



Company-Led Approaches to Conflict Resolution in the Forest Sector

by Emma Wilson

TFD's Steering Committee 2009

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by Emma Wilson

The Forests Dialogue

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Executive Summary

This discussion paper explores the potential for addressing conflict in the forest sector through the use of company-led tools and mechanisms. A major conflict issue for many is that of recognising and negotiating rights to land and resources. Conflicts also arise between companies and communities or civil society organisations over conservation priorities, environmental pollution and benefit sharing. Norms and standards that influence company efforts to develop their own conflict resolution mechanisms include certification standards, voluntary industry guidelines, project finance requirements and international norms. A key concept is that of “free, prior and informed consent” or FPIC, which is explored in this paper.

The paper offers examples of tools and approaches that are being employed by companies and non-industry players working closely with companies to address conflict-related issues. These include efforts by Aracruz Cellulose in Brazil to build dialogue with local indigenous groups in order to address a long-running dispute over land rights; the experience of APRIL in Indonesia in developing a land dispute resolution protocol based on the principles of FPIC; and the corporate strategies and tools employed by major companies such as Stora Enso, Mondi and Weyerhaeuser. New information and communications technologies are being used to overcome some of the obstacles (such as non-literacy) to community participation. An example of such innovation is the use of hand-held global positioning systems (GPS) to enable Pygmies in the Congo Basin to identify and protect critical forest resources before logging takes place.

Two broad approaches emerged from the survey. These are termed: (1) **rights-based approaches** – favoured by non-industry respondents – which focus primarily on helping communities to identify and defend their rights to land and resources; and (2) **stakeholder management systems** – favoured by companies as part of their overall management systems. In practice, there is considerable overlap between the two approaches. The paper concludes that methods and tools related to both types of approach are still evolving in the forest sector. For example, while grievance mechanisms for local communities to channel (and resolve) their concerns are required by certification initiatives, there is little evidence of broad adoption of formal grievance mechanisms. Company complaints procedures appear to be largely ad hoc, or in their early pilot stages. Respondents also identified the need for more dialogue and capacity building around rights-based approaches, particularly in relation to putting FPIC into practice.

Respondents noted the importance of companies consulting stakeholders from an early stage of any forestry development: expectations and uncertainties are managed more effectively through honest dialogue than by suppressing information. Industry respondents expressed the need for guidance on how to conduct and mediate dialogue with local communities. Dialogue processes need to feed directly into company decision-making in order to be meaningful. Good practice sees companies embedding conflict avoidance and resolution in day-to-day business practice. Formalised approaches such as company strategies and “framework tools” are increasingly

being developed, but need to be tested and evaluated in order to have a broader impact. Companies need to ensure that their standards are also applied by their sub-contractors. It is becoming increasingly important that subcontractors share in employment and community responsibilities.

A range of mechanisms and flexible, locally tailored approaches are required to address conflicts. This poses a challenge to the development of industry-wide and company-wide mechanisms, tools, standards and guidelines. Solutions need to be designed for the local context and in close collaboration with local stakeholders (government, communities, local enterprises and civil society). However, this does not preclude the need for industry-wide sharing of experience and knowledge, and the development and testing of broadly applicable principles and methodologies. Respondents noted the need for in-depth analysis of successful (and less successful) implementation of conflict management tools and approaches. They also called for more robust and standardised monitoring and evaluation systems and indicators, adapted to local conditions. Recommendations also included more participatory monitoring and independent third party monitoring, building on emerging good practice in this area.

There is a lack of understanding and skills within many companies – large and small – to develop and implement effective conflict management procedures and processes, particularly in relation to complex issues. Companies need to build up their human resources and consider hiring – or working closely with – more experts with specific social skills, including anthropologists. Uncertainty about the costs and implications of conflict management approaches can be addressed through pilot initiatives. Community capacity building is required first of all to enable people to understand their rights, and secondly to use the range of tools that can help them defend their rights. This might include training, exchange visits, information dissemination, workshops, school-based materials, and various communications media, including theatre, music and radio.

