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Subject Forest Peoples' Program comments on FIP design document and annex

Please find attached Forest Peoples' Programme comments on the FIP design Document and the attached "Illustrative Examples of Potential Investment under the FIP".

Best regards

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Forest Peoples' Programme



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FOREST PEOPLES' PROGRAMME COMMENTS ON THE FIP DRAFT DESIGN DOCUMENT AND "ILLUSTRATIVE EXAMPLES OF POTENTIAL INVESTMENTS UNDER THE FIP".

April, 6 2009

Forest Peoples' Programme (FPP) welcomes the opportunity to provide comments and input to the draft Forest Investment Program draft design document and the document titled "Illustrative Examples of Potential Investments under the FIP".

What follows is a list of comments we submit to your attention and consideration, for the next FIP SC meeting scheduled for May 2009.

a. Relation between FIP, FCPF, UNREDD and other REDD related international initiatives still unclear

The World Bank Group is involved in multiple forest-related initiatives, including REDD pilot initiatives. What is unclear is the level of

coordination between the FIP and the various other Bank forest initiatives i.e. FCPF, UNREDD, GFP. The draft text is vague on this critical point, since it only states that: *"The FIP should complement, be coordinated with and cooperate closely with other REDD demonstrations initiatives and ongoing REDD efforts, such as FCPF and UN-REDD."*

And then that: *"the FIP SC would work to ensure cooperation among the other similar initiatives: so as to promote the efficient use of resources and complementarity with other sources of financing, the FIP-SC should seek advice from, and invite as observers, representatives of other organizations with a mandate to promote forest and climate change investments, including the FAO, FCPF secretariat, the Global Environment Facility, UNDP, UNEP, UNFCCC, UNFF, and UN-REDD technical secretariat".*

This lack of clear coordination among different REDD-related initiatives might affect the quality and effectiveness of FIP activities, and could result in duplicated and even contradictory efforts by different agencies.

Suggested text edition: "The FIP should actively liaise, and ensure coordination with representatives of other organizations, with a mandate to promote forest and climate change..."

b. Risk of a "pressure to deliver " dynamic that would go to the detriment of quality and effectiveness.

The Bank's emerging dominant role in standard setting and piloting of REDD and Avoided Deforestation in developing countries, risks perpetuating a past implementation problems, notably the "pressure to lend/deliver", to produce projects and mobilize financial resources, without regard for effective due diligence and safeguard issues.

Concerns have also been expressed by Southern groups that the Bank's dominant role may unduly influence intergovernmental agreements and rules and international financing mechanisms for REDD.

The design document should therefore clarify how the Bank will address the perennial problems of "pressure to lend" and how it will ensure and that all FIP operations are fully participatory and fully consistent with WB operational policies. there are already sign that other Bank forest funds are moving too fast, postponing safeguard issues and going over the heads of forest peoples. It is essential that the FIP design learns form these mistakes and builds in adequate safeguard and accountability mechanisms upstream in the design document.

Additionally, the design document should define the mechanism to be put in place to ensure mutual incentives for FIP and FCPF grant and loan recipients and Bank staff to fully abide to the Bank's Operational Directives. This is an essential topic since the draft simply states that: *"The further processing of a program or project will follow the MDB's policies and procedures for appraisal, MDB approval and supervision."*

Information on how safeguards and additional FIP principles on good governance and participation will be applied throughout FIP operations and

across the whole REDD/AD cycle is thus vague. Therefore, the design document must clarify how proper supervision, control and consistency across the board will be assured.

There is likewise a need for stronger elements in the design of FIP monitoring and evaluation systems. As a matter of fact, the existing proposal for monitoring and evaluation process is WEAK since an independent evaluation would be made only after 3 years : *"an independent joint evaluation of the operations of the FIP and its activities will be carried out after three years of operations by the independent evaluation departments of the MDBS"*

FPP maintains that (as suggested in the bracketed text) "information on programmes and projects should be publicly disclosed in a timely manner to allow for sufficient time for public review and comments before FIP-SC approval of specific grants, loans, plans or operations." Therefore it is suggested that brackets be removed.

c. Indigenous Peoples' Rights and their Free, Prior and Informed consent have to be ensured and guaranteed for any FIP project that may affect the lands, resources, rights or interests of indigenous peoples.

Normal public consultation and multistakeholder procedures are not sufficient to guarantee for respect and upholding of Indigenous Peoples rights. Targeted and culturally appropriate consultations are needed to ensure meaningful involvement of Indigenous Peoples.

As far as Indigenous Peoples rights are concerned, it should be pointed out that their demands on REDD are strongly based on the need to recognize rights as a precondition for any REDD plan or project that might affect their rights and interests.

Recognition of rights includes the implementation of UNDRIP and of the principle of Free, Prior and Informed Consent (FPIC), and also other elements relating to access to decision-making, consultation, dedicated financial resources and capacity building.

The provisions contained in the paper look quite weak in this regard since the paper simply states that the FIP will seek to ensure:

"Full and effective participation and involvement of and with respect For the rights of indigenous peoples, family forest owners and local Communities at the country level, building on existing mechanisms for collaboration and consultation."

FPP notes that the draft paper recognizes the need to ensure effective and continuous involvement of Indigenous Peoples. While this is commendable, this broad FIP principle must be anchored in a solid rights-based framework that would include FPIC and recognition of - and need to mainstream relevant UNDRIP recommendations. In a sense, procedural rights cannot be separated from substantive rights as enshrined in the UNDRIP.

Nevertheless, the document seems to opt for a selective approach by Identifying Indigenous Peoples as stakeholders, rather than right-holders, and treating them at same level as local communities, which fails to

recognize their distinct situation as rights holders and their often vulnerable and marginalized position within national societies. moreover in order to ensure informed IP participation it may be necessary to provide prior training and capacity building work with indigenous peoples and local communities as well as access to documentation .

