

CIB-OLAM POLICY DOCUMENT ON FPIC

Definition, meaning and importance of FPIC

Free, Prior, and Informed Consent (FPIC) is the right of Indigenous Peoples or other Local Communities (IPLC) to grant or refuse consent to any project affecting their lands, livelihoods or environment. Such consent must be granted or refused freely, i.e. without coercion, intimidation or manipulation and through representatives freely chosen by the communities through their customary institutions¹. It must be requested before the implementation of a project. FPIC is a collective right that belongs to an entire community. It also means that these communities have the right to participate meaningfully in decision-making processes that could affect their lands and resources - whether or not the community has title to those lands.

The right to FPIC is considered one of the fundamental principles of international law to protect indigenous peoples from harm to their environment and livelihoods. It is also increasingly seen as the right of local communities to protect themselves from significant impact threatening the resources and territories for which they can make a legitimate claim of long-standing use².

FPIC is a recognised principle in many international agreements, such as the United Nations Declaration on the Rights of Indigenous Peoples, International Labour Organization Convention 169 and the Convention on Biodiversity. A non-exhaustive list of international law texts citing FPIC is provided in the annex.

In the Republic of the Congo, the right to appropriate consultation is one of the pillars of the law on the promotion and protection of the rights of indigenous peoples promulgated in 2011. The law defines innovative principles such as the obligation to consult through representative institutions, in accordance with appropriate procedures and in a language understood by the population. It specifies that consultation must be carried out in good faith, without pressure or threat with a view to obtaining prior, free and informed consent before any consideration, formulation or implementation of legislative or administrative measures, or programmes and/or projects likely to affect them directly or indirectly.

The practical methodologies of FPIC are still evolving and need to be adapted in the Congolese context. This guidance document reflects CIB's position on FPIC and the methodology applied in its activities. It is mainly based on the FSC (FAS number of our concessions in footnote) guidelines for the implementation of FPIC³.

What are CIB-Olam's policy on FPIC?

We consider land development projects that do not involve FPIC by indigenous peoples and/or local communities to be unacceptable (see Olam's "Living Landscapes Policy"⁵, Box 1).

BOX 1: Free, Prior and Informed Consent (FPIC) of Indigenous Peoples and/or Local Communities.

We respect the customary and legal tenure and access rights of Indigenous Peoples or other Local Communities (IPLC) affected by our operations, and will work with such local communities to achieve a positive impact on their livelihoods and well-being:

- We will obtain the Free, Prior and Informed Consent (FPIC) from IPLC that may be affected by our forestry operations*, before developing any land that may be encumbered by such rights.
- We will follow evolving guidance on best practice in FPIC procedures and on Participatory Mapping, including planning for the future land and livelihood needs of communities.
- Our FPIC Process is the first step in an ongoing relationship based on Informed Consultation and Participation (ICP) with indigenous peoples and local communities. We view these local people as co-owners and partners of our Living Landscape conservation efforts.
- We will share and provide insights into the practical application of FPIC in our operations with our partners and parties dedicated to the continuous improvement of the FPIC process.

¹ Consentement Libre, Informé et Préalable : Guide à l'intention des membres de La RSPO

² FSC Guidelines for the Implementation of Free, Prior and Informed Consent (FPIC) FSC-GUI-30-003 V2.0 - EN PROVISIONAL VERSION 1.0

³ Latest version available at <https://ic.fsc.org/en/document-center/id/106>

⁵ https://www.olamgroup.com/content/dam/olamgroup/pdf/Olam-Living-Landscapes-Policy_French.pdf

- We will offer to and develop with IPLC, suitable opportunities to work with us or supply us where appropriate, with goods and services, and contribute to community development, consistent with building social and human capital.
*Plantations and farms in the original Living Landscapes Policy 2018.

