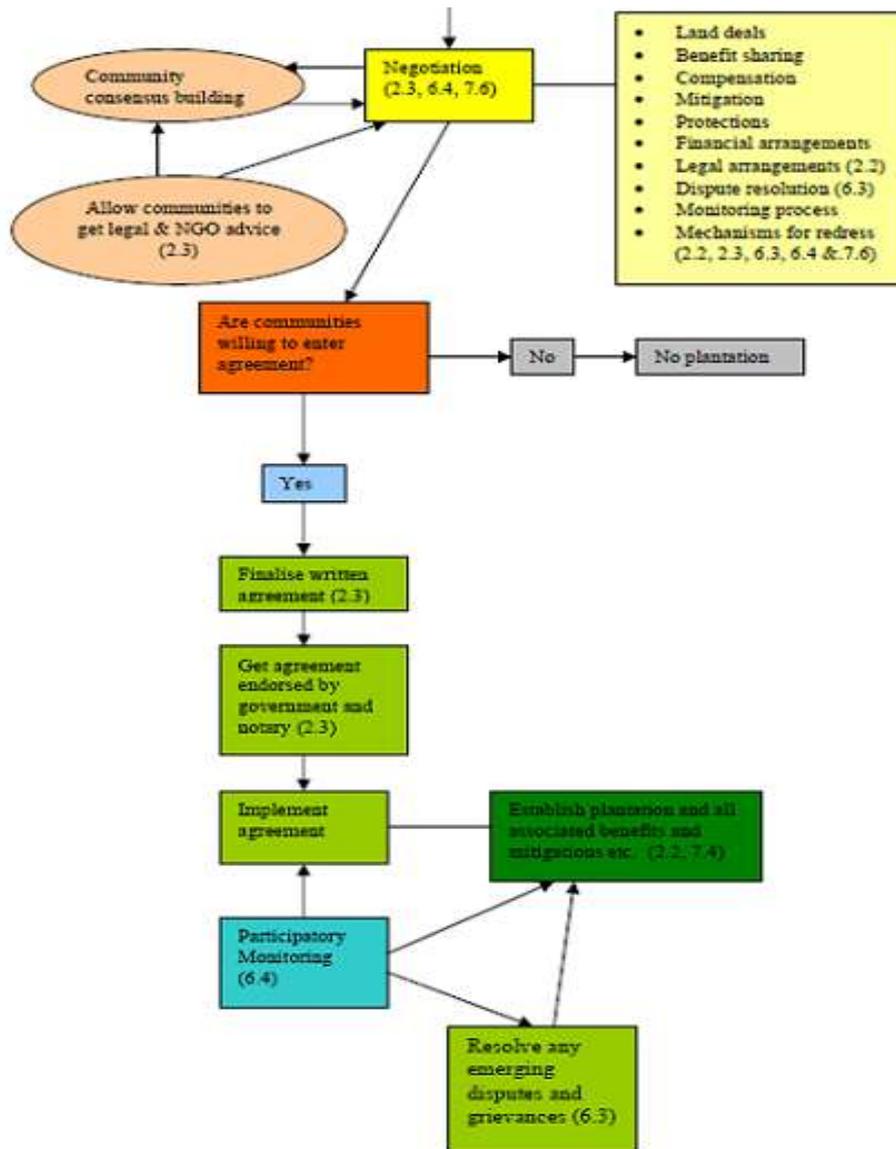
The 'HCS Approach Toolkit' also includes a chapter by FPP which explores how a procedure to respect the right to FPIC can be fitted with the HCS Approach. It is complemented by a case study by

GAR and TFT which reveals the problems which come from doing things in the wrong order. The simplified flow chart on pages 22 and 23 of the Toolkit is offered as a skeleton on which an integrated approach might be developed.¹⁰ Key steps include the following:

1. Communities identify their self-chosen representative institutions
2. Land tenure survey
3. Participatory mapping
4. Participatory ESIA, HCV and HCS Assessments
5. Information sharing
6. Agree procedure for negotiation and decision-making
7. Agree compensation process
8. Iterative negotiations
9. Scope for inclusive community decision-making
10. Freedom to seek legal and technical counsel
11. Negotiated agreement
12. Government or notary endorsement
13. Implementation of agreement
14. Participatory monitoring
15. Grievance and redress procedure

Figure 1: Flow chart from *RSPO and FPIC: a guide for companies (2008)*.