FPP suggests an addition to the paragraph above: "FIP activities, particularly those that may potentially impact indigenous Peoples, must follow a human rights based approach and must also adhere to the United Nations Declaration on the Rights of Indigenous Peoples".

A further serious shortcoming in the design document is the absence of any mention of FPIC. the document only mentions "existing mechanisms for collaboration and consultation" and is not clear whether these are national or international mechanisms, leaving the space open for discretionary interpretation and continued application of defective mechanisms in place in many developing countries. Again, the FIP document incorrectly conjoins respect for the rights of Indigenous Peoples with forest family owners and local communities. This lumping together of social and safeguard issues is not helpful and needs to be rectified in the document with a specific section on principles and safeguards relating to indigenous peoples and traditional forest dwellers.

FPP suggests to add to the sentence above: "with Indigenous Peoples through their Free and Informed Consent prior to the approval of any project affecting their lands or territories and other resources. Free Prior and Informed Consent is essential to ensuring the full and effective participation of Indigenous Peoples and other forest dependent communities in policy-making and decision-making within the FIP activities. Broad representation of indigenous peoples, including women and youth, at all stages of activities, programme and project design, implementation, oversight and monitoring mechanisms should be promoted and ensured".

d. FIP support of projects aimed at securing livelihoods, tenure rights, application of traditional knowledge is welcome. Support to logging, plantations and other destructive activities such as mining and infrastructures should be excluded.

FPP notes the intention of establishing a permanent mechanism to guarantee participation of Indigenous Peoples in FIP activities while considering actions aimed at supporting Indigenous Peoples' rights. ("recognizing and supporting their tenure rights, forest stewardship roles and traditional forest management systems").

Among these the following can be explicitly added in the text: "as well as national and local participatory legal studies to assess the land tenure situation and clarify tenure rights, including customary rights, targeted land tenure and regulatory reforms where customary and community tenure rights are not recognized under existing national and local law, demarcation and titling of indigenous peoples' territories and the establishment and local management of community conserved forests." As a matter of fact, securing land tenure and land rights for Indigenous Peoples would be an effective tool to ensure forest protection and sustainable management.

While it is commendable to define so-called "do-good" activities where Indigenous Peoples' contribution and involvement can be crucial, there needs to be an equal specification of "no-go" areas or activities that would impact on forest peoples' rights and livelihoods.

For instance, the formula adopted to define "High Conservation Value Forests" does not fully capture the other values of forests, relevant for indigenous peoples, therefore it does not properly address the obligation to respect their rights by not impacting on the ecosystems from which their livelihoods and cultural and spiritual values depend.

As a matter of fact, the risk exists that outside of those HCVF, FIP funding go to activities that might result in violation of indigenous peoples' rights and/or deforestation and/or degradation of forests that are not defined as HCVF. ("serve as a vehicle to finance large scale investments ...").

In this sense, activities such as Sustainable Forest Management, or support to afforestation/reforestation meant to "enhance" the carbon stock (that are assimilated to mitigation under the formula REDD-plus) that could result in support for large-scale industrial logging or tree plantations should be explicitly excluded .

It is thus disturbing that the draft paper states clearly that afforestation and reforestation can be supported with few qualifications: "*Investments in plantations and creation of woodlots on non-forested and previously forested land for carbon sequestration and wood production and conservation, including by engaging local communities and smallholders.*" The draft mentions that there will not be monoculture plantation, and that they would not entail clearing of primary forests. However, by supporting plantations FIP investments might generate local conflicts over so-called "degraded" or "waste" lands, generate so-called "land-grab" dynamics, and end up in concentrating land in the hands of large landowners or State-owned companies. "*Engaging local communities and smallholders*" is not the same as recognizing their rights to FPIC, land security, livelihoods and spiritual and cultural integrity.

FIP design document must also make clear that the FIP would not deliver funds to support activities such as mining, agribusiness or infrastructure projects affecting forests, as referred to the FIP Information note where it states "*investments outside the forest sector, notably complementary investments in non-forest sector programs (agriculture, infrastructure, mining etc.) to ensure inclusion of specific provisions for forest protection).*"

Infrastructure and mining operations are among those activities that are mostly impacting on Indigenous Peoples' lands and rights, much beyond the impacts caused by deforestation or forest degradation.

Therefore, FPP suggests that paragraphs 7 b (ii), (iv), (vii) and (viii), and 9 (c) ix and xi of the "ILLUSTRATIVE EXAMPLES OF POTENTIAL INVESTMENTS UNDER THE FIP" be deleted and an exclusion list be developed to detail activities that would not be funded by FIP both in High Conservation Value Forests and in Indigenous Peoples lands, be them legally recognized or under dispute.

Final recommendations

- a. Clarify relation between FIP, FCPF , UNREDD and other REDD related international initiatives;
- b. Strengthen language on safeguards and additional FIP principles on good governance and participation to be applied throughout FIP operations and across the whole REDD/AD cycle. The design document must clarify how proper supervision, control and consistency across the board will be assured;
- c. Indigenous Peoples' Rights and their Free, Prior and Informed consent have to be ensured and guaranteed for any FIP project that may affect the lands, resources, rights or interests of indigenous peoples;
- d. FIP activities, particularly those that may potentially impact indigenous Peoples, must follow a human rights based approach and must also adhere to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP);
- e. FIP support to activities such as mining, agribusiness, infrastructure projects, large-scale industrial logging or tree plantations should be explicitly excluded in a "exclusion list".
- f. Better define the formula "High Conservation Value Forests" to fully capture the other social, environmental and cultural values of forests relevant for indigenous peoples.