In all its activities that may affect IPLC, CIB respects their rights, customary legal provisions and cooperates with them. We believe that FPIC is not only a right, but also a good practice to be put in place with local communities, which, by participating in the decision-making process regarding relevant activities, take ownership of it and mobilise themselves, thus helping to ensure their involvement in local development. Finally, the risks incurred when FPIC is not properly applied cannot be underestimated. The costs of a conflict or legal action can be extremely high and can block operations for long periods of time. On the contrary, the recognition of the right to FPIC and the implementation of a FPIC process can strengthen the social acceptance of CIB's activities and reduce the risks to its reputation as well as the legal and financial risks of conflicts. FPIC is therefore likely to create a more pleasant and safe working environment for all parties and stakeholders involved in management activities⁶.

Applicability in the context of CIB

ACTIVITIES REQUIRING FPIC

CIB develops activities that may require the consent of local communities and indigenous peoples. As part of its forest management activities, CIB is expected to develop its initiatives in areas potentially frequented by IPLC to meet their food, cultural or cultural needs, in particular through

- harvesting activities in forest areas;
- the opening of quarries or the construction of dikes;
- the installation of advanced workcamps or camps in the forest or on the edge of villages;
- the delimitation of the different management series provided for by forest legislation;
- the opening of roads and ramps to open up villages.

FSC REQUIREMENTS

The FSC recognises the importance of FPIC as a right, principle and process that applies to the relationship between indigenous peoples and local communities and other users of their lands and resources. The right to give or refuse consent was recognised by the original FSC Principles and Criteria (1994). The current version of the FSC Principles & Criteria, approved in March 2012, has broadened the scope of the right to FPIC and more precisely indicates when consent is required. Among the changes is the obligation to recognize and take into account the right to FPIC for local communities whose rights or resources are impacted by the Organisation (the forest management organization i.e. CIB), as well as the need for consent to be obtained before management activities that may have an impact on indigenous peoples or local communities are implemented⁷. The approval of the International Generic Indicators (IGIs) in 2015 (FSC-STD-60-004 V1-1) has led to several advances in the recognition of the protection of the rights of indigenous peoples, traditional populations and local communities (IPLC)⁸ (see Box 2).

BOX 2: FSC International Generic Indicators for FPIC (extract)

(...) mention the need for the Organisation:

- develop and implement culturally appropriate consultation processes;
- recognise and protect the rights, customs and culture of indigenous peoples, as defined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) of 2007 and Convention 169 of the International Labour Organisation on Indigenous and Tribal Peoples of 1989; and
- to obtain the **free, informed and prior consent** of the right holders concerned.

⁶ FSC Guidelines for the Implementation of Free, Prior and Informed Consent (FPIC) FSC-GUI-30-003 V2.0 - EN PROVISIONAL VERSION 1.0

⁷ FSC Guidelines for the Implementation of the Right to Free, Informed and Prior Consent (CLIP) Version 1 | 30 October 2012

⁸ FSC Guidelines for the Implementation of Free, Prior and Informed Consent (FPIC) FSC-GUI-30-003 V2.0 - EN PROVISIONAL VERSION 1.0

The right to FPIC can be described as follows:

The right to participate in decision-making and to give, modify, refuse or withdraw consent to an activity that has an impact on the holder of that right. Consent must be given freely, obtained prior to the implementation of such activities and based on an understanding of all the issues involved in the activity or decision in question; hence the formula: free, informed and prior consent (Colchester and MacKay, 2004). (...)

Who is entitled to FPIC?

FSC's Principle 3 (Indigenous Peoples' Rights) and Principle 4 (Community Relations) of Forest Management stipulate that indigenous peoples and local communities are entitled to FPIC to the extent necessary to protect their rights, resources, lands and territories (FSC 2012). (...)

International human rights law requires, as a minimum, that all concerned be consulted in good faith and with due information, including women and particularly vulnerable persons, in full respect of human rights, in order to consider FPIC to be respected (UNHRC, 2007 Annex 1, § 38-39). (...)