This Briefing Note does not recapitulate in further detail the procedures outlined in the Guides referenced above and only highlights a few of the key points summarised in the HCS Toolkit.

The FPIC Guide for RSPO was initially produced in 2008 and a revised version, being circulated with this note, was completed in October 2014 and presented at the RSPO’s 12th Roundtable in November. However, after appeals by Indonesian companies that they had not had enough time to comment, the revised Guide was withdrawn by the RSPO Secretariat. Further comments have now been submitted by growers and a final consultation is to be held in June 2015, to consider revisions of the text. Most of the objections or suggestions so far raised about the 2014 revised Guide relate to the challenges faced by companies of complying with the RSPO P&C in the context of national laws and procedures, which have not yet been revised to comply with international law.

For example many developing countries vest ownership and/or control of (most) lands or forests in the State, do not (effectively) recognise customary rights to lands and resources, do not provide legal personality to peoples’ self-chosen representatives, and do not recognise indigenous systems of self-governance. These are all important building blocks that help secure FPIC. The one country that explicitly makes FPIC a legal requirement, the Philippines, does also recognise these wider rights of indigenous peoples.

Further common difficulties come from the laws relating to concession systems. Lands may often be allocated by Government to concessionaires prior to, or even without any, consultation with resident communities. Laws related to ESIA's, which should be important tools to ensure consent is properly 'informed', may require little real consultation and may be perfunctory in practice. Sectoral laws regulating forestry, mining, conservation and fisheries often create further barrier to recognition of the rights of residents. Indeed, historically, these laws have evolved explicitly to curtail these rights in order to prioritise national or royal, strategic or elite, interests. The injustice inherent in such laws, in denying or restricting the property rights and livelihoods of resident peoples, is increasingly questioned and international norms now call for recognition of rights, community natural resource management and secure tenure. Unfortunately, by and large, national reforms lag far behind these agreed advances at the international level.

Who enjoys the right to FPIC?

In an effort to redress a long history of exploitation and denial of rights and as a result of intense mobilisation by indigenous peoples and rights activists, international human rights law has advanced most in clarifying the rights of indigenous peoples. The rights of other peoples, communities and farmers groups to their lands and resources, and to their wider rights, have not been so well clarified although a strong case can be made that 'tribal peoples' and other ethnically self-identified peoples with customary rights in land and collective institutions enjoy the same rights even where they do not self-identify as 'indigenous'.¹¹ Some of the certification schemes thus go beyond the explicit requirements of international law and recognise the right of all 'local communities' to FPIC, while the RSPO extends the principle to land 'users'.

Implementation challenges

In 2011-2013, a consortium of numerous NGOs and FPP, carried out a multi-country review of FPIC implementation by 17 palm oil companies in 7 countries. The detailed report, *Conflict or Consent? the palm oil sector at a crossroads*, revealed major problems of implementation.¹² Among the most salient findings were the following:

- FPIC requirements are not being adhered to by most of the companies reviewed
- Large scale land grabs continue and land conflicts are associated with many leading RSPO members
- People are not being adequately informed of the implications of land surrenders and are given a false idea of the impacts and benefits
- Communities are not being informed of their right to choose their own representatives, so decision-making is open to manipulation and leads to social exclusion
- Most companies pursue a policy of individualised land acquisition and ignore or side-step communities' collective tenures and customary authorities
- Few consent procedures are genuinely 'prior': concessions are handed out by government without consultation and often without any recognition of rights
- Land rights are not recognised by governments

