



# **Free, Prior and Informed Consent**

**A practical guide for  
Indigenous Peoples  
in Guyana**

By Meaghen Simms  
and Marcus Colchester

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**AMERINDIAN  
PEOPLES  
ASSOCIATION**



**Forest  
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This guide should be read together with two companion guides:

**“Environmental and Social Impact Assessments: A practical guide for Indigenous Peoples in Guyana” and  
“Negotiating Impact and Benefit Agreements: A practical guide for Indigenous Peoples in Guyana.”**

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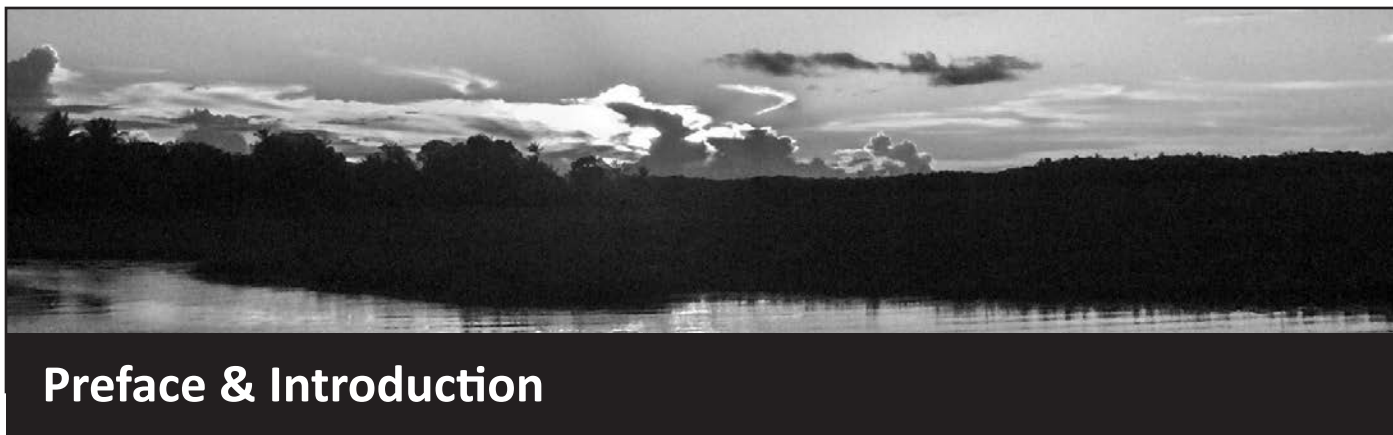
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## Acronyms

CERD	Committee on the Elimination of Racial Discrimination
CBD	Convention on Biological Diversity
ESIAs	Environmental and Social Impact Assessments
FPIC	Free, Prior and Informed Consent
GGMC	Guyana Geology and Mines Commission
IBAs	Impact and Benefit Agreements
LCDS	Low Carbon Development Strategy
REDD+	Reduced Emissions from Deforestation and Forest Degradation Plus
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples





## Preface & Introduction

No one has more at stake than Indigenous Peoples when it comes to outside pressures to develop lands and resources. Over 60 per cent of the world's mineral resources are in the traditional territories of Indigenous Peoples.<sup>1</sup> Our forests are sought for logging. But increasingly our forests are also being looked to for their role in conservation, as people all over the world start to realise the damage years of pollution and deforestation have done to their own environments. In Guyana, among other uses, our lands are being considered for large-scale agriculture projects and our waters could be drained to feed those projects. At the same time, outsiders are making decisions about our development and well-being without even considering our plans and priorities.

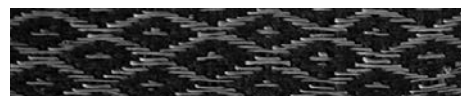
As Indigenous Peoples, we have certain rights that must be respected. One of our most important rights is the right to give or withhold our Free, Prior and Informed Consent (FPIC) to projects, policies and programmes that will affect our people and traditional territories. FPIC is how our right to self-determination is achieved in practice. It is how the full range of our rights, including our rights to land, culture and development, are protected.

FPIC and other Indigenous rights are inherent. That means they do not depend on a government recognising them. Left to their own will, few governments or companies have respected the right of Indigenous Peoples to Free, Prior and Informed Consent. This means it is up to us, our communities and our allies to push to have our FPIC and other rights respected. Indigenous Peoples in Guyana and in many other parts of the world have made some important gains this way. We can also do the same.

*They think they can plan for us, but a few years down the road see what has happened. We are best to decide what is best for us!"*

— Amerindian trainer, Region 7

"Free, Prior and Informed Consent: A Practical Guide for Indigenous Peoples in Guyana" (called the FPIC guide) shares lessons from our own Indigenous Peoples as well, as from those in other parts of the world. Its main purpose is to provide information on what is meant by the concept "Free, Prior and Informed Consent" as simply as possible. It is also meant to assist us and our leaders in making competent decisions on behalf of our communities and in so doing making our right to Free, Prior and Informed Consent a reality. It is intended to be used as a resource or reference tool when projects are being considered for our communities and before they are actually started. It is just one tool to help us to defend our rights. It came about mainly as a result of some of our leaders and community members attending training sessions and workshops and agreeing on the content and language of the guide.



As we have been made aware to some extent, the Government of Guyana is promoting its **Low Carbon Development Strategy** (LCDS), a project that seeks to keep our forests standing while the country receives funding for doing so. Many of us have been told of the benefits we can get from supporting this strategy, but we have not heard the full extent of what the LCDS involves or how we could be negatively impacted. Under the LCDS there is the possibility that a number of new projects will start, including, among other things, road building and expansion, hydro-power projects

<sup>1</sup> "The Manila Declaration of the International Conference on Extractive Industries and Indigenous Peoples." Legend Villas, Metro Manila, Philippines. March 23-25, 2009. Available on the Internet at [http://www.tebtebba.org/index.php?option=com\\_content&view=article&id=46&Itemid=57](http://www.tebtebba.org/index.php?option=com_content&view=article&id=46&Itemid=57)

and large-scale agriculture. All of these projects could bring benefits, but at the same time they can also cause some negative impacts. This is one instance in which we can refer to the FPIC guide to ensure we are on the right track when it comes to understanding all that is involved and how we can truly represent our people.

Mining is another activity that takes place on our lands, especially our ancestral lands. This guide offers good information on how a community can make decisions in relation to saying “Yes” or “No” to mining activities.

FPIC can apply to these and all other projects, policies and programmes that could affect us. It means that we *must participate* in all decisions affecting our lives. For Indigenous Peoples, “effective participation” (one of the terms we will learn in this guide) means having opportunities to participate at all stages of a project. It also means having the information and time we need to participate in meaningful ways, and having the decisions that result respect our concerns, plans and rights. This FPIC Guide contains examples from international law, “best practices” in business, and Guyanese laws and policies that we can use to make our case for FPIC.

The guide is one of a three-part series that all complement each other. The other two guides are the “Environmental and Social Impact Assessments: A Practical Guide for Indigenous Peoples in Guyana” (called the ESIA guide), and “Negotiating Impact and Benefit Agreements: A Practical Guide for Indigenous Peoples in Guyana” (called the IBA guide).

The ESIA Guide deals with how Indigenous Peoples can participate in Environmental and Social Impact Assessments or ESIA. ESIA are studies that have to be undertaken before projects that might have negative impacts on our people and environment can go ahead. They are very important for our communities because their purpose is to identify impacts and make plans to “mitigate” (lessen) these impacts. ESIA are a key way to get information about a project or programme so that we can decide whether or not it is what our communities want.

The IBA Guide deals with how our communities can negotiate agreements that provide benefits, compensation for negative impacts and opportunities for our people to participate. An Impact and Benefit Agreement, or IBA, is a way of saying, “Yes, we’ll allow the project to go ahead, but you have to follow the conditions and rules that we have agreed to.” All three guides have important lessons for Free, Prior and Informed Consent and explain how we can participate effectively to make sure our FPIC rights are respected.

The guides are for *all* the Indigenous Peoples of Guyana. They contain important information, including suggestions for how we should conduct the business of our communities. We encourage you to read and reread them until you feel you understand them enough to share them with others in the communities. Sharing does not have to start with a big audience – it can start in the home or with a similar small group of people and then continue with a bigger group later on. Sharing can also be done in stages so that we can truly understand its contents and are not overwhelmed with too much information all at once. The guides contain some practical examples that come from our own Indigenous Peoples and we can add to them by using experiences from our own communities.

The three guides were produced as part of a joint project between the Amerindian Peoples Association, The North-South Institute of Canada and the Forest Peoples Programme of England. The project is called “Indigenous Perspectives on Consultation and Decision-making about Mining and other Natural Resources.” The first phase in Guyana ran from 2000 to 2002 and the second phase from 2004 to 2010. The project began with a focus on Indigenous rights around mining; so many of the examples in these guides deal with how Indigenous communities can try to achieve FPIC when dealing with mining companies. But we can use also the lessons they share to help us defend our rights, people, lands and resources in the face of pressures from forestry, protected area plans and other conservation measures, like the **Low Carbon Development Strategy** and **REDD+ (Reduced Emissions from Deforestation and Forest Degradation Plus)**. It is about getting organised, knowing our rights and demanding that they be respected!

Jean La Rose  
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## Section 1: Understanding our right to Free, Prior and Informed Consent

### 1.1 What is Free, Prior and Informed Consent?

Free, Prior and Informed Consent is the collective right of Indigenous Peoples to decide together what activities we will allow to take place on our traditional territories. It is also the right to have a say about activities that happen outside of our territory, but that still could affect our people, our land, our resources and our lives.

**For Indigenous Peoples, FPIC means:**

- Having the right to say, “**Yes**” or “**No**” to projects and government policies and programmes that will affect our traditional territory. This is true even if we do not have title over our whole territory;
- Outsiders who want access to our lands and resources should deal with us as the owners of the land. We are *rights* holders, not just *stakeholders*. A “stakeholder” is a person, people or groups who have an interest in a project or could be affected by it. Some examples are the government, a company, other communities in the area and the bank or donor country that puts money into a project;
- Our right to make decisions for our territories must be respected. That means respecting the authority of the leaders we choose to represent us and respecting the decisions of our people as a whole;
- It also means respecting our customary systems for making decisions, even if they take more time; and
- **It is the main right that upholds our right to self-determination, our right to our territories and the full range of rights that we hold as Indigenous Peoples.**

*As Indigenous Peoples we realise the companies and government want us to decide yes, but yes is not the only answer. We have to consider how our children’s lives will be affected”*

—Amerindian trainer, Region 1



**All of the words in FPIC are equally important:**

**Free** — For our decision to be truly free, whoever is proposing the project or policy cannot use violence, threats, intimidation, pressure, manipulation, bribery or other means of coercion — for instance, withholding the stipends of our leaders or making false promises to get them to agree. The company, government agency or organisation proposing the project is usually called “the proponent,” although the law in Guyana uses the word “developer.”

**Prior** — Negotiations with our community should start from the very beginning: before we are asked to sign anything, before plans are decided, before any permits are given, before prospectors start exploring our lands, and long before construction begins.