Some respondents expressed scepticism about the potential of company-led mechanisms to significantly improve conflict situations in the majority of forests, as promoting such mechanisms is only likely to influence companies that already want to do things better. Respondents also warned against assuming that voluntary company mechanisms for conflict resolution would be able to resolve conflicts that are rooted in long-running historical issues around land rights and poor governance. To make a positive impact across the board, introduction of company-led mechanisms should be matched by parallel engagement with legislative and regulatory agencies. There is a need for capacity building within government agencies to improve their understanding of fundamental conflict-related issues and enhance their ability to contribute to just and lasting solutions.

Forest Enterprises and Conflict

This discussion paper explores the potential for addressing conflict in the forest sector through the use of company-led tools and mechanisms. Large-scale forest enterprises can come into conflict with indigenous peoples and local communities and with their workers, due to a range of factors. These factors, which are especially prevalent in developing countries, include a lack of regulatory enforcement, frequently compounded by a lack of clarity in regulation; lack of coherence between international, statutory and customary law; and poor communication or a lack of understanding between industry, government, community and civil society actors.

In some cases, negotiation and conflict resolution have led to the establishment of negotiation frameworks between industry and communities, as well as industry-community agreements and peaceful settlement of disputed land and resource claims. In the absence of effective conflict resolution mechanisms and negotiations, however, competing claims to land and forest resources have been contested through protest, resistance and violence, or in some cases via the enforced displacement of communities.

Poorly managed conflicts can be detrimental to all parties. Local people may suffer not only due to the source of the conflict, e.g., loss of land and livelihoods, low wages, poor working conditions and environmental damage, but also from the conflict itself and from inadequate or inappropriate measures employed to resolve the conflict. Governments may suffer due to increased instability, loss of benefits and revenues from the industry, and loss of trade and inward investment opportunities.

Companies recognise that conflicts around their operations can have costs to their reputation and a negative impact on their long-term sustainability and profitability. Conflicts may affect companies in a number of ways, including:

- ➔ Higher financing costs: some conflicts may substantially increase business risks; some investors will not invest in countries or companies facing serious, unresolved conflicts
- ➔ Higher investment costs, when conflicts cause the delay of projects
- ➔ Higher operational costs, when operations are disrupted by conflicts (e.g., forest fires, land invasions, road blockages, theft of timber)
- ➔ Loss of market share as a result of damage to a company's reputation, inability to secure forest certification, or concerns from customers related to their own reputation
- ➔ Decreased motivation of employees, since some conflicts may create substantial internal stress

On the other hand, by demonstrating that they can prevent or minimise conflict, companies can create market opportunities (notably through certification and labelling). There is also some evidence that by putting responsible business principles into practice, a company can also influence the overall business and policy environment in the country or region where they are working.

Good practice standards adopted by corporations, sometimes with third party verification of compliance and certification, are designed to ensure that abuses and conflicts do not arise. Standards initiatives include the certification schemes of the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification schemes (PEFC), as well as the ISO 14001 environmental management standard and the environmental and social performance standards of international financial institutions. These standards may require adherence to international norms on human rights, indigenous peoples' rights, labour standards and environmental protection. Some of these standards also require companies to have formal mechanisms for conflict resolution.

Issues around conflict and the forest sector have been discussed and debated in various fora, through campaigns, research programmes and dialogues.¹ The specific objectives of this discussion paper are:

- ➔ To identify tools and mechanisms currently being deployed by companies for the purposes of conflict avoidance and conflict resolution in the forest sector²
- ➔ To assess the extent of deployment within the industry and the effectiveness of current tools and approaches
- ➔ To suggest areas for improvement and further research or action

The discussion paper draws on a range of academic and practitioner literature that has addressed company-led approaches to conflict management in the forest sector as well as in other sectors. Key issues and approaches are highlighted; the paper does not claim to represent an exhaustive coverage of the literature.