In 2012, the consortium proposed a detailed set of actions that the different stakeholder groups should undertake to remedy this situation.¹³ In 2013, the NGOs also formally asked RSPO to come up with an institutional response to this systemic failure¹⁴ but this has yet to be acted on effectively. FSC has also embarked on a review of FPIC compliance in line with the FSC P&C.¹⁵

Key social considerations with respect to High Conservation Values

One of the potential strengths of the High Conservation Values system is that it seeks to incorporate both social and environment values into land use planning. In particular, HCVs 4, 5 and 6 seek to

capture some of the main values of natural ecosystems for human societies. The very definitions of HCVs 5 & 6 explicitly require that these be identified through participatory processes. While the HCV system was originally designed to be used within the framework of certification systems it soon began to be used outside that framework, with the initial result that wider issues of legality and social safeguards were ignored.

As the tool became more widely used, it also became clear it was being used with very divergent degrees of rigour. The HCV Resources Network was accordingly created to try to standardise application of the HCV method and it evolved a Charter, which set out some core safeguards that should be observed if HCV was being used outside the certification context including legality, respect for customary rights, no legitimate disputes and respect for FPIC.¹⁶

Implementation challenges

Field surveys show that HCV is very unevenly applied in practice. There is in particular lack of rigour in the application of HCV 5 & 6, mainly owing to lack of adequate participation and lack of diligence to help communities understand what HCVs and HCV assessments are all about and how they might actually help them secure their livelihoods and even rights. Moreover, because the current tool kits advise quite restricted procedures for identifying ‘areas fundamental for satisfying the basic necessities of indigenous peoples and local communities’ (HCV 5), when FPIC processes are also quite truncated and complementary livelihood enhancement projects weak or absent, the result is that all too often communities in plantations are left with insufficient lands to maintain their livelihoods, food security and well-being. This situation is worsened in cases where recommendations to conserve HCVs focused on biodiversity attributes (HCVs 1-3) prioritize forests for conservation purposes over community livelihoods, often explicitly prohibiting hunting or other subsistence activities within them. The result is that people are forced to open up areas of lands contrary to company and consultant land use plans designed to conserve HCVs deemed present. In such situations, field studies show community resentment of HCVs and community clearance of HCVs for subsistence.

Aware of these challenges, HCVRN has sought to strengthen the procedures for identifying, managing and monitoring HCVs 5&6. A joint HCVRN, ProForest, Solidaridad Network and FPP workshop held in Ghana in 2013, reviewed progress with the implementation of HCV 5 & 6 and developed some clear recommendations on what needs to be done to strengthen HCV 5 & 6 identification and in particular how to better integrate HCV and FPIC processes.¹⁷ In a parallel process, FPP has worked with the Zoological Society of London to develop a draft guide for monitoring HCV 5 & 6, which pays a lot of attention to community mobilisation and livelihoods and explores methods that could potentially help integrate community land use management with conservation goals.¹⁸ The draft protocol has yet to be practically tested, however.

HCV and legality

The HCV system requires operators to be legal, but conversely, to date, has made uneven progress in ensuring legal tenures exist for securing HCVs, once they have been identified and set aside so they can be managed and monitored to maintain or enhance identified values. In Indonesia, laws restrict leaseholders of agricultural plantations from not planting, to prevent land speculation and encourage productive use. So-called ‘idle lands’ may be taken off the operator and allocated to third parties for development,¹⁹ a legal trend now formalized in the updated Plantations Law of 2014. Other countries, like Malaysia and Brazil, provide more secure tenures to planters and thus allow companies the discretion to maintain set asides within their concessions or titles. Indeed in Brazil, all lands held in ‘forests’ must maintain 50% or 80% of the area as forest (depending on the law in effect when the title was issued). Likewise, in some countries, for timber plantations established in lands classed as ‘forests’, there may be restrictions on how much of the area can be set aside for HCVs and wider community use.

