

## I. INTRODUCTION

### 1.1 Background of document

In September 2014, Apical announced its sustainability policy with the following main commitments:-

- a) Protection of high conservation value (HCV) areas and high carbon stock (HCS) areas
- b) Protection of peat regardless of depth
- c) Drive positive socio-economy impact for people and communities

In line with our commitment to drive positive social-economy impact for people and communities, we have developed a robust FPIC guideline.

Free, Prior and Informed Consent (FPIC) is the the right of indigenous people and affected groups to give or withhold their consent to the proposed projects that may affect the lands they customarily own, occupy or otherwise use. The right of FPIC is established in international conventions, notably the ILO Convention 169 on Indigenous and Tribal Peoples (1989), in soft law, notably the UN Declaration on the Rights of Indigenous Peoples (2007), and, in a few cases, in national law.

FPIC processes should be designed to ensure that proposed new plantation developments are free from potential land conflicts with the indigenous peoples and other affected groups before the inception of new development process. Identifying rights holders and affected groups needs to be done through a rigorous environmental and social impact assessment (ESIA) in the earliest stages of the project.

Land tenure studies (LTS) must be conducted to determine customary land and affected community groups areas, and the land boundary must be determined by using participatory mapping (PM) approach as part of land tenure study. The results of land tenure studies can be used by the indigenous community and affected groups as a

basis for negotiation with companies on land use planning. These results is also useful to indigenous people and local community beyond their dialogue with company, for instance to support village development and community-based natural resource management. They are important tools for indigenous and local community carrying out land use planning to accommodate oil palm development into their territory.

### 1.2 Purpose

It's important to ensure that Environmental and Social Impact Assessment (ESIA), High Conservation Value (HCV) Studies, Land Tenure Studies (LTS) and Participatory Mapping (PM) are done properly in order to accommodate the rights of the indigenous people and affected groups in the FPIC process.

### 1.3 Definitions

Free, Prior and Informed Consent (FPIC)	It is the right of indigenous people and affected groups to give or withhold their consent to the proposed projects that may affect on their land, livelihood and environment.
Environmental and Social Impact Assessment (ESIA)	A methodology aims to ensure that all potential impacts of the project on the physical, biological and human environment are analyzed, assessed and, where necessary, managed .
Tenurial System	It is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land, including other natural resources such as water and trees.
Land Tenure Study	A methodology to understand the relationship, whether legally or

(LTS)	customarily defined, among people, as individuals or groups, with respect to land. It defines the rules and rights which govern the appropriation, cultivation and use of natural resources on a given space or piece of land.
Participatory Mapping (PM)	Also called community-based mapping, it is a general term used to define a set of approaches and techniques that combines the tools of modern cartography with participatory methods to represent the spatial knowledge of local communities.
Participatory maps	Maps created by local communities represent the place in which they live, showing those elements that communities themselves perceive as important such as customary land boundaries, traditional natural resource management practices, sacred areas, and so on.
High Conservation Value (HCV)	An area with biological, ecological, social or cultural values which are considered outstandingly significant or critically important, at the national, regional or global level.

## II. FPIC Implementation Procedure

### 2.1 Assessments prior to development of proposed area

All the necessary assessments which are ESIA, HCV and LTS have to be carried out. It is important to determine whether there are indigenous people and local community lands that will be affected by the proposed development. If the proposed development project will not affect their lands, then no FPIC is required.

*Note: HCS (high carbon stock) studies should occur after LTS and PM have taken place and after indigenous people and affected groups have made decisions on the basis of their FPIC about whether or not their lands should be affected by the development plan.*

## **2.2. First Socialization Meeting with Communities**

The processes on respecting the right of FPIC need to be agreed in advance with those involved, or FPIC right holders. Local customary processes are key to determining the deliberative decision making processes for achieving inclusiveness of all indigenous people and affected groups while ensuring all values are considered.

Representation – who is representing the FPIC right holders and ensuring there is fair representation of all interests – is a critical issue in organising an FPIC process. Taking time early on to establish the correct process on perceiving local representatives is crucial to ensuring a successful outcome for all parties.