**Informed** — We need to understand as early as possible and before each new stage of the project what will happen and how we will be affected. There are two steps to being fully informed:

- 1) The proponent must give our community all the information they have on the proposal. This information should be in forms and languages our people can understand; and
- 2) If we can, our community should try to gather more information on our own about the proposal and the proponent. The information we get from a company, government or even non-governmental proponent often talks more about the possible benefits of a project than the negative impacts.

**Consent** — Our decision to say “Yes” or “No” should come only from the authorities that our people freely choose to represent us. Their decisions should reflect our customary laws and the concerns and interests of different community members... women and men, young and old, those who usually participate in meetings and those who do not. We need enough time to understand. This is our right – we need to ask that it be respected!

**Key FPIC Tip:** Ideally our consent should be sought from the earliest possible stage. This means before prospecting permits are given to miners and before land is set aside for protected areas, forestry or other activities by outsiders. This does not happen very often, so we have to make our case and then make it again! It is also important for us to remember that our consent is not a one-time decision. It should be sought before each new stage of a proposed project or policy.

### **Not FPIC**

More often than not the right to FPIC has not been upheld in practice. This is true if:

- Proponents deal with leaders they select themselves, instead of our chosen community leaders, to get consent for their project. This is one example of “manipulation” and is called “manipulated FPIC;”
- Information on a project is given to our community just before a meeting. We cannot be expected to understand and make a decision right away;
- The proponent assumes the project will go ahead whether we say “No” or “Yes”!

### **Some of these stages for a mining project are:**

- 1) Deciding to give or not give our consent to meet with a company or the government to learn more about what they want to do;
- 2) Giving our consent to being consulted about prospecting or exploration. If our community decides to allow prospecting or exploration to go ahead, we should give our consent only when we understand the impacts that it will have on our territory; and only after we have agreed on rules about what kind of exploration we are allowing, where and how our community will be involved;
- 3) Giving our consent to negotiate and participate in an assessment of the environmental and social impacts of the project. Again, we should set the rules for how company consultants will act when doing research on our territory and with our people;
- 4) Consenting to the full project can come later. We cannot make an informed decision without knowing all the impacts, and an impact assessment can take two years!
- 5) Consent is not finished when the project goes forward. In the case of mining, the company might want to build a second mine on our territory or a hydro-electric dam to power it. This must mean new negotiations; and
- 6) Finally, giving our consent does not mean we can't take it back. If we say “Yes,” it is a “Yes with conditions.” If we have signed a legal agreement that sets out steps to be followed and the proponent does not follow them, we may have a case to withdraw our consent.

**It is important to get the final agreement right. Even though there should be a process for reviewing and re-negotiating built into it, it is very difficult to change the final agreement after we have signed it. We need to make sure we take the time we need!**





## 1.2 Why is Free, Prior and Informed Consent important?

Indigenous Peoples in Guyana and in other countries have the most at stake when development and conservation projects take place on or near our lands and territories. But these projects are still often imposed without Indigenous Peoples having any meaningful chance to participate, be consulted or negotiate and without respect for Indigenous rights or our own plans for own land.

The results can be disastrous. With no say, Indigenous Peoples in other countries have often found their forests logged, lands mined, valleys flooded, hunting grounds fenced off, and waters polluted. All of this can happen to us. We could be forced to leave our lands. Or we may be economically displaced, which means we are no longer able to earn a living, as we have in the past.

Even though these projects often promise benefits, few benefits stay with Indigenous communities. Instead, many communities end up poorer and worse off than before.

Why does this happen? Sometimes governments feel that the traditional ways of Indigenous Peoples prevent the rest of the country from benefiting from mining or other industries. Some companies don't want to take the time to involve Indigenous Peoples because delays cost them more money. And sometimes it happens because project proponents know nothing about Indigenous Peoples. They may not even know that we have inherent rights that they have to respect. We have to tell them and keep reminding them!

**Properly applied Free, Prior and Informed Consent processes should stop these abuses. It should mean:**

- That projects that will cause more harm than good do not go ahead because our people will refuse them;
- That projects only go ahead when Indigenous Peoples will get clear benefits from them, and if steps are taken to mitigate or lessen negative impacts; and
- That our community's decision to say "Yes" or "No" is respected.

**Getting it right is not easy. In exercising the right to Free, Prior and Informed Consent we need to:**

- Be well organised and prepared;
- Make sure we fully understand the proposal(s);
- First agree on what we want to do and stick to that position. We have to stay unified; and
- Assert our position and rights in negotiations, or through any other strategy we choose to take.

## 1.3 Free, Prior and Informed Consent in international law

Protection for Indigenous rights is usually strongest in international law. This law comes from different types of agreements that governments sign and agree to follow, such as conventions, treaties and declarations.

Even after signing, some governments do not respect or protect the rights set out in these agreements. They may try to argue that certain agreements are “legally binding” (meaning the government has a duty, under law, to follow them) and others are not. This can be hard to make sense of.

Treaties (conventions and covenants) are generally legally binding. This is especially true if a country ratifies a treaty by adding it in writing to national laws. See Box 1 and Section 1.5 for a list of some treaties that have been ratified by Guyana.

Declarations are usually not legally binding. But once a government signs them, it signals its commitment to follow what is contained in the declarations. International courts and the human rights committees that monitor treaties have ruled that declarations are “indirectly binding.” They also have made it clear that Indigenous Peoples have the right to Free, Prior and Informed Consent. See Section 1.5 for more information.

**Key international treaties and declarations that support the right to Free, Prior and Informed Consent are listed in Box 1.**

One of the most important is the **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**. It specifically sets out our right to FPIC in six different articles — Articles 10, 11.2, 19, 28, 29.2 and 32.2.<sup>2</sup>

**Not all of the treaties listed use the words “Free, Prior and Informed Consent;” But they all include other rights that we can use to support our right to say, “Yes” or No.” Among these rights are:**

- The right to self-determination and to determine our own development priorities;
- The right to our own political, economic, legal, social and cultural institutions;
- The right to own property, as individuals and collectively as a people;
- The right to the lands, territories and resources we have traditionally used or occupied;
- The right to freely dispose of our natural wealth and resources;
- The rights to livelihood and subsistence;
- The right to protect our culture;
- The right to security;
- The right to be free from forced displacement (that is, to be made to leave our land); and
- The rights to life and health.

### **Box 1: Some international treaties that support the right to Free, Prior and Informed Consent**

United Nations Declaration on the Rights of Indigenous Peoples

\*International Covenant on Civil and Political Rights

\*International Covenant on Economic, Social and Cultural Rights

\*Convention on the Elimination of All Forms of Racial Discrimination

The American Declaration on the Rights and Duties of Man

\*The Convention on Biological Diversity

**Remember:** The Government of Guyana has signed all of these treaties. The ones that have an \* beside their name are also legally binding under Guyana’s laws.

<sup>2</sup> Copies of UNDRIP are available on the Internet at [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf). The Declaration has also been translated into some Indigenous languages, such as Arawak, Carib, and others. They can be downloaded from the following website: <http://www.un.org/esa/socdev/unpfii/en/declaration.html>

For example, our right to “self-determination” is protected in the **International Covenant on Economic, Social and Cultural Rights** and the **International Covenant on Civil and Political Rights** (Article 1);<sup>3</sup> self-determination means that Indigenous Peoples can choose “the way they want to develop.”<sup>4</sup> Can we really choose the way we want to develop if we can’t say “yes” or “no” to a project that will impact our territory? No!

We need to learn about our rights and teach outsiders about them. Do not just talk about FPIC or the Declaration on the Rights of Indigenous Peoples. Our rights are *inherent* because we are Indigenous. Outsiders cannot “give” us the rights we already have, as some companies and governments claim they are doing with FPIC. Our rights do not depend on the government recognising them. But our community’s position will be stronger if we back it up by asserting all of our rights under international law and national law.



## 1.4 FPIC in international “best practice” standards

Because governments have been slow to apply international laws that protect the rights of Indigenous Peoples, “best practice” standards have also been created. We say best practices in quotation marks (“”) because they are the practices and standards that the best companies, banks or organisations are supposed to be following — although they may not be the very best that they could be if they don’t respect all of our rights. But they are usually much stronger than national laws in a lot of countries.

These standards are meant to guide companies, banks and other outsiders on how they should be working with Indigenous Peoples.

They have resulted from the concerns of Indigenous Peoples and have been developed by commissions set up by banks that fund projects like dams and mines, by conservation organisations, and by responsible business groups. Some of these standards include respect for Free, Prior and Informed Consent or other Indigenous rights that support our FPIC rights. See Box 2 for examples. Others do not go that far but might still recommend that we be included in more meaningful ways than we are now.

Sadly, many of these standards are voluntary, which means they are not required by law. Individual companies, organisations or funders do not always respect “best practices” in the way they act in our communities. But many will say publicly that they do. Other times, the people that actually work for these companies on the ground do not even know what standards their companies or organisations are supposed to respect.

If we know what these standards are, we can demand that they be respected from the very beginning. If a company or organisation still fails to respect them, we have to make sure others know. We can do this by writing to their presidents, our government and other organisations we work with, or by getting in touch with newspapers. Companies do not like to be embarrassed!

<sup>3</sup> Both treaties are available to download from the Internet at <http://www2.ohchr.org/english/law/ceschr.htm> (Covenant on Economic, Social and Cultural Rights) and <http://www.hrweb.org/legal/cpr.html> (Covenant on Civil and Political Rights).

<sup>4</sup> See International Work Group for Indigenous Affairs. “Plain language version of the Declaration.” 2004. This is a plain language version of the draft Declaration, so it might not fully reflect the final document that was signed by Guyana and other countries. It is available on the Internet at <http://www.iwgia.org/sw1592.asp>

Sometimes others, like the World Bank Group, support the **weaker standard of Free, Prior and Informed Consultation**. One part of the World Bank Group is the World Bank, which gives and loans money to governments to support projects and programmes. Another part is the International Finance Corporation (IFC), which loans money to companies. The projects, policies and programmes they support are supposed to lead to development, so the “borrowers” are required to follow certain standards and practices to protect people, the environment and other rights. Consultation is a part of consent, but it is not the same. It does not allow us to say “Yes” or “No” to projects that could affect our people, lands, waters, culture and livelihoods. However, the standards of the IFC were being reviewed at the time this guide was written and it is very likely that the World Bank’s safeguards (called “operational policies”) will also soon be reviewed to see if they need to be improved. Many Indigenous Peoples’ Organisations and NGOs have been asking the World Bank Group to change their standards and safeguards to include Free, Prior and Informed Consent, not just consultation. We do not know if this will happen, when it will happen or if the changes will fully respect FPIC, but we need to look out for these changes and ask our allies to watch for any changes. If FPIC is adopted as the standard of the World Bank Group, this will be a very, very important victory. We need to use it and make sure the Bank and its borrowers respect every aspect of FPIC.

**We cannot let them forget that our right under international law and international best practice standards is Free, Prior and Informed Consent!**

### **Box 2: International “best practice” standards and industry codes of conduct**

#### **Hydro-electric Dams:**

In 2000 The World Commission on Dams (WCD) released the strongest guidelines for planning hydro dams. These guidelines accepted that Indigenous Peoples have the right to say ‘Yes’ or ‘No’ to dams on their lands.