Overcoming community resentment and their suspicion that HCVs are disguised ‘green grabs’ requires that they be accorded enforceable rights to own, manage and control their lands including any HCV Management Areas. In many countries, land, forestry and plantation laws place considerable barriers in the way of such recognition, meaning that communities are correct when they note that HCV establishment curtails their rights, even where the intention may be to secure their livelihoods. In the authors view, not enough attention has been paid to this issue in most countries.

Strengthening Quality Assurance

Ensuring the quality of HCV assessments and, still more, ensuring adequate management and monitoring to achieve the system’s objectives remains challenging. HCVRN’s early reliance on peer review and adherence to a Charter has not been effective and has even been abused. Last year, HCVRN adopted a new Assessor Licensing Scheme²⁰ designed to provide companies and certification schemes with greater assurance that assessors will work to a reasonable standard. In high risk situations, assessments will also require peer review and assessors will also be periodically reviewed and checked (although field reviews are currently not contemplated on cost grounds). Complemented by the revised Common Guidance volumes, which establish best practice for identification and for management and monitoring, HCVRN hopes to improve the system. The Common Guidance volumes include advice on how the HCV system should secure HCVs 5&6 and wider social values.²¹

It may be too early to say whether the new system will really improve performance on the ground, where it matters. A complaints system to challenge mal-practice is also being set up. Meanwhile, national HCV Toolkits retain old definitions of HCVs which include more limited notions of HCV identification and management (especially for HCVs 5 & 6) and have yet to be revised to keep up to date with the evolving system. One result is these old toolkits omit best practices in securing community livelihoods. This has important implications for the HCS Approach. If the HCV system cannot (yet) be relied on to secure communities’ livelihoods and basic needs, then further set asides to secure High Carbon Stock forests may create even more social problems by further limiting communities’ access to lands and resources. The workshop is encouraged to identify ways of further strengthening the HCV system, and in so doing help to anticipate and avoid similar problems in the application of HCS in the months and years ahead.

Key social considerations with respect to the High Carbon Stock Approach

Three main pilots of the HCS Approach have been trialled: (i) by Singapore-listed Golden Agri-Resources’ subsidiaries in Indonesia, most prominently PT Kartika Prima Cipta (PT KPC), in West Kalimantan, Indonesia; (ii) by Golden Veroleum Limited (GVL) in Liberia, a GAR majority-owned company incorporated in the Cayman Islands, and; (iii) by Asia Pulp and Paper’s operations in Riau, Jambi and South Sumatra. All these companies are part of the Indonesian conglomerate, Sinar Mas. Some other companies are reported to have been piloting HCS in their estates in other countries but information on these experiences has not yet been made public.

Initially the HCS Approach was rolled out without much consideration of the social implications. This defect was very early remarked on by the practitioners themselves²² but measures to remedy the defect have been slower to be incorporated. In 2013, at the prompting of Greenpeace and with the agreement of GAR, FPP initiated a detailed independent review of the social aspects of HCS implementation in PT KPC. The review identified some major short-comings which GAR promised to address. Unfortunately, GAR was very slow to act on these promises obliging FPP to publish a critical report exposing the serious situation of land grabbing, weak HCV implementation and local resentment of HCS forest protection plans.²³ After further major non-compliances and procedural violations by GAR, FPP then filed a formal complaint with the RSPO,²⁴ which the Complaints Panel upheld in its interim determination.²⁵ In response to the complaints GAR has frozen further expansion, made some important improvements in its procedures and has begun to roll these out in its concessions. FPP contends that the company is not yet RSPO compliant, a matter that GAR disputes.²⁶

Field studies also reveal deficiencies in the social performance of the other companies piloting the HCS Approach. Civil society groups in Liberia and FPP have been filing a string of complaints about violations of FPIC and other key social elements of the RSPO P&C by GVL for several years. Communities are concerned that their lands have been taken without adequate information, without consent and feel under undue pressure to relinquish lands to secure development benefits without being able to secure their rights, get fair compensation or adequately secure their livelihoods.²⁷