Good faith, in the context of FSC certification, implies that the parties involved in the FPIC process do everything in their power to reach an agreement, conduct honest and constructive negotiations, avoid unnecessary delays in negotiations, comply with agreements reached and devote sufficient time to discussions and dispute resolution.

FSC Guidelines for the Implementation of Free, Prior and Informed Consent (FPIC) FSC-GUI-30-003 V2.0 - EN PROVISIONAL VERSION 1.0

CIB has progressively certified all its forest concessions as FSC and is therefore in compliance with the requirements of this system.

DESCRIPTION OF STAKEHOLDERS

Indigenous peoples and local communities are entitled to FPIC to the extent necessary to protect their rights, resources and lands. Through the various socio-economic studies conducted as part of its forest management process, CIB has identified indigenous peoples and their rights, resources and lands through consultations with them and other local stakeholders. In the context of IPLC activities, the stakeholders with whom a FPIC process can be conducted are as follows:

- local communities (in CIB approach, broadly speaking the settled, farming Bantu populations);
- indigenous peoples (in CIB approach, broadly speaking the formerly semi-nomadic or hunter-gatherer Autochthonous or Mbendjéle/BaAka populations);
- the 'Sages' ('elders') and notable members of their respective communities, who represent the advisory bodies;
- Officially recognized village chiefs, who generally represent the State.

Resource and land rights refer to the rights of IPLC to access, use and manage these, and their rights to consume and sell forest products, as defined in existing legislation or customary rights, as specified in Criterion 3.1 of the FSC Standard⁹. Therefore, the right to FPIC does not only apply in the case of rights recognized by law, but also explicitly includes customary rights (Box 3) It therefore also covers situations where IPLC have rights of access to resources but no longer have formal rights of use on the land. Thus, in the case of CIB concessions, the land belongs to the State and the State has granted forest management concessions directly to CIB.

Box 3: FSC Guidelines for FPIC

Behaviours adopted (in the past) regarding the use and occupation of land and resources (e.g. illegally granted concessions, protected area designation and historical resource use) may have led to the existence of competing or parallel rights in the Management Unit. For example, it is possible that a certificate holder may have obtained a forest concession or acquired ownership rights to private land for many years before applying for FSC certification. The Organisation will then likely be aware of the legal rights (e.g., resource use rights, easements and covenants) in effect in the management unit, but not necessarily of the transactions that previously led to

⁹ FSC FOREST STEWARDSHIP STANDARD FOR THE CONGO BASIN - FSC-STD-CB-01-2012-EN Congo Basin Regional Standard EN

the transfer of these rights without FPIC of IPLC. The FPIC process may be the first (or only) opportunity for discussion between IPLC and other rights holders to define the nature and scope of IPLC rights.

The right of local communities to FPIC (Principle 4) can always be controversial when the recognition of their rights could affect the rights of indigenous peoples (Principle 3). However, the obligation of the certificate holder to respect the articles of the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169 creates a hierarchy of rights that must be taken into account when determining who has rights covered by the FPIC process. (...)

FSC FPIC requirements are based on international law and on the view shared by its members that communities' rights to lands, resources and territories must be recognised and protected, even when these rights are not recognised by law. In the event of a potential conflict between FSC FPIC requirements and the obligation to comply with all laws (according to Principle 1), it will be necessary to refer the matter to the certifying body, which will decide on a case-by-case basis, in agreement with the parties involved or concerned (see FSC-STD-20-00, paragraphs 8.20 and 8.21).

FSC Guidelines for the Implementation of Free, Prior and Informed Consent (FPIC) FSC-GUI-30-003 V2.0 - EN PROVISIONAL VERSION 1.0¹¹.