#### **Mining:**

- The Extractive Industries Review looked at the impacts of mining, oil and gas projects. It also concluded that FPIC is a right owed to Indigenous Peoples;
- The International Council on Mining and Metals (ICMM) includes some of the world’s biggest mining companies. The ICMM commits its members to respect our rights and to “seek agreement with Indigenous Peoples;”<sup>1</sup>
- The Prospectors and Developers Association of Canada (PDAC) represents many Canadian exploration companies. Some of these companies work in Guyana. PDAC has adopted voluntary standards called “e3plus: A Framework for Responsible Exploration.” They encourage respect for Indigenous rights, including those in the UN Declaration on the Rights of Indigenous Peoples.<sup>2</sup>

#### **Logging and Timber Plantations:**

The Forest Stewardship Council (FSC) requires loggers to recognise and respect the customary rights and consent of Indigenous Peoples. The FSC works in 50 countries, although not yet in Guyana.

#### **Protected Areas:**

Best practice demands that national parks and nature reserves should only be set up with respect for Indigenous Peoples’ rights and with our consent, and after an agreement with Indigenous Peoples has been negotiated. The World Commission on Protected Areas, the World Conservation Union, and the World Wildlife Fund have all agreed.

#### **Development agencies:**

A number of development agencies also accept the principle of FPIC. Some are very clear on their support, like the United Nations Development Programme and the European Commission. Others only partially support FPIC, such as the Inter-American Development Bank.

<sup>1</sup> See the ICMM “Position Statement: Mining and Indigenous Peoples.” 2008. Available to download at <http://www.icmm.com/page/208/indigenous-peoples>. The ICMM’s “Good Practice Guide: Indigenous Peoples and Mining” is also available on the same website and provides more detailed guidance.

<sup>2</sup> See “e3plus: Principles and Guidance.” Page 12, footnote 20. It is available at <http://www.pdac.ca/e3plus/index.aspx>



## 1.5 FPIC and the rights of Indigenous Peoples in Guyanese law

The rights of Indigenous Peoples (also referred to as Amerindian peoples) are also protected under Guyanese law.

Some of these rights come from **international law** and the treaties that the Government of Guyana has ratified. They include the:

- **International Covenant on Civil and Political Rights;**
- **International Covenant on Economic, Social and Cultural Rights;** and
- **Convention on the Elimination of All Forms of Racial Discrimination.**

According to Article 154a (1) of the **Constitution of Guyana**, every citizen is “entitled to the human rights enshrined” in these treaties and others listed at the bottom of this page.<sup>5</sup> It also makes it clear that “such rights shall be respected and upheld by the executive, legislature, judiciary and all other organs and agencies of Government.”<sup>6</sup>

The international committee that monitors how Guyana is meeting its obligations under the **Convention on the Elimination of Racial Discrimination** has made some important recommendations that support the right of Indigenous Peoples in Guyana to FPIC. It is called the Committee on the Elimination of Racial Discrimination, or CERD for short.

In 1997, CERD issued General Recommendation 23, which called on countries who had committed to the Convention to “ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent.”<sup>7</sup> In 2006, in its Concluding Observations to Guyana, CERD specifically expressed concern about the failure of the state to recognise the land rights of Indigenous Peoples. It urged Guyana to “recognise and protect the rights of all Indigenous communities to own, develop and control the lands which they traditionally occupy, including water and subsoil resources.”<sup>8</sup> This is important because the current law in Guyana says the state holds the rights to all mineral resources.

While the Convention itself is legally binding on the Government of Guyana, the recommendations and concluding observations that come from CERD are generally not. However, they can still be powerful, and we can use them to add weight to our concerns and demands by saying, “the United Nations says Guyana is breaking international law.”

**The United Nations Declaration on the Rights of Indigenous Peoples** also strengthens our positions because it was signed by the Government of Guyana. UNDRIP isn’t the only treaty that supports our right to FPIC, but it includes more protections for FPIC than any other. In 2007, the Inter-American Court of Human Rights ordered the Government of Suriname to uphold the rights of the Saramaka People to Free, Prior and Informed Consent. This legally-binding ruling is important for Guyana because even though Suriname only signed UNDRIP and has no national laws at all to protect Indigenous Peoples, it is still obligated to protect Free, Prior and Informed Consent.<sup>9</sup>

5 Schedule 4 of the Constitution of Guyana lists the following treaties that the Parliament of Guyana has agreed to be bound by: 1) Convention on the Rights of the Child; 2) Convention on the Elimination of All Forms of Discrimination against Women; 3) Convention on the Elimination of All Forms of Racial Discrimination; 4) Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment; 5) Covenant on Economic, Social and Cultural Rights; 6) Covenant on Civil and Political Rights; and 7) InterAmerican Convention on the Prevention, Punishment and Eradication of Violence against Women.

6 The Constitution (including 2003 revisions) is available on the website of the Parliament of Guyana at <http://www.parliament.gov.gy/constitution/constitutionindex.php>. Paper copies can be bought for a small fee at the Parliamentary Library in Georgetown.

7 See United Nations. Office of the High Commissioner for Human Rights. **General Recommendation No. 23: Indigenous Peoples**. August 18, 1997. The full text is available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/73984290dfea022b802565160056fe1c?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/73984290dfea022b802565160056fe1c?Opendocument)

8 See United Nations. Committee on the Elimination of Racial Discrimination. **Concluding observations of the Committee on the Elimination of Racial Discrimination: GUYANA**. April 4, 2006. The full text is available on the Internet at [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/c7d1cd668afb4a0ec125714c00311bbb/\\$FILE/G0641177.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/c7d1cd668afb4a0ec125714c00311bbb/$FILE/G0641177.pdf)

9 Indigenous Peoples can take cases to the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights if local remedies, like the courts, in their own countries are not protecting their rights. Some of the main points in the *Saramaka* ruling can be found in the following document: Weitzner, Viviane. “Missing Pieces: An Analysis of the Draft Environmental & Social Impact Reports for the Bakhuis Bauxite Project, West Suriname.” The North-South Institute. November 23, 2008, Page 5. Available from the Internet at <http://www.nsi-ins.ca>

**This means that Free, Prior and Informed Consent and the UNDRIP should be respected in Guyana.** Some officials may try to insist that the Declaration does not mean anything for Guyana, that it is just a political document, but we need to remind them and remind them again that by signing it, they made a real commitment that must be taken seriously!

**Guyana's national laws and policies** likewise include many protections for Amerindian rights. Only a few mention consent directly — The Amerindian Act and the Low Carbon Development Strategy – but we can also use others to support our right to say “Yes” or No” to projects or policies that will affect our traditional territories. For example:

- **The Constitution** protects the cultural heritage and way of life of Amerindian Peoples. It also sets out the rights of all citizens to land and security;
- **The Amerindian Act** recognises Amerindian villages as having an important degree of self-governance and autonomy. And Section 48 of the Act requires medium-scale and small-scale miners to get the consent of the village council before they will be allowed to mine on titled lands;
- **The Mining Act** recognises “all lands” occupied and used by Amerindians for our quiet enjoyment, as lawful (Section 112); and
- **The Low Carbon Development Strategy (LCDS)** states that Amerindians will not be required to opt-in to the LCDS unless they give their Free, Prior and Informed Consent. The LCDS is a national strategy that will directly impact Indigenous Peoples. It is the first time that a national development policy has stated that it will respect the right of Indigenous Peoples to FPIC.<sup>10</sup>

**However for our right to Free, Prior and Informed Consent to be fully respected, certain problems with laws and policies in Guyana need to be overcome.** They include that:

- The full size of the lands our people have traditionally occupied or used have not been titled under the **Amerindian Act** and the **State Lands Act**. Some communities still do not have any land title at all;
- Under the **Mining Act (1989)** and the **Forest Act (2009)** the government may declare any area a “Mining District” or “State Forest,” and then give out our territory as concessions to mining and logging companies. The new Forest Act also appears to severely reduce the rights of Indigenous Peoples to the use of our untitled traditional lands, which under the law are state land (Part 2, Section 5.2);
- Regulations issued under the **Environmental Protection Act (1996)** may restrict Amerindian subsistence and other rights;
- The **Low Carbon Development Strategy** only applies Free, Prior and Informed Consent to our titled lands. The rest of our traditional territories are automatically included under the LCDS; and



<sup>10</sup> We can find some of these documents on the Internet at the following addresses: 1) Constitution: <http://www.parliament.gov.gy/constitution/constitutionindex.php> and 2) LCDS: <http://www.lcds.gov.gy>  
For copies of other laws you may have to go to the responsible government office and pay a small fee for a paper copy.

- **The Amerindian Act of 2006 has many conditions that limit our rights.** They are too many to list here, however, key problems with the Act are that it:
  - Does not recognise the inherent rights of Indigenous Peoples to our lands, territories and resources;
  - States that untitled lands are owned by the State. This is made worse by the fact that the Act also puts unjust limits on eligibility for title;
  - Lacks effective protections for the rights of Amerindian communities that still don't have title over their land;
  - Still excludes all creeks and rivers from Indigenous title;
  - Allows mining and logging concessions to be issued over untitled traditional lands without prior consultation and consent. In the case of logging, Amerindian communities don't even have to be notified;
  - Allows the government to establish protected areas on our traditional lands without due process, Free, Prior and Informed Consent or compensation;
  - Gives the government arbitrary powers to interfere in the functioning and decision-making of Indigenous Peoples' governing bodies; and
  - Violates Indigenous rights under international law.

**All these problems may seem impossible to overcome, but there are important opportunities for our communities to push for reforms.** For example, because of climate change and the Low Carbon Development Strategy, many countries and international agencies are paying more attention to Guyana than they ever did before. **Did you know:**

- Many countries that give money to the government or fund development projects in Guyana have safeguards that are supposed to be followed. Some of those safeguards include commitments to protect Indigenous rights. See Box 3. If our rights are not being respected, we should make sure that these donors know by writing letters or visiting their offices in Georgetown. We need to ask them to respect their own commitments and to require Guyana to respect national and international law as a condition of getting funding.
- International agencies also have standards to follow. The World Bank decided to stop supporting Guyana's Protected Areas Project in 2006 because the Amerindian Act does not meet the World Bank's own rules about safeguards for Indigenous Peoples.<sup>11</sup> But even though the Act has not changed the World Bank is now supporting REDD+ in Guyana. We should let World Bank officials know that we expect them to follow their own rules.