For the first socialization meeting, it's important to ensure all the local representatives are informed and invited for the meeting. The venue, date and time of the meeting should be clearly specified and communicated. The information that have to be shared with indigenous people and affected groups are:

- a) profile of the company
- b) description of proposed project and proposed area
- c) company policies
- d) initial summary of anticipated positive and negative impacts from the social and environmental assessment
- e) contact details of proponent

*Note: Other means of information dissemination must be established and employed to ensure that all communities have all the necessary information and the time they need to absorb it, especially for communities where literacy rates are low.*

At the end of the first socialization meeting, indigenous people and affected groups to be given sufficient time to decide whether or not they want the company to carry out the proposed project. If they say “yes”, then they can continue to discuss:

- a) When the participatory mapping will be conducted and who are their representatives to attend.
- b) How the project proposal will affect their lands and what mechanism to resolve any specific issues.

All affected groups have the right to seek consultation from 3<sup>rd</sup> party advisor on the project proposal.

### **2.3. Participatory Mapping (PM)**

The participatory mapping is a fundamental step to help affected groups (FPIC right holders) understanding how their lands might be affected and whether or not they want to proceed with the proposed project. A participatory mapping is carried out to demarcate the boundary of the potentially affected groups land. For the participatory mapping (PM), it's important to ensure all the local representatives are involved. The venue, date and time of the PM measures should be clearly specified and communicated.

The spatial information and other records that have been composed together with the FPIC right holders should be shared with all indigenous people and affected groups. The participatory mapping is only finalized after negotiation with different affected local communities.

Once community maps have been established through participatory mapping, then it must be overlaid with the proposed area so the FPIC right holders can see which lands of their might be affected by the project plan. All affected groups have the right to seek consultation from 3<sup>rd</sup> party advisor on discussing the participatory maps.

Companies can work with local NGOs to build the capacity of local representatives to engage in dialogue prior to the agreement and throughout the FPIC process. Ensure that discussions are not captured and dominated by local elites. For example, strive to make the views of typically marginalised groups such as women, young people and indigenous peoples heard through parallel dialogues that feed into the main dialogue.

#### **2.4. Subsequent meetings with local communities**

For the subsequent meetings, it's also important to ensure all the local representatives are present for the meeting. The venue, date and time of the meeting should be clearly specified and communicated. All of the land holders affected by the project development proposal should be given sufficient information to understand how the proposed development might affect their lands. They also should be given sufficient time to decide if they consent to the proposal. If they say "yes", then they can continue to discuss:

- a) Their views on the development plan, compensation proposal, creation of shared value. If possible, consent for the project to be obtained.
- b) Mechanism to resolve any new issue. If there is any objection from some parties, further studies and negotiation will be carried out.

All affected groups have the right to seek consultation from 3<sup>rd</sup> party advisor on the project proposal.

If agreement is reached then land deals can be finalized with associated provisions for land use, conservation and management, enclaving areas (from both development and conservation) for food production, benefit sharing, mitigation, grievance settlement, etc.

Both company and local representatives should collectively identify and agree on the mechanism and tools to establish, manage, and monitor conservation areas, as well as fair compensation for any loss of use of conservation areas as per agreement.

A proper grievance mechanism, as well as conflict resolution, should also be developed to resolve any future disagreements related to the project.

## **2.5 Formalization of Agreement with Communities**

These processes need to reflect local traditions and customary practices of decision-making. The decision-making process should reflect and complement local practices and avoid reinforcing power imbalances in key logistical elements such as language, ceremony and dress, timing, venue and oral formats.

The agreement with local communities to be communicated and signed by both company and community representatives. If the agreement is related to the land acquisition, so *Pejabat Pembuat Akta Tanah/PPAT* (Indonesia term) has to be notified.

Copies of the signed agreement have to be distributed to the affected parties.

## **2.6 Implementation and Monitoring**

Company has to incorporate the FPIC agreement into the company's Social Management and Monitoring Plan. The progress of implementation to be audited on regularly basis for continuous improvement.

## **2.7 Records and Retention**

Accurate and complete records of the whole process on respecting the right of FPIC of indigenous people and affected groups must be maintained properly in the head office at all times.