In addition to the literature review, a questionnaire survey was carried out:³

(1) In order to get an idea of the range of approaches and the extent to which these have been taken up by industry, a short version of the questionnaire was sent out to 230 companies by email.⁴

(2) In order to elicit more in-depth responses from industry about issues relating to conflict resolution and the mechanisms employed by them to address conflict, a longer version of the questionnaire was administered – mostly by telephone – with six industry respondents.⁵

(3) In order to gain a more diverse range of perspectives on the issues, further telephone and email discussions were held with representatives of the research community and non-governmental organisations.

In total, the survey analysed responses from fifteen representatives of industry (from eleven countries), seven academics/researchers, and eleven representatives of non-governmental organisations. A draft of the report was reviewed by a mixed group of eleven respondents.

This discussion paper was commissioned, co-financed and written under the guidance of the Steering Committee of **The Forests Dialogue (TFD)**. Formed in 2000, TFD's mission is to provide an on-going forum for multiple stakeholders to discuss the most pressing issues related to sustainable forest management (SFM) and conservation around the world. To this end, TFD is currently developing or convening international multi-stakeholder dialogue processes around: forests and climate; intensively managed planted forests; forests and poverty reduction; forest owners and sustainable forest management; forests and biodiversity conservation. Previous dialogue initiatives have covered illegal logging and forest governance; and forest certification.

The paper was researched and written by the **International Institute for Environment and Development (IIED)**, who also co-financed the work. IIED is an international policy research institute working for more sustainable and equitable global development. IIED's work on business and sustainable development aims to build an understanding of where and how businesses can most effectively contribute to sustainable development. This includes effective management of the environmental and social impacts of corporate practice and addressing poverty alleviation and environmental security through core business activities.

What is the Scope of the Paper?

The starting point for this discussion paper is the potential for voluntary company mechanisms to effectively address conflicts associated with some forest sector activities. It was clear from the outset that we were focusing on a limited number of companies, i.e., those that would be motivated and have the resources to establish their own conflict avoidance and conflict resolution mechanisms. Furthermore, it became evident that corporate mechanisms could only be effective in addressing a limited number of conflict types.

An important factor influencing the way a company behaves is competition. Where responsible practice does not yield competitive advantage, there is less motivation for companies to go beyond minimal legal requirements. Another key factor is governance. Companies that would normally engage in responsible business practice in regions of the world with effective governance regimes may fail to do so in others with less favourable environments. This report highlights and welcomes efforts made by companies to introduce new practices into particularly difficult environments, hailing the potential of such initiatives while acknowledging their limitations.

In interviews, both industry and non-industry respondents were invited to identify the main conflicts encountered in relation to the forest industry. Respondents noted the difference in types of conflict facing large and small companies; plantations and semi-natural forests; new plantations vs long-established enterprises. Similarly the structure of relations with outgrowers and the organisation of local communities all have an influence on how conflict can be addressed. Major and minor conflicts need to be dealt with in a different way. This means that a range of mechanisms and flexible, locally tailored approaches are required to address conflicts. This poses a challenge to the development of industry-wide and company-wide mechanisms, approaches, standards and guidelines.

The main types of conflict identified by both industry and non-industry respondents were related to land use and land rights, especially where this involved indigenous peoples and local communities. In some cases, companies have been involved in long-term dialogues to resolve such issues. In some cases there are no processes in place to resolve them. Respondents reported cases where local communities have no power; they are forced to leave their lands; there are no resettlement programmes; there is no compensation because they have no formal rights; and communities may be forced into illegal logging as the only way to make a living from the forest. Some of these issues can be addressed by corporate mechanisms, but the companies involved need to be sufficiently motivated to do this.

Some conflicts can only partially be addressed by voluntary corporate mechanisms and initiatives. Where conflicts are over land rights, the reasons for the conflict may be deeply

rooted in historical land use and land reform processes. Conflicts may arise where a change in legislation has given local people new rights (or given recognition to rights that were previously ignored) which may conflict with other established rights, but the implications of this have not been fully explored with all stakeholders. In many cases the way in which forest concessions were allocated (i.e., involving corruption or lack of transparency) sits at the heart of conflict situations. This may be addressed most effectively through reform of policy and the practices of governments and bureaucracies (which lies outside the scope of this paper). However, multi-stakeholder dialogue can be employed to resolve some of these tensions.