### Box 3:

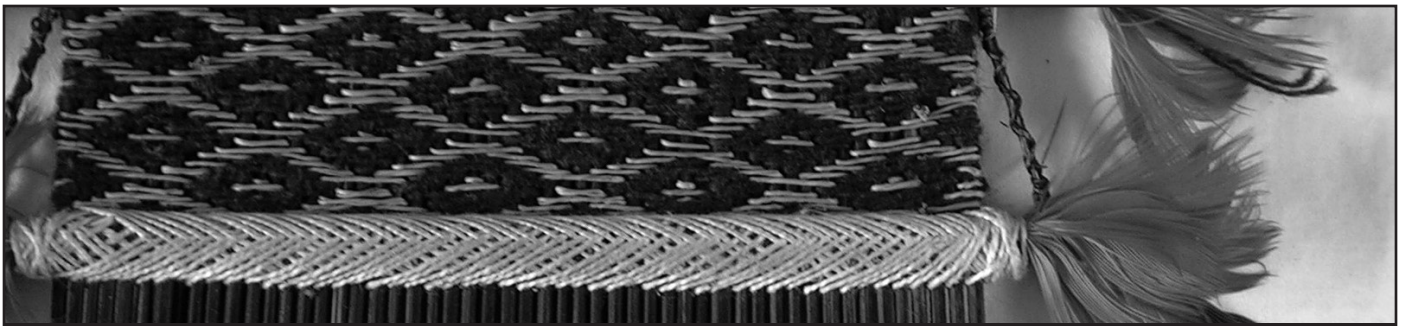
#### Norway, Guyana and Indigenous rights

Norway funds the LCDS and Reduced Emissions from Deforestation and Forest Degradation (REDD+) program in Guyana. The Memorandum of Understanding between Norway and the Government of Guyana says Indigenous Rights will be protected under the LCDS and REDD+ (Section 2.c).<sup>1</sup> Can our rights be protected if the laws of Guyana actually violate them? No!

<sup>1</sup> See "Memorandum of Understanding." November 2009. Available to download from the Internet at [http://www.regjeringen.no/upload/MD/Vedlegg/Internasjonalt/miljosamarbeid\\_utviklingsland/mou\\_norway\\_guyana.pdf](http://www.regjeringen.no/upload/MD/Vedlegg/Internasjonalt/miljosamarbeid_utviklingsland/mou_norway_guyana.pdf)

**We have to continue to work with companies and other project proponents to get them to respect our rights, even if the laws of Guyana don't!**

11 See La Rose, Jean and Marcus Colchester. "Our Land, Our Future: Promoting Indigenous Participation and Rights in Mining, Climate Change and other Natural Resource Decision-making in Guyana." May 2010. Page i. Available on the Internet at <http://www.nsi-ins.ca/english/research/progress/21.asp>



## Section 2: Getting organised to defend our right to Free, Prior and Informed Consent

### 2.1 Knowing our rights

Even if the law in our country is weak or isn't enforced, being knowledgeable about what laws and policies exist can help us to be in a stronger position to defend our traditional territories. This knowledge can also strengthen our negotiations with the government, companies, investors and others who want to use our land. That is why knowing our rights, and making sure all members of our communities understand them, is so important. We need to re-read the first sections of this guide that spell out our rights. But we should also keep in mind that this guide does not cover every right inherent to Indigenous Peoples. It's important for us to get copies of international treaties and national laws in Guyana.

**Then, we have to make it clear to government officials, companies and other outsiders that we know our rights and expect them to uphold those rights and other “best practice” standards.** We should inform them and educate them, if they don't know. If they don't listen, we must keep on insisting and letting them know! If that fails, we can use different ways to make it known more widely that our rights are not being respected. Box 4 describes some ways to deal with “grievances” or complaints against proponents or the government. Section 4.4 has more information. So does Section 2.2e of the Guide on Environmental and Social Impact Assessments.

#### Box 4: Dealing with grievances around violations of rights

When engaging with a company, one of our earliest steps should be setting up a process on how complaints from community members will be dealt with. These processes can take different forms, but the important thing is that our community agrees and that the process, who is responsible and the timeframes for responding are spelled out in writing. If the company does not properly address our grievances in the early stages, it is not a good sign for how they will deal with us in the future! Complaints can also be filed with the Minister of Amerindian Affairs or other government agencies. Under the **Constitution**, the state is responsible for upholding our human rights (Article 154A.1). If neither option works, there are other steps we can take, including:

- 1) Writing to the donors who are funding the project or funding the Government of Guyana. For example, mining will continue under the LCDS and new hydro dams will be built that could affect our territories. If the laws that protect our rights are not being enforced, we should tell donors like Norway, the World Bank and others — even if this means sending a hand-written letter! There is too much at stake not to speak out;
- 2) Grievances might be filed with the new Indigenous Peoples Commission, when it gets up and running; and
- 3) Contacting the media — in Guyana, in the home country of the company or in the donor country.

**Remember:** Whatever we do, we have to remember to keep written copies of all grievances we submit, so we can refer to them later if the proponent or government officials say they never received them!



**Key FPIC Tip:** It is not enough to talk just about our right to Free, Prior and Informed Consent. If we are concerned about projects and policies that will affect our territories, we should also talk about our rights to self-determination, land, subsistence, health, environment, culture, and others.

## 2.2 Establishing and demonstrating our customary rights to land and natural resources

As Indigenous Peoples, an important step is for us to **establish and demonstrate** our customary rights to our territories. This is key to ensuring respect for our rights to land and to Free, Prior and Informed Consent.

**We use our own customary laws and customary occupation and use of the land to establish rights to our traditional territories.**

We don't have to show that we were the *first* peoples to be in the territory, only that we had a claim to the area before others did and before the state had any effective authority over it.

**Remember:** Having established rights does not depend on the state recognising them or full title to the land:

- Human rights are inherent, which means that we all have certain rights as human beings under international law;
- International law also recognises that the rights of Indigenous Peoples come from our *own* laws and practices, and that those rights existed long before the state and government did. See Box 5.

True, it is hard to realise our rights if they are not recognised by the government. **But by establishing and demonstrating our customary rights to land and natural resources, we have a better chance of having them recognised in the future.** The President of Guyana has challenged Amerindian leaders from Region 9 “to show how they use their lands and why they demand ownership over such an extensive area.”<sup>12</sup> The pages that follow will tell us more about how we can do this.

If the government still does not respect our rights, other outsiders might. Did you know that some industry guidelines encourage exploration companies to treat Indigenous Peoples as rightful owners of the land even if our full title isn't respected?<sup>13</sup>

**How do we demonstrate our customary rights to land and other natural resources?** Some steps that have been used to do this are:

- 1) Continuing to push to have our territorial rights officially recognised. The Government of Guyana has issued titles to some Amerindian villages on the basis of “immemorial possession.” These titles are mostly quite

### Box 5: Support for customary rights in international law

The Inter-American Commission on Human Rights (IACHR) has said: “...the property rights of indigenous peoples are not defined exclusively by entitlements within a state's formal legal regime, but also include indigenous communal property that arises from and is grounded in indigenous custom and tradition.”<sup>1</sup>

**And in Guyana...** The Government has signed the Convention on Biological Diversity, so under Article 10C it should “protect and encourage **customary use** of biological diversity in accordance with traditional cultural practices that are compatible with conservation or sustainable use.”<sup>2</sup>

<sup>1</sup> See Inter-American Court on Human Rights, Series C, No. 79 (2001), at para. 149, 151; Inter-American Commission on Human Rights, Report No. 75/02, Case No. 11.140, Mary and Carrie Dann (United States), Dec. 27, 2002. OEA/Ser.L/V/II.116, Doc. 46, at para. 131; and Report No. 40/04, Case 12.053, Maya Indigenous Communities of the Toledo District (Belize), 12 October 2004, at para. 117.

<sup>2</sup> The Convention can be downloaded at <http://www.cbd.int/convention/convention.shtml>

<sup>12</sup> See Griffiths, Tom. “Guyana: Empowerment of indigenous peoples through participatory mapping.” *World Rainforest Movement Bulletin* no. 62, September 2002. Available to download at <http://www.wrm.org.uy/bulletin/62/Guyana.html>

<sup>13</sup> “E3plus,” a set of voluntary guidelines by the Prospectors and Developers Association of Canada, states: “Explorers should use particular care in situations in which indigenous or tribal lands and resources and associated rights have not been officially recognized or adequately demarcated or defined. In such cases, it is recommended that explorers treat the situation as if the rights of the indigenous or tribal people are recognized in law and proceed accordingly.” PDAC has many members in Guyana. See “E3plus: Principles and Guidance.” Page 13. Available to download at <http://www.pdac.ca/e3plus>

small in size and usually do not reflect the full territories of Amerindian Peoples. We might want to apply for extensions if that is the case, so we can have our objections on the record and show we have taken all steps possible under national law. But this can be a very slow process and some Amerindians do not find it helpful; and

- 2) Documenting the nature of our customary laws, uses and properties. Few non-Indigenous people understand how subtle and complex our laws and tenures are. We can help them to understand by:
- Publishing our own studies. In 2009, the Lokono People of West Suriname produced a 180-page report describing how they have traditionally used and occupied their territories. Local researchers interviewed many different members of the community to gather information, elders took the team on village walks, and stories or legends about the history of the area and the Lokono People were written down;
  - Using information from other studies and records that show or talk about our use of the territory. This is sometimes called “archival research.” Sources of this information might be books about our country or region, old maps by the Government of Guyana, and even documents or maps from colonial times, when the British ruled Guyana;
  - Mapping is one of the best ways to demonstrate the extent of our territorial rights. We can create our own map to demarcate our territories and to demonstrate to outsiders our customary land and resource rights! Figure 1 below shows a map created by the Baka and Bantu Peoples in Cameroon and shares important lessons on Indigenous mapping;
  - We can take some of these steps on our own. For others, we might need technical support, funding and help from experts. There are people who can help, but it can take time to find them, so starting to look earlier is best.

## 2.2a Lessons from Indigenous mapping

Participatory mapping has been widely used by Indigenous Peoples, including in parts of Guyana. In 1995, the Akawaio and Arekuna People in the Upper Mazaruni began mapping their territories with the help of the APA, the Forest Peoples Programme, and others. They decided to do this to demonstrate how they have owned and used their territories and resources for generations. For nine months, they used a technology called Global Positioning System (GPS) to map the boundaries of their territories, to show where their people lived then and in the past, and to map natural resources and cultural sites.<sup>14</sup>

GPS is now relatively cheap, quick and simple to use. It is also the most accurate because when you stand in a spot, like a cultural site, with a small machine, it gives you the site’s exact map coordinates. If we can’t access GPS right away, we can start with hand-drawn community maps, or draw on maps the APA has already created. If someone from our community can access the Internet we can use free computer programs, such as one called Google Earth, to print basic maps that we can add to together as a community. An example of a GPS map is shown below.