Asia Pulp and Paper has also encountered significant challenges in adhering to its commitments to recognise customary rights, respect FPIC and resolve conflicts as part of its Forest Conservation Policy. Preliminary scoping carried out by TFT and HCV assessors suggest that there are some 500 land conflicts in the 2.4 million ha of lands of APP's subsidiaries and suppliers in Sumatra alone (APP also sources from parts of Kalimantan). An NGO consortium review, coordinated by Rainforest Action Network, of APP's compliance with its Forest Conservation Policy and associated social commitments has exposed slow progress,²⁸ while Rainforest Alliance's audit of APP's compliance also found that social components of implementation are most in need of strengthening.²⁹ According to FPP and WALHI, APP's first pilot conflict resolution process with the community of Senyerang in PT WKS was heavily compromised and was not based on recognition of the full extent of customary rights.³⁰ Tragically, in late February, security guards working for PT WKS brutally beat to death a well-known land rights activist.³¹ APP has denounced the killing, dismissed the security company and is collaborating with an investigation by the national human rights commission.³² One unfortunate side effect of this event is that it has led to a stand-off in NGO engagement with APP, which had been actively collaborating with NGOs to get advice on how to improve its social performance. The case does however highlight the entrenched difficulties even progressive companies face in respecting communities' rights in forestry concessions.

Improving the HCS Approach

The HCS Approach is now beginning to adopt measures designed to address some of these challenges to implementation. The newly released *HCS Approach Toolkit* devotes a whole chapter to FPIC and associated social aspects. The main, innovative element which the Toolkit proposes is that, as part of the information generation which communities need to decide whether or not to give or withhold informed consent to proposed plantations and associated HCV and HCS set asides, participatory mapping is complemented with 'Community Land Use Planning' (CLUP). The aim of CLUP is to provide a method to help communities think through carefully which of their customary lands they will need for their future livelihoods, and which (if any) can be released for plantations and associated smallholdings or secured for their other High Conservation or High Carbon Stock Values.³³

There are numerous examples of community land use plans, both carried out through customary systems, based on traditional knowledge, and assisted by new information systems.³⁴ Indigenous peoples in Amazonia and Central America favour these '*planes de vida*' as an optimal way of securing their lives and cultures in the face of population increase and development.³⁵ However, few of these plans have been developed within the accelerated time frames normally associated with private sector development schemes. There is a pressing need to compile all the lessons from these experiences. The aim should be to develop workable tools, in close collaboration with communities and CBOs, that will allow communities to develop adequate land use plans within a short enough time-frame to make them applicable to a company-driven HCS Approach. There are obvious risks both to peoples and the environment if such procedures become too time-driven and commercially pressured, so an open inclusive process for developing such tools will be vital.

How do HCS areas relate to customary rights?

Forest peoples make use of their forests in very diverse ways. Some peoples, such as so-called 'Pygmy' peoples in the Congo basin or some of the Penan in Sarawak, live from hunting and gathering and from forest products trading and barter without any farming. Shifting cultivators also

vary enormously in the intensity of land use. Some incipient farmers like the Sanema and Yanomami in Amazonia have a population density of 1 person per 14 km². In Southeast Asia, Karen peoples maintain stable yet intensive rotational forest farming systems which sustain population densities of over 10 even 20 persons per km². The differences are defined by cultural preference and tradition, not just by soil quality or topography. While customary tenure systems vary enormously by and large such peoples have a strong sense that their territories embrace the full extent of their land use systems and also include areas they also set aside for conservation and for ‘sacred’ purposes. As noted, international law recognises their rights to these territories.

When company concessions are overlaid on these territories and HCS stratification and zoning is carried out, what implications does this have for communities’ rights and livelihoods?