DIFFICULTIES ENCOUNTERED IN IMPLEMENTATION

The two principles of information and consultation of FPIC may seem simple in theory. In practice, however, their implementation raises a number of questions, particularly in view of the low level of government support, regional political and economic instability and the complex socio-cultural context prevailing in Congo. Within the framework of CIB activities, the implementation of FPIC often faces the following challenges:

- Misinterpretation or poor understanding of the message by the IPLC (including when the local language is used). Similarly, translating the process into culturally appropriate scenarios for use in discussions is sometimes difficult to achieve;
- Poor knowledge of the legal, social and economic implications of the projects presented;
- Negotiation with representatives who are not recognised by the community or in ways that do not take into account the interests of important parts of the community (women, youth, etc.);
- The legitimacy of representatives of indigenous communities, whereas these societies do not operate with hierarchical decision-making structures;
- The manipulation of decision-making processes by local elites;
- The disinterest of some community members in taking part in meetings;
- Non-compliance with commitments made in previous negotiations;
- Abuse of authority by IPLC representatives and the imposition of inappropriate or unrealistic requests;
- Lack of knowledge of local context, history and culture when the process is facilitated by external actors.

How we conduct the process

The implementation of FPIC must follow a number of steps, although the number of steps may vary depending on whether one is at the local or national level. At the local level, CIB follows 7 steps.

STEP 1: IDENTIFICATION OF THE OWNERS AND THEIR RIGHTS

The first step in a FPIC process is to identify IPLC and their legal and customary rights, resources or lands on which activities are planned. The identification must concern the right holders or representatives they have freely chosen. It should also be borne in mind that some populations may not be aware of their rights. Support for indigenous people in identifying their representatives and decision-making methods may be necessary. This is how the initial scope of the FPIC process is defined.

STEP 2: SETTING UP THE CONSULTATION PROCESS

This procedure must take into account the traditional decision-making methods of the IPLC, involve all stakeholders (Irrespective of gender, age, affiliations and differentiated ability in comprehending the issues, etc.) and be carried out in the appropriate language. This procedure may involve external stakeholders. The procedure must be conducted in a transparent manner and in a manner accepted by all stakeholders. If the affected rights-based IPLC

¹¹ FSC Guidelines for the Implementation of the Right to Free, Informed and Prior Consent (CLIP) Version 1 | 30 October 2012

decide not to enter into negotiations, the proposed activities must be amended or cancelled. CIB may possibly repeat the question at a later stage but must ensure that the process remains free.

STEP 3: PARTICIPATORY MAPPING AND IMPACT ASSESSMENT

Establishment of a participatory mapping and impact assessment before the implementation of the project concerned. It is important to map the lands where the resources of all forest-using communities are located. The best way to make these maps is to walk through the forest with the villagers themselves, rather than relying on their representatives. This exercise should be carried out by the CIB social teams guided by a representative panel from each community (young and old, women and men etc.). All their members must be informed of the resources that have been protected for them. This step must be done at least 6 months before the start of the project if it is a project with long term and important consequences for the communities (construction of a road near a village, etc.)

STEP 4: IMPLEMENTATION OF AN APPROPRIATE INFORMATION STRATEGY

The aim here is to provide IPLC or their representatives with the knowledge that will enable them to understand the issues in question. Flexibility and improved training and capacity may be required if IPLC are not fully aware of their rights, do not master the technical aspects or the consequences of the project for the community. This information should be sufficient to enable the IPLC to make an informed decision as to whether they agree to consider activities located on their territory or in its vicinity, and whether they wish to continue the consultation.

STEP 5: NEGOTIATING AN AGREEMENT

The process of seeking the consent of indigenous communities is generally a lengthy one. Once CIB has presented the planned activities and possible compensation measures, the rights-holding IPLC concerned have some time to decide whether they wish to enter into negotiations with a view to granting their consent. This is one of the most important steps in FPIC.

It is important to ensure iterative dialogue, a space for separate deliberation, access to independent advice chosen by communities (this may be an individual, a national or international organization with proven expertise in the field), and inclusive processes that ensure that teams negotiating on behalf of communities do not go beyond what is required of them without returning to the community to pursue internal discussions¹².