**Among the most important lessons for Indigenous mappers are:**

- Make sure that the maps are made with the full awareness and agreement, and under the control of, the communities involved;

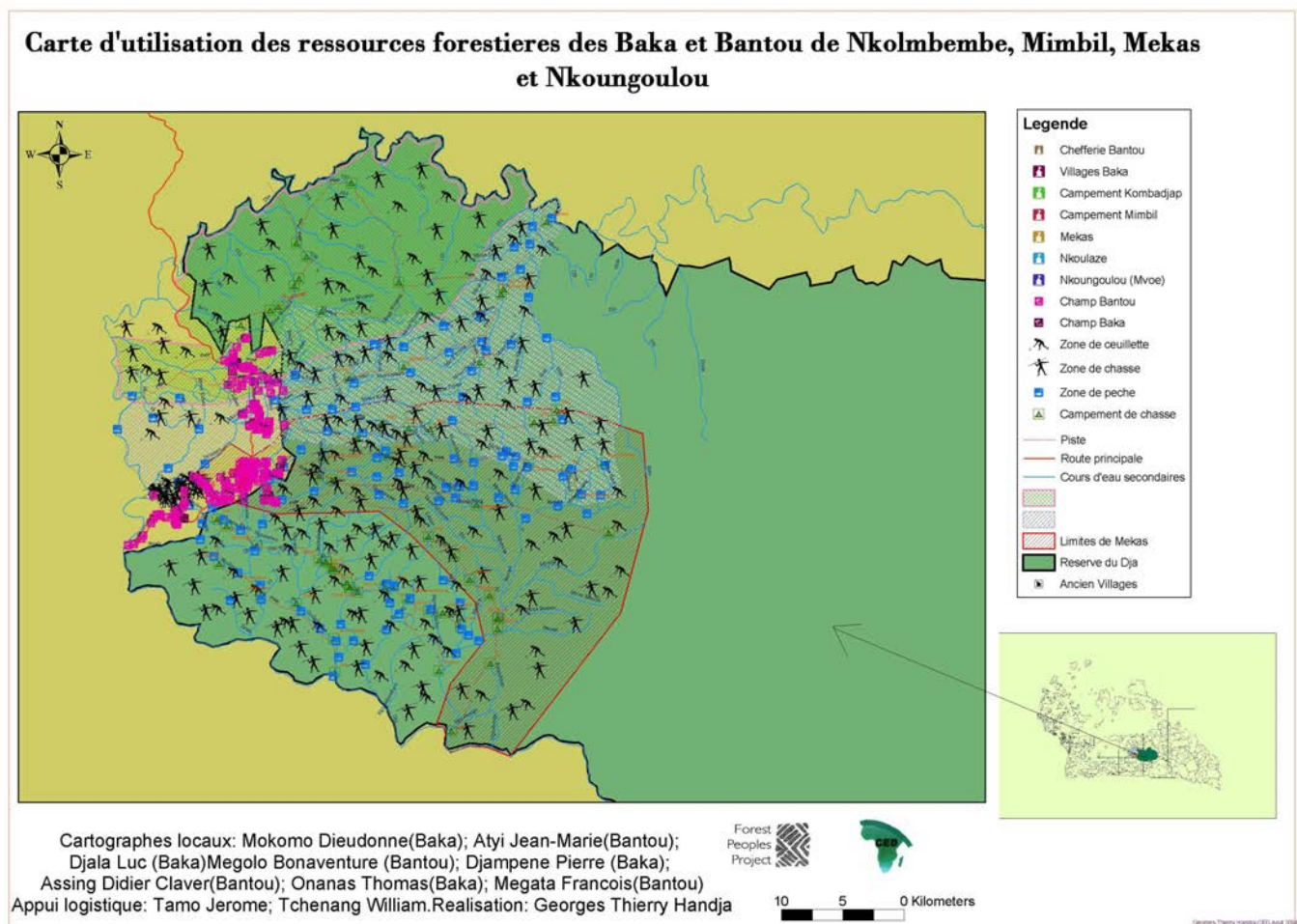
### Who to involve in mapping

- Make sure that all generations are involved. Elders are often the most knowledgeable about sites of historical and cultural importance;
- Involve both men and women in mapping. Men and women tend to use lands and resources differently – both systems are important and both need protection;
- Where two or more ethnic groups use the same area, involve all in the mapping. Each has rights. Asserting the rights of only one group is likely to lead to conflict and can weaken the claims of each of them; and
- Involve neighbouring communities in mapping boundaries that run alongside our lands. If boundaries are disputed later by neighbours, land claims are likewise weakened.

<sup>14</sup> See Griffiths, 2002.

- Involve members of the communities at all stages of the mapping, from: 1) deciding what information is most important to include; to 2) gathering the information; to 3) recording and displaying the information on the base maps;
- Record both land uses and boundaries, if possible;
- Put our own Indigenous location names, land use categories and terms for vegetation types onto the maps. Adding the names accepted by the government can also help to avoid confusion;
- Make sure that draft maps are carefully checked by community members and changed if necessary, *before* using them in negotiations with outsiders;
- Where national laws allow, get the intellectual property rights to the maps and databases registered as property of the people or communities concerned. In Guyana, it appears the Lands and Surveys Commission has the sole right to approve and certify land surveys;
- Consider collecting other scientific information on land use practices to support the information on the maps. For example, we could record how often our people take hunting trips and what distances hunters travel; and
- Take measures to protect the use of the information, so it is not misused, misrepresented, or distorted by outsiders. For example, we may not want pork knockers to know the exact location of our community's traditional mining grounds.

**Figure 1: Here is a map made by the Baka and Bantu Peoples in Cameroon to show how their rights overlap with a national park**



**Above:** The map is in French, but  shows hunting areas and  shows fishing areas.



## 2.3 Community visioning and unity

As Indigenous Peoples, we have the right to self-determination. We have the right to make and carry out our own plans and priorities for our territories, resources and people.

There are different ways to develop a community vision. When a large-mining company wanted to develop a mine in their territory, the Innu in Labrador, Canada decided to gather the voices of community members in order to decide how to respond. Local teams went to every single person in the communities to find out their thoughts on the mine, their hopes, their concerns and how they thought the leaders should proceed. In this case, some experts were brought in to help community members understand how a large mine operates, what can go wrong and what can be done to help prevent negative impacts.

From the information that was gathered, leaders had a “mandate,” which means clear instructions from the community. Community members said that: 1) Before any mining could happen, their land rights had to be respected; 2) The project had to be slowed down so they could have time to get prepared; and 3) They wanted real partnerships, not just jobs.<sup>15</sup>

When the companies or government tried to do things differently, the Innu leaders said “No!” They had a mandate from their people.

**Key FPIC Tip:** We have to stay united in our vision and if community divisions or disagreements develop, we should work to settle them internally. **We cannot show our divisions to outsiders.** Companies, governments and other outsiders are very quick to take advantage of divisions to get what they want!

## 2.4 Deciding on how we will make community decisions and strengthening our decision-making systems if we need to

How governments or companies make decisions can be very different from how Indigenous Peoples do. For example, members of parliament may vote yes or no on policies without ever asking the people they represent. Or a company might want a village council to decide immediately if our people will support a project, without allowing time for the rest of the community to be consulted. **Remember Free, Prior and Informed Consent means:**

- Respect for the authority of the leaders we choose to represent us;
- Respect for our customary systems for making decisions; and
- Respect for the systems we choose to make decisions for our people.

<sup>15</sup> Innes, Larry. “Voisey’s Bay: the Innu Experience.” Presented at the Training of Trainers Workshop on the Rights of Indigenous Peoples, Extractive Industries & National Development Policies in Guyana, Cara Lodge, Georgetown, Guyana. March 7, 2010.



It is very important to decide, as a community, how we will make decisions about projects or policies that could affect our territories. This means deciding what institutions will best represent us and what processes we will use to make decisions. Once we decide, we then have to make clear to outsiders what process we expect them to follow. We do not have to accept the institutions and systems chosen by or forced on us by outsiders!

## 2.4a Deciding what institutions will represent our people

### Institutions to choose from include:

- The customary institutions of our people;
- Institutions that were created by the government but are now accepted by our people. In Guyana, this may mean village councils. A village council is comprised of a Toshao and councilors; the law requires that the council must act collectively in discharging its functions; and
- New institutions set up by our people to deal with outsiders.

There is no rule on what is best. We can choose to be represented by only one institution. We can also choose to be represented by several institutions, but we have to be aware that our people risk being more easily divided if we do. Or we can choose to be represented by customary and newer institutions working together.

Researchers who have studied negotiations between Indigenous communities and mining companies in Canada recommend creating our own negotiating team that deals with the company and is responsible for informing the community. The team could have our chosen leaders on it (along with others), or the institution we have chosen to represent us could be a second layer of decision-making that the negotiators can refer to when they need to. For more information, see the Negotiating Impact Benefit Agreements guide that was created to accompany this FPIC guide.

**Whatever we decide, it is key to think about whether our chosen institutions are ready to deal with the complex decisions that surround mining, hydro, conservation or other modern projects.** This is especially important if our people have not had to make these kinds of decisions before.

To answer this question, we should think about our institutions and how they work:

- How are their members chosen?
- Do they represent the views of all people who will be affected?
- How involved are women, youth and elders in decision-making, and should steps be taken to get them more involved?
- Do they report back to our people and ask for our views before making final decisions?
- Are they controlled by the people?
- How prepared are they to negotiate agreements with mining companies or other outsiders? How prepared are they to understand the information needed to make an informed decision? How prepared are they to manage the money that may come with an agreement?
- If they are not prepared, how can they be strengthened?

### Other things to consider in deciding who will represent our people:

- Is it better to represent ourselves collectively as a whole village?
- Is it better for a group of related communities to be represented jointly? (For example several villages or homesteads together);
- Or to negotiate as a wider group of affected peoples?

Part of the answer to this question depends on the scale of the proposed project and its impacts. We also need to consider how we will work with distant communities and if we can stay unified in our negotiations with outsiders.

## Village leadership and community decision-making in Guyana

In some Amerindian communities in Guyana, there is concern that Toshias are making decisions on their own, without properly consulting the people. Some are under the increasing influence of political parties or the government, while others make decisions based on the Amerindian Act, not our customary decision-making processes. Is it enough that decisions are based on the agreement of just two-thirds of the small number of people who attend community general meetings when projects like mining, forestry and conservation will affect us all?

### We need to remember:

- Toshias and village councilors are elected by us, to represent our people, not the government or the wishes of the National Toshias Council; Section 13 of the **Amerindian Act** spells out the duties of the Village Council, which include to: 3a) “at all times act in the best interests of the village” and “1a) represent the village; (e) manage and regulate the use and occupation of Village lands; and (f) promote the sustainable use, protection and conservation of Village lands and the resources on those lands; and (g) encourage the preservation and growth of Amerindian culture.” Under Section 22 the duties of the Toshias are to “a) represent the interests of the Village at all times; (b) carry out his duties with honesty and integrity; (f) provide the Village general meeting with a report of every meeting which he attends on their behalf;”
- In order for them to represent us we have to give the Toshias a mandate — everyone of us has to give them guidance;
- This guidance should also come from groups of people like fishers, woodsmen, hunters and herbalists who are sometimes out on the land more than they are in the community. These groups are the customary institutions in some of our communities and they could be left out of important decisions unless we take special steps to make sure their voices are heard.

There are many tips for strengthening our decision-making systems in this guide and in its sister guides on impact assessment and negotiating impact and benefit agreements. We need to read all three and decide as a community what steps we need to take!

## 2.4b Deciding on our decision-making process

It is critical to come up with a strong decision-making process to deal with new situations like large-scale mining. So, as we are deciding what institutions we trust to represent all of our people, **we should also think about how important decisions are made in our community.**

Some questions to consider are:

- Who is involved in discussions?
- Who gets consulted, both in formal meetings and when things are discussed informally?
- Who often gets left out — is that right?
- How decisions are finally reached?
- How are progress on decision-making and the final decisions communicated back to our people?
- How are they enforced?
- Are leaders accountable to our people for the decisions they make?
- **Can these processes work for new situations, or do they have to be adapted?**

**Remember:** Few Indigenous Peoples entrust authority to single persons or institutions and then send them off to make deals without having ways of making them accountable to the people that they represent. If we choose to create a negotiating team in our community, we need to think about how to make sure that negotiators report back to the community — not only after decisions are made, but while negotiations are going on. Section 3.3 talks more about what to think about in developing a communications and consultation strategy.