The HCS Approach Toolkit seeks to address this question but recognises that ‘providing further guidance on how to develop an integrated conservation plan is one of the future challenges for stakeholders involved in the HCS Approach’.³⁶

This workshop provides us with the first opportunity to meet this self-imposed challenge. We need to recall that the HCS Approach Toolkit does envisage that communities be asked to relinquish rights to HCS subject to FPIC,³⁷ especially areas which are just used for gathering, if not for farms, gardens and agroforestry.³⁸ On the other hand the Toolkit also suggests that:

*areas which are part of an active subsistence food production cycle to meet the food security needs of local customary communities are enclaved from consideration as HCS forest (or for plantation development)’.*³⁹

While also noting:

*Areas of community land that are identified as having HCS forest will be proposed for conservation as part of the integrated conservation plan for the concession. They will require FPIC negotiations and the support and participation of the communities to achieve conservation (similar to areas of HCV). Thus local communities with customary rights have the right to say no to their forest lands becoming a conservation area. However the forest areas remain categorised as HCS forest.*⁴⁰

Likewise the Toolkit notes:

*If FPIC is not achieved and the customary land owners do not want their lands to be part of the conservation areas, then these areas are not marked as in the conservation area. However, they remain as HCS forest as far as the company is concerned.*⁴¹

The workshop may consider developing a more detailed decision-tree to propose more clearly how practitioners and communities decide which lands go into consideration for HCS and which do not.

Who will own and manage HCS areas?

The HCS Approach has been developed as a procedure which companies seeking to avoid having their products branded as ‘embodied deforestation’ can apply to their supply chains and operations to comply with their ‘Zero Deforestation’ commitments. As such it is a voluntary commitment that does not derive directly from any legal or governance framework. The HCS Approach thus faces similar problems to those noted above for the HCV system except that, insofar as HCS areas tend to be more inclusive and more extensive than HCVs, it faces proportionally greater problems in terms of legally securing set asides.

However, if during the FPIC-HCV-HCS process communities’ lands are to be enclaved and it is agreed which community lands should be managed or co-managed by communities as HCV/HCS set asides, serious thought needs to be given to how such areas are legally secured. These legal questions

are not extraneous to the HCS Approach but fundamental to determining whether and how, using the HCS Approach, a rights-based and socially equitable system of land use management is achievable.

Conclusions

The HCS Approach starts from an assumption that there is ‘a clear need for a practical definition of ‘natural forest’ which can be used in concessions’ (emphasis added).⁴² This is pragmatic as the HCS concept has been developed by NGOs and consultancies in collaboration with companies adopting voluntary commitments to curb deforestation in their supply chains.

The HCS Approach has not (yet) been developed through a broad and inclusive process of stakeholder consultation, in particular not with indigenous peoples’, local communities and smallholders. Nor has the HCS Approach yet sought to consider how areas, which NGOs and companies might class as HCS, should be managed and maintained in lands and territories owned and controlled by indigenous peoples and local communities. No system is yet contemplated whereby smallholders, growing cash crops that get sold into the same companies’ supply chains, might likewise secure areas of HCS (to avoid being denied market access by ‘Zero Deforestation’ policies). However, the Palm Oil Innovation Group (POIG) is now seeking to integrate the HCS Approach with the RSPO standards (and with the other additional standards adopted by POIG).

The HCV system does have a broader intent. From the outset it includes consideration of those social values judged to be ‘critical’ or ‘fundamental’. The system was designed to be used within the framework of wider voluntary standards (eg certification systems) that include provisions to respect the rights of indigenous peoples and local communities and which have developed procedures (albeit not yet spectacularly effective) designed to make the system workable for small producers. The HCVRN Charter also requires respect for legality, customary rights and FPIC when the HCV system is applied outside certification systems. However, although the HCV system has been developed through broadly multi-stakeholder processes, relatively few representatives of indigenous peoples and local communities have been engaged in this standard-setting. There remain considerable uncertainties about how HCV should be managed and maintained in the lands and territories owned and controlled by indigenous peoples and local communities.

Neither the HCS Approach nor the HCV system are part of national law and indeed the multi-stakeholder processes that have developed these concepts have, for the most part, deliberately not included governments. HCV has been adopted by provincial regulations related to palm oil development in Central Kalimantan, and similar regulations are being drafted in other palm oil growing provinces and districts of Indonesia.