Conflicts also arise when conservationists want to protect an area of forest from development in the absence of the political support needed for compensation and mitigation of economic and social impacts. Some respondents noted that this kind of public policy dispute over land use – often between governments and civil society organisations – cannot be resolved using voluntary corporate mechanisms. On the other hand, resolution of such disputes could benefit from companies' involvement in policy dialogues.

Some conflicts are relatively private conflicts between a company and someone who has a relation with the company, for example a mill emitting an odour. Such conflicts can be addressed between the complainant(s) and the company. Small local conflicts sometime escalate into major conflicts if not addressed in a timely fashion, and companies feel that a good way to avoid this is to have an established company mechanism for engaging with the community, such as a network of community liaison officers and a telephone “hotline.”

Some companies have gone further to develop outgrower programmes or to negotiate benefit agreements with local communities. Some of these company-community partnerships have been very successful. Some non-industry respondents also noted that companies have been known to sign agreements with communities that promise social benefits, but if these are not delivered, this can create a further source of conflict. Transparency and robust monitoring and evaluation processes are crucial to ensure that such arrangements are equitable.

Respondents highlighted the difference in perceptions of conflict held by different stakeholders (e.g., industry, environmental NGOs, communities, government agencies and certification bodies), which in some cases hinders efforts to resolve the underlying problems. Companies expressed their frustration at long-standing conflicts with NGOs which they described as “symbolic” or “ideological.” They felt that such conflicts were almost impossible to resolve, although attempts have been made, for example using third party mediation.

Most respondents emphasised the need for guidance on building effective dialogue between groups, not only between companies and communities or workers, but also between certification bodies and NGOs, industry and conservationists, government and industry.

What Norms and Standards are Relevant?

This section provides a brief overview of some of the key norms and standards that are relevant to the development and implementation of company-led tools and mechanisms for conflict management in the forest sector. These might broadly be divided into “legal” and “voluntary” standards. As some respondents noted, though, certain standards may be referred to as “voluntary,” but in reality compliance may be a market-driven obligation.

National Legislation

Companies are obliged at a minimum to comply with the legal and regulatory requirements of the countries and local regions where their operations are based. Some company tools and mechanisms for conflict management are required by national legislation. For example, many countries now require mandatory public consultation as part of an environmental impact assessment (EIA). Some legislation states that forest concession holders must consult with communities and demonstrate how they will treat them fairly in order successfully to apply for a concession. This might involve preparing a management plan, an inventory and a statement of capacity. Survey respondents emphasised that the interpretation and implementation of these legal requirements are as important as the fact of compliance.

Land rights legislation and legislative reform have played a major role in many of the conflicts over land and resource rights and access (see Section 4.1). Some of the approaches to conflict management described in this report are ways to address gaps in legislation or inadequate enforcement of legislation.

The European Forest Law Enforcement, Governance and Trade (FLEGT) process is arranging Voluntary Partnership Agreements (VPAs) between the EU and timber-exporting countries. (Ghana has just signed; Indonesia, Malaysia, Cameroon are expected to sign in due course.) The VPAs restrict trade between countries and the EU to legal timber. Defining what is legal is a major part of VPA processes. This definition of legality and the multi-stakeholder process itself can help to address conflict issues in the forest sector.

International Norms and Standards

The principles of stakeholder engagement, timely information and respect for people's social, cultural, labour and resource rights are framed in several international conventions and declarations, including the following:⁶

- ➔ International Labour Organisation (ILO) conventions, including:
 - ILO Convention 87 on Freedom of Association and Protection of the Right to Organise (1948)
 - ILO Convention 98 on the Right to Organise and Collective Bargaining (1949)
 - ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries (1991)
- ➔ The main United Nations human rights instruments including:
 - Universal Declaration of Human Rights (1948)
 - Convention on the Elimination of All Forms of Racial Discrimination (1963)
 - International Covenant on Civil and Political Rights (1966)
 - International Covenant on Economic Social and Cultural Rights (1966)
 - Convention on the Elimination of Discrimination Against Women (1979)
 - Declaration on the Rights of Indigenous Peoples (2007)
- ➔ Regional human rights instruments including the American Convention on Human Rights (1969) and the African Charter of Human and Peoples' Rights (1981)
- ➔ Rio Declaration and Agenda 21 (1992)
- ➔ The Convention on Biological Diversity (1992)
- ➔ The Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (1998)