**We also have to decide on the stages of our community's process for making decisions about new things, like large-scale mining or a conservation project.** One of the most important things to remember about Free, Prior and Informed Consent is that it is a *process*, not a *one-time event*. That means our communities do not have to give a single and final “Yes” or “No” up front. We have the right to decide whether to accept or reject a proposal for a project at each stage of its development.

Decisions about whether Indigenous lands should be logged, mined, dammed, crossed by a road, or included in a conservation scheme will have consequences for tens or hundreds of years. We have the right to demand time to consider the options, with the right information in hand. **If at any stage the project proponent is acting disrespectfully, we can stop negotiations and the deal can and should be halted.**

So we need to think through the steps that the negotiations should go through and then get the project proponent to agree to go through these stages.

- 1) A first phase may be to have time for community preparations, like those set out in Sections 2.1 to 2.4;
- 2) A second phase may be to gather information. Section 3 talks about what information is important and where to find it. We should not go forward until we are informed! That means not only getting information, but also understanding it;
- 3) Critical information will come from the environmental and social impact assessment. An ESIA is a report required for project approval and is commissioned by the company. It looks at the impacts a project could have and then makes plans to try to lessen the negative impacts. Some examples of impacts of mining projects are problems with alcohol or drugs that outside workers might create, or cutting forests and the risk to wildlife. There are many risks to be considered, but often the ESIA process doesn't consider them all. It also sometimes doesn't involve Indigenous communities properly, especially in Guyana. For this reason, it is important for our communities to become more involved in ESIA's. See the “Environmental and Social Impact Assessments” guide that goes with this FPIC guide for more information on the stages of ESIA's, how to get involved, and how to make sure that issues that matter to our community are included. **Key FPIC Tip: We won't know the full impacts of a project until after the ESIA is done, which can take two years. But by getting involved from the beginning we can get better informed.**
- 4) Once we have all the information we need, the next stage is to take time to study it, and make sure community members really understand it. See Sections 3.2 and 3.3 below for tips on how to make sense of it all;
- 5) Next, if our community decides that it is interested in the proposal going forward to the next stage, we should start negotiations toward an impact and benefit agreement with the government or company. But here again, we should not be rushed! Negotiations should happen in stages, with time to consider all options and offers. Section 4 outlines how we might approach negotiations. More detailed information can also be found in the guide on “Negotiating Impact and Benefit Agreements.” We need to read it carefully;
- 6) If our community is not happy with the results of negotiations, we can refuse to support the project and the agreement. If we are happy, we can make an agreement that gives our consent. Our work is not finished when we sign an agreement with the project proponent. Next, we have to make sure it is legalised, implemented, monitored and enforced. If the company does not implement it, our consent can be withdrawn.

**We cannot agree to a process that will lead to hasty decisions. Once signed, agreements are hard to change!**

## 2.4 c Community consent protocols

Many Indigenous communities facing pressure from mining, conservation, or other projects are creating their own “consent protocols.” A “protocol” is a set of rules or procedures. These protocols set out how decisions will be made and how outsiders should deal with the community to get their consent for a project or policy.

For example, the Akaitcho People and the people of the Taku River Tlingit First Nation in Canada have both written guidelines for exploration or mining on their territories. The Lokono People of West Suriname have also made their draft consultation and consent protocol available to the public.<sup>16</sup>

Each protocol is different but might include explanations of:

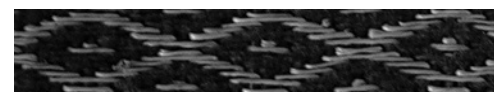
- The vision and rights of the community;
- Maps and information on land and resource boundaries;
- How outsiders are expected to act while seeking the consent of the people;
- Information on how to contact negotiators;
- What steps they must take to submit requests for meetings, information etc.;
- What steps the community will take in considering and responding to proposals;
- How the community expects to participate, such as by being involved in assessing and monitoring impacts;
- How final decisions will be made and agreements made legal;
- How the community’s consent or refusal to consent is to be determined and verified; and
- What benefits the community expects.

Whatever we decide to include in our own consent protocol, we should be sure to make it available to outsiders only after it has been fully reviewed and approved by our community. If we find we need to change or strengthen it in the future, that is our right. It should be a “living document.”

**Key FPIC Tip:** Under *international law*, it is the right of Indigenous Peoples to make laws to govern our traditional territories.<sup>17</sup> And under *Guyanese law*, village councils have the right to make and enforce village rules. These rules may govern things like: “the conduct of non-residents when within Village lands” and “the management, use, preservation, protection and conservation of Village lands and resources” (Amerindian Act – Section 14). These regulations are then supposed to be approved by the Minister for Amerindian Affairs (Section 15). However the United Nations Committee that monitors how well Guyana is meeting its obligations under the Convention on the Elimination of Racial Discrimination has expressed “deep concern” about this condition. CERD has urged Guyana to recognise that village councils have to have “the powers necessary for the self-administration and the control of the use, management and conservation of traditional lands and resources.”<sup>18</sup> That means the United Nations supports our right to make rules for our community whether or not the Government of Guyana agrees or not. We need to make sure that outsiders know that it is our right, and we have to insist that they respect the processes set out in our consent protocols!

*“Our communities are empowered to develop our own rules and regulations. They can be safeguards as well and could include safeguarding how an extractive activity can take place”*

— Amerindian trainer, Region 9



<sup>16</sup> The Taku River Mining Policy can be downloaded from the Internet at <http://www.trtfn.yikesite.com/downloads/mining-policy.pdf>.

<sup>17</sup> Article 5 of the United Nations Declaration on the Rights of Indigenous Peoples states: “Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.” Article 27 says that states shall give “due recognition to indigenous peoples’ laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources.”

<sup>18</sup> See Article 15. CERD. Concluding observations of the Committee on the Elimination of Racial Discrimination: GUYANA. April 4, 2006. The full text is available on the Internet at [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/c7d1cd668afb4a0ec125714c00311bbb/\\$FILE/G0641177.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/c7d1cd668afb4a0ec125714c00311bbb/$FILE/G0641177.pdf)



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## **Section 3: Getting informed about the project**

Getting fully informed about a project that may affect our traditional territory can be a challenge, especially if the type of project is new to our community. **A number of barriers need to be overcome. They include:**

- The fact that governments or companies often do not give full information;
- The information they do share is usually not balanced and talks more about positive benefits than things that could go wrong;
- Difficulty finding out more about a project because of communication barriers, like the absence of newspapers, phones and Internet in many Amerindian communities in Guyana;
- Limited time to consider information about the project;
- Making sense of very technical or complicated information;
- Being excluded from environmental and social impact assessments;
- And many others.

**But our communities can break down these barriers and get better informed.**

Steps that we can take are described in this guide and in the guides on impact assessment and negotiating impact benefit agreements that go with it. We should read them until we are familiar with all three! They talk about:

- Knowing more about the project proponent or the people we will be negotiating with. The proponents take the time to find out about us; we should do the same, especially when it comes to learning more about how they have dealt with other communities in the past!
- Learning about the stages of a project and its impacts;
- Getting involved;
- Knowing where to go for information;
- Managing all the information we get — there can be thousands of pages!
- Getting advice from experts and allies, like the APA, the Forest Peoples Programme and The North-South Institute;
- And making sense of it all!

### 3.1 Important information and where to find it

A lot of information will be needed for our community to fully understand the project that is planned. Some details may be shared with us by the project proponent; **other information we will need to find ourselves. We can do so by:**

- Visiting government or company offices to get copies of all information about the project. There is no “freedom of information” law in Guyana, and some officials will try to say no. But because Indigenous Peoples have the right to FPIC, the information we need should be made available to us. We will probably have to pay for photocopying;
- Asking questions of the project proponent, government or other groups that are involved. We should not be afraid to say we need more information or something explained in a more clear way;
- Searching the Internet for more information. If we don’t have Internet access in our community, we can ask members of our community to take the time to search for information when they are in Georgetown. We can also involve our young people who are in school in the city — they are our future leaders! If we feel we need training, we should ask for it. The Internet is one of the most important ways to learn about large-scale mining, the low carbon development strategy and other major projects. Appendix 1 at the back of this guide lists some websites that we can check for information;
- Getting in touch with other communities who have been affected by a similar project or by the same company;
- Working with experts and allies to help us find and understand the information we need. There are many NGOs that specialise in watching the activities of certain mining companies, and these can be a very valuable source of information and support for our community;
- Collecting information from our own territory and people. It is true that much of the information around a proposed mining project, for example, will be highly technical, but the people in our communities are also important sources of information. For example, the fishermen can tell us if the water is being polluted or muddied, and the hunters can tell us about impacts on wildlife. These are the groups that may not often come to community meetings, so we have to make sure they are included even if it means going out on the land to hear what they have to say.

#### Did you know?

The Lokono people in West Suriname were able to insist on getting a communications centre before they would consider negotiating with a company that wanted to build a bauxite mine on their territory. At first the company said no, but the communities pushed until a senior company official from Australia admitted it was standard practice in that country. The centre really helped the affected community! If it can be done in other countries we need to insist that it be done in Guyana!

**The following chart lists:** 1) Some types of information we will need to know; 2) Questions that need to be answered; 3) Why those questions are important; and 4) Where to find information. It should be read from left to right.

Not all of this information will be available from the start of the project. For example, we cannot know the full impacts a project could have until the environmental and social impact assessment is done properly and with the participation of our community! Many more questions will come up depending on the type and stage of the project. For more specific questions at different stages, we should make sure to read the toolkits on environmental and social impact assessments and negotiating impact benefit agreements.