By contrast, the principle of FPIC and the wider suite of rights emerging from it have evolved in the context of human rights standard-setting led by Governments through an international consultative process that has, uniquely, involved thousands of consultations with indigenous peoples and also civil society groups. The concept has strong foundations in international law, international human rights treaties and associated laws which incorporate these rights into national laws and in the jurisprudence of the treaty bodies. Some countries have begun to develop laws and regulations that require (elements of) FPIC and ensure its correct application.

Field realities show that implementation of all three approaches has been fraught with problems. Integration of the three approaches must thus build on the strengths and seek to overcome the weaknesses of the others. This technical workshop provides a preliminary opportunity to now tackle more systematically the challenges that arise.

Endnotes

¹ I would like to thank Gary Paoli and Grant Rosoman for comments on a first draft.

² Forest Peoples Programme's website carries publications with detailed summaries of the laws and jurisprudence on indigenous peoples rights including regional frameworks. www.forestpeoples.org For the UN Declaration on the Rights of Indigenous Peoples see:

http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

³ FSC Guide: <https://ic.fsc.org/preview.fsc-fpic-guidelines-version-1.a-1243.pdf>

⁴ RSPO Guide: http://www.rspo.org/en/document_fpic

⁵ RSB Guide: <http://rsb.org/pdfs/guidelines/12-05-02-RSB-GUI-01-012-01-RSB-Guidelines-for-Land-Rights.pdf>

⁶ Oxfam Guide: <https://www.oxfam.org.au/explore/mining/free-prior-and-informed-consent/> ILO: Russel Barsh, 1995, *Effective Negotiation by Indigenous Peoples: an action guide with special reference to North America*, International Labour Organisation, Geneva; First Peoples Worldwide, no date, *Indigenous Peoples Guidebook for Free Prior Informed Consent And Corporation Standards* <http://firstpeoples.org/corporate-engagement/fpic-guidebook> http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_100796.pdf

⁷ Natural Justice: <http://www.community-protocols.org/toolkit> Cultural Survival Guide: https://www.culturalsurvival.org/sites/default/files/guidetofreepriorinformedconsent_0.pdf

⁸ IRMA draft standard: http://www.responsiblemining.net/irma-standard/draft_07-2014/chapter-2.10-free,-prior-and-informed-consent-fpic/ RECOFTC/GTZ Guide: <http://www.recoftc.org/basic-page/fpic> UNREDD Guide: http://www.un-redd.org/Launch_of_FPIC_Guidelines/tabid/105976/Default.aspx

⁹ FAO Guide: <http://www.fao.org/3/a-i3496e.pdf>

¹⁰ HCS Approach Toolkit: <http://www.tft-earth.org/wp-content/uploads/2015/04/HCS-Approach-Toolkit-Ch1-Introduction.pdf>

¹¹ Fergus MacKay, 2013, *The Rights of Non-Indigenous 'Forest Peoples' with a focus on Land and Related Rights: Existing International Legal Mechanisms and Strategic Options*, Forest Peoples Programme, Moreton-in-Marsh: <http://www.forestpeoples.org/sites/fpp/files/publication/2013/11/therightsofnonindigenousforest-peoplessept2013.pdf>

¹² Marcus Colchester and Sophie Chao (Eds.), 2013, *Conflict or Consent? The Oil Palm Sector at a Crossroads*, Forest Peoples Programme, Moreton-in-Marsh: <http://www.forestpeoples.org/sites/fpp/files/publication/2013/11/conflict-or-consentenglishlowres.pdf>

¹³ Free Prior and Informed Consent and the RSPO, Are Companies keeping their promises? <http://www.forestpeoples.org/nl/node/3837>

¹⁴ Medan Statement: <http://www.forestpeoples.org/sites/fpp/files/news/2012/11/Final%20Joint%20Statement%20of%20the%20Medan%20Conference%20on%20Landgrabbing%20and%20Palm%20Oil%20Plantations%20in%20Southeast%20Asia.pdf>