Conventions and Covenants are legally binding in those countries that have ratified them and associated Protocols. Declarations are non-legally binding, but may have a great deal of moral and political significance – as is the case with the UN Declaration on the Rights of Indigenous Peoples. Conventions and Declarations are aimed at governments, not the private sector. Nonetheless, they provide a reference framework for private sector action, and they can influence the development of private sector standards, such as those set by certification initiatives or international financial institutions (see below).

Free, Prior and Informed Consent

The principle of free, prior and informed consent⁷ (FPIC) appears in the 2007 UN Declaration on the Rights of Indigenous Peoples.⁸ Article 32 of the Declaration includes the following:

- ➔ States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
- ➔ States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.⁹

Debate around the concept of FPIC has raised the following issues:

- ➔ Whether the Declaration and the concept of FPIC relate to procedural rights (i.e., the right to due process and obtaining consent before decisions affecting land or resource rights that are otherwise established) or whether it also endows substantive rights to indigenous groups (, granting new land or resource rights, with the potential for communities to veto activities supported by other rights holders)
- ➔ The need for clarity on what the consent applies to (in many cases FPIC is mentioned in relation to a narrow range of activities, such as resettlement, though sometimes it is interpreted as having a more blanket application); and how frequently the consent ought to be elicited (e.g., for any change in activity or only at specific times)
- ➔ The question of boundaries: Where land rights (including customary rights) are clear, the application of FPIC equates to the requirement for consent expected from any private property owner. More controversial are the calls for FPIC to be applied to projects located outside indigenous lands, but that could affect the indigenous populations in any way. In such cases, legal rights become less clear; or issues may arise where FPIC applies to the local indigenous population but not to the non-indigenous population.
- ➔ A further concern is how collective consent is achieved and trust built in order to achieve it. Who within the community gives the consent and how do you know when you have it? How do you address conflicting local opinions about consent and address minority concerns? How representative are the local representative institutions that are engaged in negotiations?

The UN Declaration provides guidance for government action. It is not in itself legally binding, but many of its provisions, including in relation to FPIC, recapitulate the provisions of other international human rights treaties, such as the Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the American Convention on Human Rights, as applied to the circumstances of indigenous peoples.¹⁰

For all the provisions of the UN Declaration to become legally binding, it needs to be adopted into national legislation, which has happened in a limited number of cases to date.¹¹ Provisions requiring the eliciting of consent from local communities before industrial activities take place are also increasingly being incorporated into international voluntary standards.¹² These are discussed in the following sections.

It is clear from the volume of debate around the terminology and application of FPIC that the concept still requires a great deal of testing, development, refinement and evolution of practical methodologies (see Section 4.1). Some respondents noted the need for multi-stakeholder dialogue specifically around the FPIC concept.

Forest Certification

The two main forest certification systems in use by forest enterprises are those under the aegis of:

- ➔ The Forest Stewardship Council (FSC), which covers 100 million ha of forest in 79 countries, mostly North America and Europe, with around 10% in Latin America, 4.8% in Africa and 2.4% in Asia; and
- ➔ The Programme for Endorsement of Forest Certification schemes (PEFC), an umbrella certification organisation that covers over 200 million ha of forest in 19 countries, predominantly in North America and Europe, but also in Chile, Brazil and Australia.¹³

Both of these systems have requirements for a company to have conflict resolution mechanisms. FSC and PEFC involve labelling schemes and thus represent a key element of company marketing strategies for those who chose to apply for them.¹⁴ Key PEFC members are the USA's Sustainable Forestry Initiative (SFI)¹⁵ and Canada's National Standard on Sustainable Forestry Management (CSA).¹⁶

Box A (opposite) takes FSC as an example of certification requirements and their relevance to conflict management.

