



Publication Date:
14/11/2023

Methodology:
M001

Version:
V1.0

Contact:
Ecosystem Restoration Standard
25 Rue de Frémicourt
75015 Paris, FRANCE
info@ers.org

GUIDELINES

Free, Prior and Informed Consent Guidelines

SUMMARY

This document outlines Free, Prior and Informed Consent (FPIC) Guidelines adopted by ERS a Programme requirement. The document synthesises the definitions retained by the ERS Programme when FPIC must be applied and the step-by-step process the Developer must follow whenever Indigenous People or Local Communities (IPLCs) are identified among the Project stakeholders.



Table of *Contents*

Table of Contents	1
NORMATIVE REFERENCE	2
Free, Prior and Informed Consent (FPIC)	3
DEFINITIONS	3
APPLICABILITY	4
INTERNATIONAL FRAMEWORK	4
FPIC IMPLEMENTATION	4
1. Project Identification - Feasibility Interviews	5
2. Communication plan and agreement	6
3. Project Implementation	8
4. Project Closure	8



Free, Prior and Informed Consent (*FPIC*)

DEFINITIONS

A specific right that pertains to Indigenous Peoples and is recognised in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

It allows them to give or withhold consent to a Project that may affect them or their territories. Once they have consented, they can withdraw it at any stage.

Free: freely given through a process free from coercion and intimidation in any form.

Prior: taking place before decisions that affect the Communities are made.

Informed: providing complete information about goals, risks, costs, opportunities, adequate resources and capacity, and, if necessary, capacity-building initiatives – not letting language, educational or cultural barriers stand in the way of information sharing.

Consent: refers to the collective decision made by the rights-holders and reached through the customary decision-making processes of the affected Indigenous Peoples or communities.

FPIC is also a process in itself by which Indigenous Peoples can conduct their own independent and collective discussions and decision-making. They do so in an environment where they do not feel intimidated and where they have sufficient time to discuss in their language and in a culturally appropriate way, matters affecting their rights, lands, natural resources, territories, livelihoods, knowledge, social fabric, traditions, governance systems, and culture or heritage (tangible and intangible)¹.

¹ [FAO FPIC Manual](#).



APPLICABILITY

Prior to the approval and/or commencement of any project that may impact directly or indirectly lands, territories and resources of Indigenous Peoples and Local Communities (IPLCs), and consistently during the Project's implementation.

- ERS adopts FAO's definition of Indigenous Peoples²:
 - They self-identify as indigenous and, in some cases, are recognised by other groups or by State authorities as having a distinct collective identity.
 - They have ancient historical ties concerning living in and using a specific territory.
 - Their cultural distinctiveness is voluntary and handed down through generations. This may include aspects of language, social organisation, religion and spiritual values, modes of production, laws and institutions.
 - They have experienced or are experiencing subjugation, marginalisation, dispossession, exclusion or discrimination.

INTERNATIONAL FRAMEWORK

When FPIC procedures are required, the Developer must abide by the ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

FPIC IMPLEMENTATION

The following process was adapted from the [FAO FPIC Manual](#).

² [FAO FPIC Manual](#).



1. Project Identification – Feasibility Interviews

1.1. Identify IPLCs concerns and their representatives

Identification of Stakeholders and IPLCs affected by the Project.	<input type="checkbox"/>
Interviews in and around the Project Area to identify IPLCs' language, customs, land usage patterns and their rights regarding the territory.	<input type="checkbox"/>
Cross-check the existence of mobile communities that migrate seasonally across a territory depending on their mode of livelihood.	<input type="checkbox"/>
Assessment of IPLCs' self-governance systems and structures to identify their representatives who are individuals and institutions of their own choice and who are accountable and legitimate to those they represent in consultation, negotiation, decision-making and consent-seeking.	<input type="checkbox"/>
Developer presentation, mandate and the nature of the Project.	<input type="checkbox"/>
Ensure compliance with local laws concerning Free, Prior and Informed Consent (FPIC).	<input type="checkbox"/>

1.2. Document geographic and demographic information through participatory mapping

Conduct a participatory mapping and documentation of land usage, natural resources, communication channels/media, and customary rights.	<input type="checkbox"/>
--	--------------------------



Ensure all communities related to the Project are equitably involved in the participatory mapping.	<input type="checkbox"/>
Document land usage history and natural resources.	<input type="checkbox"/>
Identify IPLCs or Project team “non-negotiables”, which could include, for example, geographic areas in their territories that are off-limits for conducting a Project (such as sacred, spiritual, burial areas, archaeological or historical sites or areas where medicinal plants are harvested).	<input type="checkbox"/>
Identify customary rights, spiritual practices or traditional ethical codes, and relevant legal frameworks that should be considered for Project formulation and implementation.	<input type="checkbox"/>

2. Communication plan and agreement

2.1. Participatory communication plan


Development of a participatory communication plan that includes information needs, communication channels and communication activities. The plan must ensure the timely provision of materials in formats and languages accessible and intelligible to the IPLCs, preferably in their language and respect of traditional and customary protocols, including norms for both verbal and non-verbal communication.	<input type="checkbox"/>
Convey to the affected communities their right to say “no” or “we don’t know”, making clear that they are not obliged to decide if they are not entirely sure.	<input type="checkbox"/>



Document the proceedings and outcomes of the discussions and make them available to all parties.	<input type="checkbox"/>
---	--------------------------


- 2.2. Reach consent; document IPLCs need to be included in the project and agree on a feedback and complaint mechanism.

Agreements must be mutual and recognised by all parties , considering customary modes of decision-making and consensus-seeking.	<input type="checkbox"/>
Document the agreement process and outcome in forms and languages accessible and make it publicly available to all IPLCs members, providing for stakeholder review and authentication. It should include the potential issues raised.	<input type="checkbox"/>
Provide information about the Grievance Mechanism and explain how IPLCs can utilise it to raise and resolve any issues during project implementation.	<input type="checkbox"/>

 When a community is opposed to certain components of a Project, the Developer needs to clarify which parts are acceptable and which parts need to be adapted or abandoned. This would include modifying objectives so all parties are delighted.



3. Project Implementation

 As Free, Prior and Informed Consent is an ongoing process, the Developer should make sure the communities affected by the Project are informed regularly about its progress and that they are given frequent opportunities to ask questions, raise concerns and inspect activities taking place on their land.

3.1. Participatory monitoring and evolution of the agreement

Request feedback on findings. Share and discuss the findings of the Verification process through the communication channel determined in the communication plan. This allows IPLCs members to confirm or contest the findings and to request that a different team repeat the process if necessary.	<input type="checkbox"/>
Include diverse voices across the stakeholders, including marginalised groups such as women, people living under poverty, the landless and youth, i.e., to ensure their rights are equally respected.	<input type="checkbox"/>
Offer respondents anonymity and maintain the anonymity of inputs where requested.	<input type="checkbox"/>

4. Project Closure

4.1. Documentation of lessons learned and disclosed information about the Project achievements

Document any lessons learned that can improve future actions. This can better guide the organisation's efforts in future projects and diminish future risks and challenges.	<input type="checkbox"/>
--	--------------------------



Ecosystem Restoration Standard

info@ers.org | www.ers.org