¹⁵ <https://ic.fsc.org/newsroom.9.791.htm>

¹⁶ Charter of the HCVRN: <https://www.hcvnetwork.org/resource-network/resource-network/hcvrn-charter-2014>

¹⁷ <https://www.hcvnetwork.org/resources/2014-hcv-5-6-workshop-report>

¹⁸ <http://www.sustainablepalmoil.org/files/2013/10/HCV-5-and-6-Monitoring-Protocol-FINAL-DRAFT.pdf>

¹⁹ FPP, HuMA, Wild Asia and SawitWatch 2009 ; Marcus Colchester, Norman Jiwan, Patrick Anderson, Asril Darussamin and Andi Kiky, 2012, *Securing High Conservation Values in Central Kalimantan: Report of the Field Investigation in Central Kalimantan of the RSPO Ad Hoc Working Group on High Conservation Values in Indonesia*, Roundtable on Sustainable Palm Oil. Available at: <http://www.forestpeoples.org/topics/palm-oil-rspo/publication/2012/securing-high-conservation-values-central-kalimantan-report-fi>

²⁰ HCVRN Assessor Licensing Scheme: <https://www.hcvnetwork.org/als/home>

²¹ <https://www.hcvnetwork.org/news-and-events/blog.2013-10-09.1940557572>

²² GAR, 2012b, *High Carbon Stock Forest Study Report: defining and identifying high carbon stock forest areas for possible conservation*, GAR and SMART in collaboration with The Forest Trust and Greenpeace: page 26.

²³ <http://www.forestpeoples.org/topics/palm-oil-rspo/publication/2014/independent-review-social-impacts-golden-agri-resources-forest>

²⁴ FPP Complaint about GAR: <http://www.forestpeoples.org/topics/agribusiness/news/2014/10/golden-agri-resources-postpones-palm-oil-expansion-plans-borneo-res>

²⁵ RSPO upholds complaint: <http://www.forestpeoples.org/topics/agribusiness/news/2015/03/forest-peoples-programme-complaint-against-golden-agri-resources--0>

²⁶ <http://www.forestpeoples.org/topics/responsible-finance/news/2015/04/golden-agri-resources-still-violation-rspo-standards> ; Ecobusiness: <http://www.eco-business.com/news/criticism-of-gar-and-wilmar-african-oil-palm-projects-highlight-global-no-deforestation-challenges/> ; <http://bepi.mpob.gov.my/news/detail.php?id=18637>

²⁷ Hollow Promises: <http://www.forestpeoples.org/topics/agribusiness/publication/2015/hollow-promises-fpic-assessment-golden-veroleum-and-golden-agri>

²⁸ <http://www.forestpeoples.org/topics/pulp-paper/news/2015/01/new-report-finds-asia-pulp-and-paper-app-lagging-behind-social-respon>

²⁹ RA review: <http://www.rainforest-alliance.org/newsroom/press-releases/asia-pulp-and-paper-evaluation-progress>

³⁰ <http://www.forestpeoples.org/topics/pulp-paper/publication/2014/lessons-learned-conflict-negotiations-and-agreement-between-senye>

³¹ <http://www.forestpeoples.org/topics/pulp-paper/news/2015/03/indonesia-asia-pulp-and-paper-security-guards-beat-farmers-union-acti>

³² APP website: <https://www.asiapulppaper.com/news-media/press-releases>

³³ HCS Approach Toolkit (Ibid.).

³⁴ <http://www.forestpeoples.org/topics/environmental-governance>

³⁵ <http://www.territorioindigenaygobernanza.com/planesdevida.html>

³⁶ HCS Approach Toolkit page 88.

³⁷ HCS Approach Toolkit page 36.

³⁸ HCS Approach Toolkit page 55.

³⁹ HCS Approach Toolkit page 78.

⁴⁰ HCS Approach Toolkit page 79.

⁴¹ HCS Approach Toolkit page 88.

⁴² HCS Approach Toolkit page 2 (emphasis added).