STEP 6: VERIFICATION AND FORMALIZATION OF THE FPIC AGREEMENT

It is necessary to obtain the appropriate consent of all parties involved in the project before activities can begin. The agreements reached must be mutual and recognized by all parties, taking into account customary decision-making and consensus-building methods. These methods may be voting, show of hands, signing a document, holding a ritual ceremony or other indicative gestures in cognizance of the local culture and rituals, which may vary from place to place.

Negotiations must be documented in detail in an appropriate form (audio or video recording, photos, etc.), all documents must be recorded by CIB and can be made public upon request.

Despite good intentions and even if all necessary efforts are made, it is possible that the parties involved may make complaints or claims that could turn into disputes or serious conflicts. It is therefore important to examine complaints as soon as possible. In cases where consent is refused, it will be necessary to establish the conditions that should be met for the community in question to consider a new negotiation. The right to refuse any further negotiations must also be respected.

STEP 7: IMPLEMENTATION AND MONITORING OF THE FPIC AGREEMENT

FPIC should not be obtained only once, it is a process that lasts for a long time. This implies regular dialogue and agreements between CIB and affected or interested communities. A participatory monitoring and evaluation process

¹² Guide for consulting indigenous peoples - OCDH (2018)

should therefore be an integral part of the agreement and should be conducted regularly. Indeed, the FPIC process does not end with the signing of an agreement between the project proponent and the community¹³.

For FPIC to work, both parties must be satisfied with the relationships they have and feel that in the event of a problem, they will be able to dialogue and find a satisfactory solution together. True and lasting consent requires that any doubt, regret or discomfort on either side is more than balanced by acceptance of the decisions taken. Obtaining it therefore requires actions and not just words written on a sheet of paper. It requires that we keep our promises, that we behave in an honourable and respectful manner towards others, that we want to resolve disputes and differences of opinion and that we give ourselves the means to do so and to implement these various points in the forest management process. Obtaining the true consent of the populations can only be the result of a long-term relationship based on mutual trust¹⁴.

Reference documents

Christina Hill, Serena Lillywhite and Michael SIMON (June 2010) Guide on Free, Informed and Prior Informed Consent (FPIC)

FSC (2019) FSC Guidelines for the Implementation of Free, Prior and Informed Consent. FSC-GUI-30-003 v2.0

Jérôme Lewis, Luke Freeman and Sophie Borreill (2008) Free, prior and informed consent and sustainable forest management in the Congo Basin: A feasibility study on the implementation of FSC principles 2 and 3 in the Congo Basin in the DRC, the Republic of Congo and Gabon.

Jenny Springer and Vanessa Retana - Free, informed and prior consent and REDD+: Guidelines and resources - WWF (2014)

OCDH (2018) Guide for the Consultation of Indigenous Peoples for Free, Informed and Prior Informed Consent and Participation.

OLAM (2018) OLAM policy on living landscapes.

Patrice BIGOMBE LOGO, Chanel LOUBAKY MOUNDELE (2008) La consultation et la participation des populations autochtones "pygmées" à l'identification et la protection de leurs usages des ressources forestières et fauniques dans l'aménagement forestier : Expérience de l'UFA Kabo de la CIB Nord Congo.

Project "Independent Observation of Forest Law Enforcement and Governance (IO-FLEG) in support of FLEGT VPAs in the Congo Basin" - Training Kit: Free, Informed and Prior Informed Consent (FPIC) and Participation in Forest Concession Management (2011)

REPUBLIC OF CONGO (February 2011) Law No. 5-2011 of 25 February 2011 on the promotion and protection of the rights of indigenous peoples.

RSPO Human Rights Working Group (2015) Free, informed and prior consent: A guide for RSPO members. Vanessa Linforth, Leo van der Vlist, Mathieu Auger-Schwartzberg - Safeguarding rights in the forest: Free, prior and informed consent requirements in the Forest Stewardship Council forest management standard (2015)

¹³ Guide for consulting indigenous peoples - OCDH (2018)

¹⁴ Jérôme Lewis, Luke Freeman et Sophie Borreill (2008) Le consentement libre, informé et préalable et la gestion forestière durable dans le bassin du Congo

Appendix 1 - Checklist for assessing the need for FPIC for an activity

YES/NO

- 1. Does the activity involve the relocation, settlement or removal of an Indigenous population from their lands?