**Table 1: Information that may be needed**

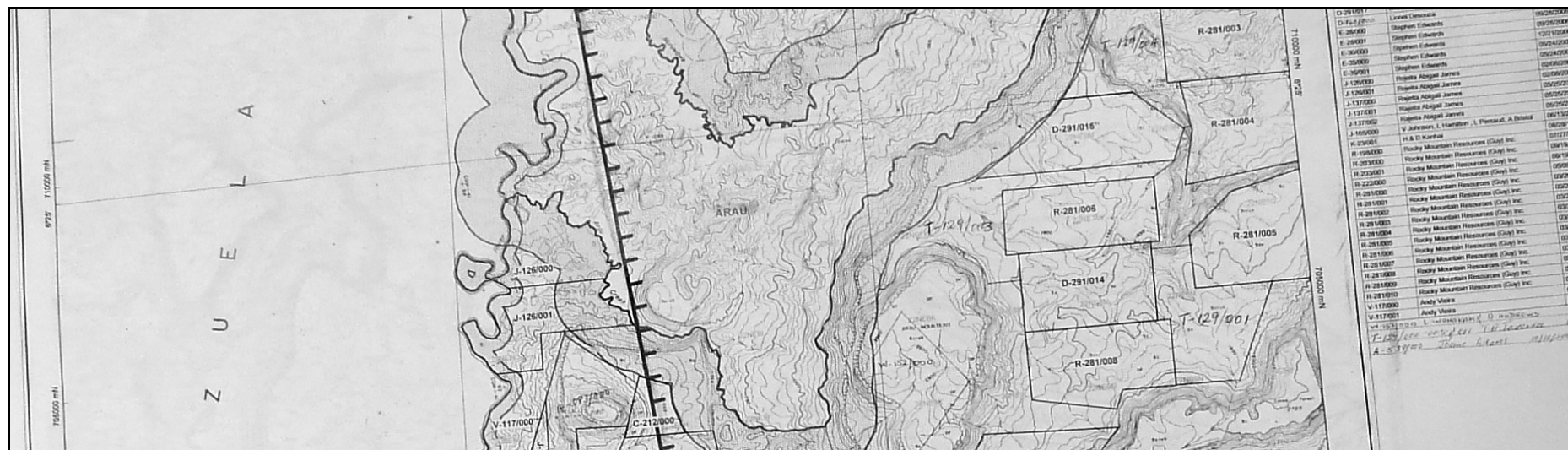
Information Needed	Questions to be Answered	Why they are Important	Sources of Information
<b>Project plans</b>	<ol style="list-style-type: none"> <li>1. What kind of project is planned?</li> <li>2. What other infrastructure will be needed to support it?</li> <li>3. What are the project stages?</li> <li>4. What is the timetable?</li> <li>5. How will Indigenous communities be engaged with?</li> <li>6. How will potential social and environmental impacts be assessed?</li> <li>7. How will traditional practices of farming, hunting, fishing and gathering be affected?</li> <li>8. How will food security and health be affected?</li> <li>9. Will any Indigenous Peoples have to be relocated (moved), or economically displaced?</li> <li>10. What emergency, management or other plans will be made?</li> <li>11. What plans for closing the project and reclaiming the land will be made?</li> </ol>	<ol style="list-style-type: none"> <li>1. Different types of projects have different risks for our community. For example, an open-pit mine instead of a shaft mine;</li> <li>2. If roads, a hydro-power dam or a processing plant are needed to support a project, the impacts will be much greater;</li> <li>3. Different stages mean different requirements under the law. They also mean that our community has to consent before each new stage;</li> <li>4. Knowing when a next stage will start helps our community to plan better for what we need to do to participate and get prepared, and how much time we have to do it. But we also have to insist on the time we need!</li> <li>5. It is best to have a clear commitment from the company that it will seek our consent and respect our rights. If it fails to live up to this commitment, we have something on paper to draw attention to;</li> <li>6-9. We can't properly decide to give or withhold consent until we know how our people will be impacted;</li> <li>10. If there is an emergency, will the company be prepared? For example, a cyanide spill. We have to make sure solid emergency plans and environmental management plans are in place;</li> <li>11. When mines close, companies often leave without cleaning up or restoring the land. Making companies commit to a solid plan can help prevent this.</li> </ol>	<ul style="list-style-type: none"> <li>• Material from the proponent, such as on its website;</li> <li>• Project summaries or documents submitted to the EPA or other government agencies;</li> <li>• Consultations with the proponent or government;</li> <li>• The media;</li> <li>• Internet searches;</li> <li>• Independent advice and information from legal and support organisations.</li> </ul>

**Table 1: Information that may be needed (continued)**

Information Needed	Questions to be Answered	Why they are Important	Sources of Information
<b>The Company</b>	<ol style="list-style-type: none"> <li>1. Who owns it?</li> <li>2. Who are the investors?</li> <li>3. What is its track record (that is, its history in other areas or with other peoples)?</li> <li>4. What is its position on social and environmental responsibility?</li> <li>5. Who will represent the company in negotiations, and how much power do they have?</li> <li>6. What groups or associations is the company a member of?</li> </ol>	<ol style="list-style-type: none"> <li>1. We should find out who the local company is and if it is owned by a foreign company. The local company must follow the parent company's code of conduct. Knowing what country a company comes from also gives us the option to appeal to the embassy of that country if our rights are violated;</li> <li>2. Some investors, like the International Finance Corporation, require companies they loan money to to take special steps to protect Indigenous Peoples;</li> <li>3. Do we want a company operating on our territory if it has a bad track record for violating Indigenous rights and polluting the environment? Probably not!</li> <li>4. If a company has policies on social and environmental responsibility, we can demand that they follow them;</li> <li>5. The people that the company sends to negotiate with our community should have the power to make decisions. They should not just be someone from the public relations department;</li> <li>6. They may have higher standards than the company on its own!</li> </ol>	<ul style="list-style-type: none"> <li>• Material from the proponent, such as on its website;</li> <li>• Meetings with the proponent;</li> <li>• Project summaries or documents filed with the EPA or other government agencies;</li> <li>• The media;</li> <li>• Internet searches.</li> </ul>



Information Needed	Questions to be Answered	Why they are Important	Sources of Information
Permits and Permissions	<ol style="list-style-type: none"> <li>1. Is the concession legal?</li> <li>2. What type of permit or license do they hold?</li> <li>3. What are the terms? What are the boundaries?</li> </ol>	<ol style="list-style-type: none"> <li>1. If our community has not first been notified, a mining concession is not legal under Section 53 of the Amerindian Act. If that is the case, we should contest the concession from the start;</li> <li>2. In Guyana some large-scale mining companies hold several medium-scale permits. This means that under Guyanese law, they should seek your consent for activities on our titled lands;</li> <li>3. If we are dealing with an exploration company, know the boundaries of where the company has been given a permit or license to explore.</li> </ol>	<ul style="list-style-type: none"> <li>• Material from the proponent;</li> <li>• Maps from the GGMC and other agencies;</li> <li>• Project summaries or documents filed with the EPA or other government agencies;</li> <li>• Independent information from NGOs working on corporate accountability, human rights and the environment.</li> </ul>



**Table 1: Information that may be needed (continued)**

Information Needed	Questions to be Answered	Why they are Important	Sources of Information
<b>Project Impacts</b>	<ol style="list-style-type: none"> <li>1. Will an ESIA be done?</li> <li>2. What kind of ESIA?</li> <li>3. What standards will the consultants follow?</li> <li>4. How can our people be involved?</li> <li>5. How will/could rights and freedoms be affected?</li> <li>6. What will the environmental impacts be?</li> <li>7. What will the social and livelihood impacts be?</li> <li>8. What will/could be the effects on our Amerindian way of life?</li> <li>9. How will they affect groups differently, like men and women?</li> <li>10. What is the company's or the government's plan to avoid these impacts?</li> <li>11. What emergency plans exist?</li> </ol>	<ol style="list-style-type: none"> <li>1. Some types of projects may not require an impact assessment under Guyanese Law. They might, however, be required to do so under international law and “best practice” standards;</li> <li>2. Companies will often try to “fragment” the ESIA process into smaller parts, or do separate assessments for different parts of a project. For example, a mine, the dam that will power it, or the road that will lead to it. This is wrong because it does not consider the “cumulative” or collective impacts that those projects will together have on our territory;</li> <li>3. See the guide on Indigenous participation in Environmental and Social Impact Assessments. We have a right to be involved, so we need to insist that we are!</li> </ol>	<ul style="list-style-type: none"> <li>• Material from and meetings with the proponent or the consultants they hire to do the ESIA;</li> <li>• The draft ESIA;</li> <li>• Our own community studies on impacts or interviews with key groups in the community;</li> <li>• Reviewing reports about impacts in other Indigenous communities — from the media or Internet;</li> <li>• Visits to affected communities;</li> <li>• Company plans.</li> </ul>

## 3.2 Getting the right advice

The issues we are confronting are complicated. So too is all the information we need to help us understand the project and the processes involved! The companies have technical experts and lawyers to help them — why shouldn't our community have them, too?

**If we are recruiting help from outsiders, there are some important considerations we should first think about:**

- We need people we can trust;
- The people we choose should have expertise, but they also need to respect our rights and the way our community makes decisions;
- We should take the time to explain to them our own point of view, what issues our community members think are important, and what aspects we find confusing;
- Just because they give us help, it does not mean that we have to do everything they suggest. We have to live with the consequences of any decisions; they do not.

**We should also use our own community experts to help us understand the plans being proposed and how they could impact our territories.** These people might be community members with a lot of knowledge about the environment or the kind of business that is being proposed.

**Sometimes getting advice is expensive.** A large project will have major impacts, and our community may need advice from experts on different subjects in order to be able to give our Free, Prior and Informed Consent. Some experts will give their time for free. But given the large number of communities who need advice, free advice isn't always possible. For a large project, Indigenous Peoples should be able to require the company, a conservation agency, or the government to provide us with money to hire experts. We might also decide to ask for money to train community resource people. **But remember:**

- We should freely choose the experts we want to give us advice, even if we take money from the company. The people they suggest may not have our best interests in mind if they work for the company!
- We might consider making a written agreement with the funder to make it clear that our community is not consenting to the project by accepting the money. Instead, we could spell out that we will use the funds to help us get informed, so that we can make a decision about whether or not we will consent.

**Understanding the advice we are given.** In order to make an informed decision, our community has to understand information that can be very technical and complex. Most people find this kind of information hard to understand, so we must not be intimidated. **We should make sure we:**

- Take time to understand what we are being told. If things aren't clear, we need to ask for them to be explained again;
- In the end, we should feel free to either accept or reject the advice given by the experts;
- Outside experts may be trying to help, but **only we know our own priorities**. It is our community's decision to make!

## 3.3 Making sense of the information with our communities

Once we have all the available information and advice on a proposed project, we need to make sure it is widely understood by community members. How we do this will depend on what the project is, what stage it is in, and what institutions we have chosen to represent us.

**We could consider developing a communications and consultation strategy.** For example, if we have created a negotiating team to deal with the project proponents and then report back to our community and its leaders, our strategy should:

- Regularly share information with and get feedback from community members at different stages of the project;
- Seek the input of all members of the community who will be affected — including women, children, elders, and those who don't always attend community meetings;
- Involve other peoples who share our territories, if they will also be affected;
- Use different strategies like community meetings, house-to-house visits and visual aids, such as maps, videos or pictures to make sure everyone is included and understands the information;
- Have private consultations with our community, with no company or government officials present;
- Especially for complex or large projects, we may need to have the information summarised in short booklets or briefings. We might also have to ask our experts and advisors to be there to explain these issues to the community;
- Include translation. Meaningful participation often depends on good translation. And the technical ideas that the project proponents use should be explained in a language that make sense to our people. Project proponents should provide the money for translation, but we should insist on choosing the translators we will use;
- Seek independent legal and other expert advice from trusted allies.

**Some key things to look for in the information are:**

- Does the company really respect our rights, our ownership of the land and the importance of protecting our way of life and livelihoods?
- Does the plan fit with our vision for the future?
- Is a commitment to involving, consulting and seeking agreement with our community clear in all company documents?
- How do the actions of officials compare with what they commit to on paper?
- Are there any impacts that the company is overlooking or ignoring? Do their plans to avoid impacts seem to be good enough? See the ESIA toolkit for more information;
- Are the benefits that companies and governments are promising to our community enough? See the IBA toolkit for more information on benefits; and
- Do we need more information? If yes, we should take more time. There is a lot at stake!