Challenges in bringing about change in conflict resolution practices through applying certification standards include the following:

- ➔ Enabling forest operations in weak governance environments to meet the standards
- ➔ Ensuring that consultation with local stakeholders is meaningful
- ➔ Managing expectations of what certification can achieve (and addressing issues using a combination of tools in addition to certification)
- ➔ Ensuring that certification and auditing take place in a transparent and equitable manner

Box A: FSC Principles and Conflict Management

The process of securing FSC certification requires a stakeholder engagement process, which enables community issues to be raised and may set in motion a process of resolving them.

The FSC principles 2, 3, 4 and 8 address tenure rights, use rights, compensation and labour standards. Articles 2.3 and 4.5 require appropriate mechanisms for resolving land tenure disputes and other grievances. According to Article 4.4, "management planning and operations shall incorporate the results of evaluations of social impact."¹⁷

Articles 2.2, 3.1 and 3.4 also refer to eliciting the free and informed consent of local communities and indigenous peoples (see below). This consent relates to specific rights:¹⁸

- 2.2** Local communities with legal or customary tenure or use rights shall maintain control, to the extent necessary to protect their rights or resources, over forest operations unless they delegate control with free and informed consent to other agencies.
- 3.1** Indigenous peoples shall control forest management on their lands and territories unless they delegate control with free and informed consent to other agencies
- 3.4** Indigenous peoples shall be compensated for the application of their traditional knowledge regarding the use of forest species or management systems in forest operations. This compensation shall be formally agreed upon with their free and informed consent before forest operations commence.

- ➔ Influencing the overall state of conflict resolution practices. (Companies applying for certification have already achieved a certain level of awareness and desire to address the issues they are facing. Many companies do not have any need for certification and these companies frequently cause the most environmental damage and social conflict.)
- ➔ Government capacity to support enforcement (e.g., in relation to labour rights).

The fact of there being a number of different certification schemes has implications for a company that might be thinking of developing standardised approaches to conflict resolution across its global operations. Localised solutions are generally more appropriate, but this also means that where something is not specifically required locally, it may not be delivered. A more centralised approach that allows flexibility to respond to local specifics might help to ensure that local operations incorporate high standards being deployed by the best performing branch of the company.

Accreditation and certification procedures themselves may be the cause of conflict. A TFD review of certification impacts and assessment frameworks revealed that all four of the assessment frameworks analysed noted the need for dispute resolution procedures relating to accreditation and certification decisions themselves.¹⁹

Company Management Standards and Codes of Conduct

In addition to international norms and standards, corporations are increasingly influenced by the values of their customers and the responsible investment community. Most major forest corporations have corporate responsibility policies, including sustainability principles, management standards and Codes of Conduct. They may have human rights policies, indigenous peoples' policies and labour policies. Their CEOs make public statements about sustainable development, although these tend to focus more on climate change and environmental sustainability than on care for local communities.²⁰

The ISO 14001 environmental management system standard, which is implemented by many companies, evaluates companies' environmental management systems and procedures for improving their standards. It also has a specific requirement for companies to have some form of public grievance mechanism (see Section 4.3).

The fact that most companies subcontract or outsource much of their forestry activities has implications for the implementation of ethical policies, Codes of Conduct and management systems. In some cases it is difficult for companies to monitor and enforce their principles and standards along the supply chain.²¹ Where large companies are the only clients of smaller subcontractors, they have the power to decide wages and working conditions. In many cases governments fail to monitor labour standards effectively.

Voluntary Industry Guidelines

Several major forest corporations have signed up to international networks and processes such as the Global Compact and the World Business Council on Sustainable Development. These provide frameworks and principles for responsible business practice. The Global Compact has a procedure for complaints to be made against its member companies (see Section 4.3). Further ethical guidelines for corporations include the OECD Guidelines for Multinational Enterprises;²² and the reports of the UN Special Representative on Business and Human Rights.²³

Industry-specific initiatives also exist.²⁴ The UN Food and Agriculture Organisation (FAO) has developed a set of Voluntary Guidelines on the responsible management of planted forests.²⁵ The voluntary guidelines were developed via a two-year multi-stakeholder process and are aimed at decision-makers in the government, private sector or NGOs. They establish a framework to support dialogue in the formulation of policies, laws, regulations, strategy and management plans with the aim of improving the enabling conditions and enhancing capacity in planted forest management.