- 2. Will the activity involve the taking, confiscation, removal or damage of cultural, intellectual, religious and/or spiritual property of forest-dependent indigenous peoples/communities?

- 3. Will the activity adopt or implement any legislative or administrative measures that will affect the rights, lands, territories and/or resources of indigenous peoples/communities

- 4. Will the activity involve mining or quarrying operations (underground resource extraction)?

- 5. Will the activity involve forest exploitation on the lands/territories of forest-dependent indigenous peoples/communities?

- 6. Will the activity involve the development of agro-industrial plantations on the lands/territories of forest-dependent indigenous peoples/communities?

- 7. Will the activity involve any decision that will affect the status of the rights of forest-dependent indigenous peoples/communities to their lands/territories or resources?

- 8. Will the activity involve access to traditional knowledge, innovations and practices from local and indigenous communities?

- 9. Will the activity involve the commercial use of natural and/or cultural resources on land that is traditionally owned and/or used by indigenous peoples/communities that depend on the forest?

- 10. Will the activity involve decisions regarding benefit-sharing arrangements derived from forest-dependent land/territories/resources of indigenous peoples/communities?

- 11. Will the activity have an impact only on the continuity of the relationship of forest-dependent indigenous peoples/communities with their land or culture?

Answering Yes to any of these questions implies that CIB will enter into an FPIC process.

According to: UN-REDD 2013 Guidelines on Free, Informed and Prior Informed Consent

Appendix 2 - Excerpt from international law texts recognizing FPIC

From the Training Kit: Free, Informed and Prior Informed Consent (FPIC) and Participation in the Management of Forest Concessions - OI-FLEG (2011)

International law: Human rights and biodiversity law enshrine FPIC

Originally: The Right of Peoples to Self-determination, Charter of the United Nations

- 51 signatory countries including the United Kingdom, France, the Netherlands, Luxembourg, Greece, Denmark, Norway, Belgium, China, Russia, Canada, the United States, New Zealand, South Africa, Brazil, India, Lebanon. No countries in the Congo Basin.
- Articles 55 and 56 mention the principle of international economic and social cooperation. On this principle, all signatory countries must respect the aims of the charter on their national soil and those of the extra-territorial countries where their companies and organisations operate.
- Article 1 (aims of the charter) recognizes the need to: To achieve international cooperation in solving international problems of an economic, social, intellectual or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.
- Local communities can use against signatory States and their companies and NGOs working in the region. The Charter of the United Nations requires its members to respect the purposes of the Charter in their national territory and in the extra-territorial territories where their companies and organizations operate.
- Many communities have already successfully used these legal instruments in North America (e. g. Quechan community), Canada (e. g. Cree community), South America (e. g. Sawhoyamaxa community) and New Zealand and Australia (Maori and Aboriginal communities).

United Nations Declaration on the Rights of Indigenous Peoples (2007)

- Generalization of the term "indigenous peoples"
- Art 10: Need to seek the free, informed and prior consent of indigenous peoples when proposed activities may potentially exclude them from their land.
- Art 12: CLIP for their spiritual, religious, intellectual and cultural property
- Art 28 CLIP right to land, territory and resources.
- Art 13 Right of peoples "to understand and be understood"

Convention 169 of the International Labour Organization (1991)

- Article 7.1 that "the peoples concerned shall have the right to decide their priorities regarding the development process in which they find themselves engaged since this process affects their lives, beliefs, institutions and spiritual well-being (...)". They "must be able to exercise control, as far as possible, over their own economic, social and cultural development".
- Article 16: "their travel shall be made only with their free, informed and prior consent"