## Section 4: Reaching agreement and making sure it is properly implemented

### 4.1 Entering into negotiations

Once we are properly informed about the proposed project and understand its potential impacts, we need to decide as a community if we want to say “Yes” to negotiations toward an agreement with the project proponent, or say “No” to the project. Saying “Yes” to negotiating does not mean that we are saying “Yes” to the project — it just means we are willing to talk!

**First, we should read the “Negotiating Impact and Benefit Agreements” guide that goes with this guide for more information.** It discusses important steps like:

- How we can gain leverage for an agreement;
- How to prepare for negotiations;
- How to pick a negotiating team and make sure our community is involved;
- The importance of never showing disunity or community disagreements to the project proponents;
- The process of negotiating and tactics we can use to get a better agreement;
- Benefits and other conditions that can be included in agreements;
- Implementing agreements so the promises that are made on paper are actually realised in our communities!

**Key FPIC Tip:** Before we sit down to negotiate, we should try to get a clear commitment from the proponent that they will respect our rights and decisions, including our right to say “No,” and that they will respect our chosen processes. Before we go ahead we might want to get a signed agreement — a “negotiation protocol,” a “letter of intent” or a “memorandum of understanding” — that sets out these commitments in writing. If the other side goes back on its commitment later, we have clear grounds to withdraw our consent to negotiate. The IBA guide talks more about these protocols and agreements.

### 4.2 Reaching agreement

What our community wants in an agreement can depend on many things. But if we decide to say “Yes,” we will probably want to say “Yes” on the condition that our community is guaranteed certain benefits and on the condition that actions are taken to reduce negative impacts and guarantee our participation. The “Negotiating Impact Benefit Agreements” guide lists different clauses that are often included in IBAs. Some clauses include:

- Plans to protect against environmental, social and other impacts, and plans saying how Indigenous Peoples will be involved in monitoring the impacts of the project;
- Jobs, training and other benefits for Indigenous Peoples;
- Guarantees on access to land and resources for our hunting and other livelihood activities;
- Royalty payments and different models to manage cash;
- Compensation for lost spaces or restrictions on livelihoods;
- Ongoing communication and implementation plans, such as the creation of a committee of community and company officials, and set meetings at regular times;
- Mechanisms to resolve disputes or problems that might come up;
- Review periods and how changes can be made if they are needed; and
- Legal conditions.

**We must have the agreement reviewed by our own freely chosen lawyer or expert before it is signed.** If our community agrees, we should make sure the changes he or she recommends are included. After that, we cannot let the company change it again; however, sometimes this does happen, so we have to make sure we read the final agreement very closely before we sign it! In one case in Guyana, the mining company did not include the improvements that the lawyer had said should be included — but some members of the community didn't find this out until after they had signed it! Although the cost of hiring a lawyer can be intimidating, remember that in that case the community was able to insist that the exploration company give them money for a lawyer before they would consider signing. We can do the same!

## 4.2a Legalising agreements

Once an agreement has been reached, it needs to be legalised. To legalise an agreement, we get it signed by the legitimate representatives of all parties, including the project proponent and our community leaders. In Guyana we can also add weight to an agreement by getting it endorsed by a notary in Georgetown. Verbal agreements or handshakes are no longer enough!

If the terms of an agreement go beyond national law, we may need to take more steps to get it formally registered as a legal contract. An example is if an agreement recognises our customary rights over land and natural resources. We should get legal advice on how this is done in Guyana.

The aim is to end up with a mutually agreed upon and binding contract that can be enforced through the national courts if it is not respected.

## 4.3 Monitoring implementation and compliance

Once we have an agreement, it is the responsibility of both parties to uphold the agreed upon conditions. To check that this is happening, we need to regularly monitor how the agreement is being “implemented,” or acted on, and if the company is acting according to the terms of the agreement.

**There are three main ways of monitoring:**

- Creating a joint monitoring team made up of trusted representatives from both our community and the government or company. The main agreement should include a condition that this team will be created, and it should be clear that monitoring will respect Indigenous traditional knowledge;
- An independent, third party monitor (someone who is not connected to the proponent or the government)

may also be asked to monitor compliance at certain, agreed on times. This monitoring will occur less often, but it should be written into the agreement and the proponent should pay for it;

- If government agencies are trustworthy and the law allows it, then large-scale projects should be monitored by the government. In Guyana, only the environmental impacts will be monitored, but the government has very few people to do this job.

That is why it is so important to always set up our own community-based monitoring of project impacts. This will inform how the proponent is managing impacts and let them know if something needs to change. It will also inform our ongoing negotiation and consent processes.

#### **Monitoring should look for:**

- How all activities and benefit-sharing measures set out in the agreement are being implemented and if there are any problems;
- Problems with the mitigation measures or management plans that were agreed;
- Unexpected impacts or impacts that are worse than those that were identified in the environmental and social impact assessment;
- Any concerns or complaints from both parties. Again, we should continue to take special steps to get the views of all community members, including those who do not speak in community meetings.

See the Impact Benefit Agreement guide and the guide on environmental and social impact assessments for more information.

## **4.4 Dealing with complaints and grievances**

Few projects ever turn out exactly as planned. Unexpected impacts and misunderstandings usually arise during implementation. The monitoring programme should help identify these issues, but we also need an agreed mechanism to deal with problems when they come up. Some steps for dealing with grievances may be set out earlier (see Section 2.1), but the agreement we sign should also:

- Include measures to identify and register complaints or grievances;
- Create mechanisms to resolve disputes. These may be our customary legal processes or a combination of customary and modern processes. Often, companies establish their own dispute resolution processes, and we need to assess whether these are appropriate or not, and how they might be adapted;
- The most important thing is to have dispute resolution mechanisms that are accepted by all parties. They have to be able to act quickly, so disputes do not get worse; and
- Section 2.2e of the guide on impact assessment talks more about grievance mechanisms.

**Key FPIC Tip:** Consent can be revoked, but unless “triggers” (the reasons why we might revoke consent) have been written down in a legalised agreement, the proponent could take legal action against our community. That is why it is so important to make sure our consent is free, prior and informed, if we give it!



## Conclusion

There is no one checklist for steps our community can take to have its right to Free, Prior and Informed Consent respected. Every community is different and the contexts in which we live are different in terms of laws, how much access to information we have, which companies we are dealing with, and other factors. Make no mistake, FPIC will not be easy to achieve.

But there are new supports under international law and in Guyana that were not there a few years ago. There are also companies who are starting to recognise that conflicts with Indigenous People only cost them — cost them money because of delays, cost them problems with the law, and cost them by making them look bad to their investors and people in other communities where they want to do business.

We have a chance to use these openings to strengthen respect for our rights, the way we make decisions, and our plans for the future. The lessons shared in this guide have helped other Indigenous Peoples. They could also be useful to our community!



## Appendix 1: Websites with information on mining companies or Indigenous rights

Here are the websites of some (but not all) of the mining and exploration companies that work in Guyana:

- U308 Corp (local company is Prometheus Resources. <http://www.u308corp.com/>)
- Shoreham Resources. <http://www.shoreham.ca/>
- Infinito Gold. <http://www.infinitogold.com/s/Home.asp>
- First Bauxite Corporation. <http://www.firstbauxite.com/>
- Takara Resources. <http://www.takararesources.com/>
- Sacre-Coeur Minerals Ltd. <http://www.scm minerals.com/>
- Guyana Goldfields Inc. <http://www.guygold.com/>
- There are many others!

The “news releases” or “press releases” on their websites usually have more up-to-date information than the links that describe projects. Sometimes they also have documents called “corporate presentations,” which the companies put out a few times per year. These are often complicated, but they can have good maps and talk about future plans.

It can be hard to find information on some smaller exploration companies and some may not change their website content fast enough to let us know the changes that are happening on the ground. **Some other places to look are:**

- SEDAR. Companies that are listed on the Toronto Stock Exchange have to submit certain documents to SEDAR. Go to this link [http://www.sedar.com/issuers/issuers\\_en.htm](http://www.sedar.com/issuers/issuers_en.htm) and click the first letter of the name of the company you are dealing with to see if there is information on them. Remember, this is information from the company, so it won't talk about complaints, but it might talk about their plans and how much money they have to undertake those plans;
- A good way to keep up to date on information on a company when we don't have access to a computer every day is to set up a “google alert.” Google is a website that helps us search for information on the Internet: <http://www.google.ca/> If we set up a google alert, we can ask the computer to search for some key words everyday even if we're not on it, and then to send us an email with links to news reports. For example, we could search for the words “Shoreham Resources” and “Guyana.” Go to <http://www.google.com/alerts> We might get a lot of information so we should not use too many terms. We might have to set up an email account with “gmail” (Google's email program), but it is free.

**Some websites that have information about Indigenous rights, mining, and other natural resource issues and companies which communities have had problems with:**

- Mines and Communities. Use the search bar on the left-hand side of the web page to type in the name of the company and then click “Search.” The site also has some information on small-scale mining and climate change. The address is <http://www.minesandcommunities.org/>
- MiningWatch Canada. Click “Company” on the right side of the main page to go to a list of companies they have reports on. If the name of the company affecting our community is there, we can click on it for more information <http://www.miningwatch.ca/>
- Business and Human Rights. This site lists reports about companies and from companies. It also has some information on the standards that mining companies should follow. <http://www.business-humanrights.org>

- Earthworks. This website has a lot of different information on issues around mining and oil and gas, as well as specific information on some companies and support for communities. <http://www.earthworksaction.org/home.cfm>
- The Mineral Policy Institute website has information on mining issues and some companies. We can click on “programs and issues” at the top of the page or use the search feature to search for what we want. <http://www.mpi.org.au/home.aspx>
- Plus many others, like: Oxfam Australia at <http://www.oxfam.org.au/explore/mining> and the Forest Peoples Programme at <http://www.forestpeoples.org/>

**Websites of Industry organisations and investors that have special standards for Indigenous rights:**

- Prospectors and Developers Association of Canada. Their member list is here <http://www.pdac.ca/pdac/members/corporate-members.html> and information on their standards is here <http://www.pdac.ca/e3plus/index.aspx>
- The Mining Association of Canada. Information on MAC’s standards is here [http://www.mining.ca/www/Towards\\_Sustaining\\_Mining/index.php](http://www.mining.ca/www/Towards_Sustaining_Mining/index.php) The list of its members can be found here [http://www.mining.ca/www/About\\_Us/Member\\_Companies.php](http://www.mining.ca/www/About_Us/Member_Companies.php)
- The International Council on Mining and Metals. Its members are listed here <http://www.icmm.com/members/member-companies> Information on its sustainable Development Framework and Standards can be found here <http://www.icmm.com/our-work/sustainable-development-framework>
- The World Bank. Information on their safeguards and policies can be found here <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALDEVELOPMENT/EXTINDPEOPLE/0,,menuPK:407808~pagePK:149018~piPK:149093~theSitePK:407802,00.html>