Principles 1 and 2 emphasise the importance of governments and policy-makers recognising local tenure rights and ensuring that all stakeholders participate in decision-making processes.

Principle 2 specifically recommends “resolving conflicts promptly through mutually agreed conflict management mechanisms involving major stakeholders.” Principle 3 highlights the need to build effective organisational capacity. Principle 7 specifically calls for the recognition of social and cultural values in planning and management of planted forests (including customary rights, traditional knowledge and tenure).

Principle 8 relates to the maintenance of social and cultural services, and includes inter alia the following specific guidelines:

- ➔ introducing socio-economic baselines and long-term impact assessments prior to establishment of planted forests and monitoring changes periodically thereafter
- ➔ establishing conflict-resolution mechanisms to address stakeholder disagreements over tenurial rights, access, social service provision, employment issues and other rights to social and cultural services that might arise among investors or organizations involved in planted forest investment and management
- ➔ respecting community ancestral rights, for example for hunting or the collection of non-wood forest products, when planted forests are not put at risk
- ➔ preventing displacement or resettlement of communities without free, prior and informed consent

In March 2007 WBCSD's Sustainable Forest Products Industry (SFPI) working group agreed its Membership Principles and Responsibilities.²⁶ The CEO of each participating company must sign these as a condition of participation in the SFPI project. The principles were developed over a 12 month period in consultation with a range of stakeholders and leveraged extensive lessons from initiatives organised by The Forests Dialogue.

There are eight operational SFPI principles with a ninth relating to reporting. The operating principles cover: 1) governance; 2) resource management; 3) fibre sourcing; 4) eco-efficiency and emissions reductions; 5) climate change mitigation; 6) health & safety; 7) community wellbeing & stakeholder engagement; and 8) human rights and labor standards.

Some aspects of the principles relate to conflict resolution and stakeholder engagement – specifically:

- ➔ 2.3 states that companies should respect the lawful access and tenure rights of indigenous peoples and other community members directly affected by their forestry operations; and proactively seek to resolve any potential land disputes through dialogue, independent arbitration or the legal system
- ➔ 3.1, 3.2 and 3.3 set conditions for purchasing fibre

- ➔ 7.1, 7.2 and 7.3 speak to effective community engagement and contributions to local development
- ➔ 8.1 references application of international human rights and labour standards when these are lacking locally

Project Finance Requirements

International financial institutions (IFIs) that provide project finance for major industrial projects, including forestry-related projects, attach social and environmental conditions to provision of finance. Many of these relate to procedures that contribute to conflict management. These include requirements for environmental and social appraisal, information disclosure and stakeholder engagement, provision of appropriate compensation for negative project impacts, maintenance of labour and working conditions, and performance monitoring and review.

In cases where people need to be relocated from lands where forestry operations are to take place, financial institutions will require a Resettlement Action Plan or similar plan to be developed. Where indigenous communities are affected, an Indigenous Peoples' Development Plan is likely to be required. IFIs now have specific requirements for grievance mechanisms that allow communities to channel their concerns about project activities to the company, and – importantly – have these concerns addressed (see Section 4.3).

Since 2006 the International Finance Corporation (IFC), the private sector investment arm of the World Bank Group, requires clients that receive project finance to “set up and administer mechanisms or procedures to address project-related grievances or complaints from people in the affected communities.”²⁷ The mechanism should address concerns promptly, using a culturally appropriate, accessible and transparent process.²⁸ The IFC also has its own recourse mechanism. Any individual, group or community can lodge a complaint against an IFC-financed project via the Compliance/Advisory Ombudsman (see Section 4.3). The IFC standards also form the basis for the Equator Principles, which are voluntary standards adopted by over 50 financial institutions.²⁹

The revised Environmental and Social Policy of the European Bank for Reconstruction and Development (EBRD) entered into force on 12 November 2008.³⁰ This policy provides for the establishment of a “mechanism, process or procedure to receive and facilitate resolution of stakeholders’ concerns and grievances about the client’s environmental and social performance.” The EBRD also has its own independent recourse mechanism (see Section 4.3).