United Nations International Covenant on Economic, Social and Cultural Rights (resolution 2200 A)

- 141 signatory states: the countries of the Congo Basin and the international community with the exception of Malaysia, Burma, Bhutan, the Sultanate of Oman, the United Arab Emirates, Mozambique, Zimbabwe, Haiti
- Article 1.1 recognizes the right of peoples to freely determine their political status and to freely pursue their economic, social and cultural development
- Article 1.2 recognizes the right of peoples to freely dispose of their natural wealth and resources for the satisfaction of their needs
- Article 1.3 recognizes the need for States to facilitate the realization of the right of peoples to self-determination
- Article 5 recognizes that no State, group or individual shall have the right to engage in any activity or perform any act aimed at the destruction of any of the rights or freedoms recognized in the present Covenant or at their limitation to a greater extent than that provided for in the said Covenant
- Paragraphs 1, articles 2 and 11 require signatory states to respect the rights enshrined in the Covenant not only on their national territory but also where their companies and organizations operate abroad (interpretation provided by the United Nations Committee working on the Covenant).

United Nations International Covenant on Civil and Political Rights (Resolution 2200 A XXI)

- 149 signatory states: the countries of the basin and the entire international community with the exception of China, Saudi Arabia, Burma, Malaysia, Papua New Guinea, Pakistan, Cuba, the Sultanate of Oman, the United Arab Emirates, Bhutan
- Article 1 recognizes the right of peoples to self-determination and "to freely dispose of their wealth and natural resources".

Rio Declaration on Environment and Development (1992)

- Principle 1 recognizes the central place of human beings in sustainable development issues
- Principle 10 recognizes the importance of citizen participation in decision-making on environmental issues
- Principle 20 recognizes in particular the importance of women's participation
- Principle 22 recognizes the importance of the role of indigenous peoples in environmental management and their right to sustainable development
- Principle 23 recognizes the need to protect the resources of peoples under oppression, domination and occupation
- Principle 25 recognizes the link between social peace, development and environmental protection

Convention on Biological Diversity (CBD, 1992)

- Art 8j also requires States to "respect, preserve and maintain the knowledge, innovations and practices of local and indigenous peoples...".
- Access and Benefit Sharing: Prior Informed Consent. A mechanism that works well.
- Many decisions of the COP, Climate COPs, International Forum on Forests, etc.

Congolese law

Fundamental rights

- Accession to international conventions: application by transposition or direct adoption.
- Art 56 Constitution
- Fundamental right of forest dwellers to express their views on decisions affecting the exploitation of the territories they occupy > right to participation in decision-making Forest Code.
- Land rights of local and indigenous peoples
- Rights to the protection of their resources (environmental laws)

National law

- Act 5-2011 of 25 February 2011 on the promotion and protection of the rights of indigenous peoples (Annex I)
- Other national laws
 - > in land matters: state ownership, land titles, user rights.
 - > forest law, environmental law, the Public Procurement Code, participation mechanisms: sustainable management (e.g. protected areas, fisheries, etc.)
- Principles of commercial law
 - o FSC
 - o The VPA, Annex V, specifically provides for legal reforms on various aspects of PLA participation in the management of forest concessions:
- A framework decree determining the conditions for concerted and participatory forest management as set out in Article 1, paragraph 2, of the Forest Code, and covering in particular:
 - > the modalities for involving local populations, indigenous peoples and civil society in the process of forest classification and decommissioning
 - > the involvement of local populations and civil society in the management of forest concessions
- A "Decree determining the way in which local communities, indigenous peoples and civil society are involved in decision-making in the preparation of specifications".
- An "Implementing text specifying the three different aspects concerning community forests: the notion of community forest, the zoning process and the procedures for managing these forests, ensuring the involvement of all stakeholders"

- An "Application text determining the involvement of local communities and indigenous populations in the management plan (zoning of community and other series)".
- A text on the participation of CSO in the various Commissions