

Accountability Framework  Delivering on ethical supply chain commitments



Operational Guidance on Free, Prior and Informed Consent

June 2019

Minor revision: May 2020*

The Accountability Framework was created through a consultative process with a wide range of stakeholders including companies, NGOs, and government, and following applicable good practices for multi-stakeholder initiatives.

This document is part of the Accountability Framework version 1.0 (released in June 2019), which represents the consensus of the Accountability Framework initiative (AFI) Steering Group members that participated in its development:



Plus independent experts:
Gita Syahrani - Indonesia
Silas Siakor - Liberia

The AFI Backbone Team (secretariat) is co-led by the Rainforest Alliance and the Meridian Institute.



The AFI is funded by:



The Accountability Framework initiative is responsible for the content of this document, which does not necessarily represent the views of the AFI's funders.

When FPIC is required

Consistent with the interpretations and application of binding international treaties and covenants,⁴ as well as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) which companies must follow,⁵ **Core Principle 2.2.3** calls for FPIC to be secured prior to any activity that may affect IP/LC rights, land, resources, territories, livelihoods, and food security.

As a general rule, companies should assume that if IP/LC are in or around the area of production or processing operations, then FPIC will be required. This includes but is not necessarily limited to IP/LC settlements and use of lands or resources, such as non-timber forest products, fisheries, and cultural sites.⁶ FPIC is also likely to be required when IP/LC are susceptible to being affected by such operations, even if the operations themselves lie outside of the IP/LC territory. The three most common circumstances when FPIC is required in the context of supply chain operations are: (IP/LC = indigenous people / local community)

- 1) **New acquisitions, developments, or operations**
- 2) **Remediation of past harms:** Where a company has caused or contributed to the appropriation of or harm to the lands, territories, or resources of IP/LC without first securing FPIC, a remediation process is required to address these past harms. An FPIC process should be conducted to reach agreement on the appropriate remediation measures (see [Operational Guidance on Remediation and Access to Remedy](#)). Agreements to remediate should specify the conditions and outcomes decided through the FPIC process, for instance, the continuation or temporary suspension of operations, restitution of lands, compensation to the parties harmed, or a new benefit sharing arrangement.
- 3) **Ongoing land conflict:** Where there is land conflict between an IP/LC and an external party such as a company, private landowner, or government, the company is required to halt any efforts to acquire or gain control of land, resources, or territories related to the conflicts until they are addressed through an FPIC process.⁷ Where the ongoing conflict is between two or more IP/LC (e.g., if they have overlapping claims), the company is still required to wait until the matter is settled. However, the FPIC process outlined in this Operational Guidance is generally not suited to fostering agreements that are only between or among IP/LC (i.e. without an external party). In such cases, if the IP/LC parties agree, the company could finance and technically support the parties' efforts to resolve the conflict according to a method that the parties mutually agree upon, such as a local dispute resolution mechanism.