A Resettlement Action Plan or Indigenous Peoples’ Development Plan is likely to require its own grievance procedure. For example, Article 13 of the ADB Resettlement Framework for Forest Plantation Development Project (Lao 31344) requires establishment of an “effective mechanism for hearing and grievance redress during the Resettlement planning and implementation in a project.”³¹ The EBRD similarly requires that projects impacting on indigenous peoples or resulting in the resettlement of communities must have an additional appeal mechanism.³²

The IFC’s Performance Standard 7 (Indigenous Peoples) sets out a series of requirements for projects that are likely to have adverse impacts on local indigenous communities. The focus is on good faith negotiation and informed participation of indigenous people in the process of project development. Specific requirements include the following:

- ➔ ...[T]he consultation process will ensure their free, prior, and informed consultation and facilitate their informed participation on matters that affect them directly, such as proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues.
- ➔ The client will seek to identify, through the process of free, prior, and informed consultation with and the informed participation of the affected communities of Indigenous Peoples, opportunities for culturally appropriate development benefits.

Critics of the IFC formulation have highlighted the importance of the term consent in providing communities with the opportunity to influence decision-making by committing developers to respond to community concerns.³³

The EBRD’s revised Environmental and Social Policy includes the Performance Requirement 7 (Indigenous Peoples), which similarly sets out detailed requirements for the meaningful participation of indigenous peoples. The EBRD Performance Requirement specifically uses the term consent in relation to two specific industrial activities:

- ➔ ...When relocation is unavoidable, the client will not carry out such relocation without obtaining free, prior and informed consent for it from the affected Indigenous Peoples’ communities as a result of good faith negotiations. (Article 35)
- ➔ ...The client will not proceed with...commercialization [of the cultural resources, knowledge, innovations, or practices of Indigenous Peoples] unless it: (i) enters into a good faith negotiation with the affected communities of Indigenous Peoples; (ii) documents their informed participation and their free, prior, informed consent to such an activity; and (iii) provides for fair and equitable sharing of benefits from [such] commercialization.

As such, the requirement for free, prior and informed consent or consultation is one aspect of a set of procedures for engaging with indigenous (and local) communities, and managing project impacts and any potential conflicts arising from them.

As part of the Sustainable Forest Products Industry project, WBCSD is working with PricewaterhouseCoopers to develop a Sustainable Forest Finance Toolkit targeting the finance sector and designed to help progressive financial institutions support sustainable forest management. Several sections of this tool-kit cover conflict resolution and community engagement and empowerment issues.³⁴

What Tools and Techniques are in Use?

Effective conflict management depends on the way that companies build relations with a range of stakeholder groups. In this survey, communities were highlighted as the key stakeholder group in conflict management. However, NGOs in many cases were also cited as a key stakeholder, along with government and local commercial land users. Employees and workers are also considered to be key stakeholders, but were discussed less than other groups in the context of this survey.

Of the 14 industry respondents surveyed, all of them stated that some form of stakeholder engagement is at the heart of their approach to conflict management and resolution. This is not surprising, given that companies without any such practices are unlikely to have responded to the survey. Of more interest is the range of approaches that were reported. These ranged from ad hoc or reactive engagement processes, to mediated dialogue, to more or less formal systems for channelling community grievances or formalised community-company agreements.

Responses also depended on the way that the respondents understood conflict management, and the relevance that they gave to specific approaches and tools. For example, only three respondents specifically mentioned impact assessment as a tool for conflict management, although it is clear that more of the respondent companies will have been obliged to carry out impact assessments in order to establish their operations. Similarly, two respondents chose to highlight social activities (i.e., support for and participation in community events) as a means of addressing conflict issues through building relations with communities, although it is likely that more of the respondent companies take part in social activities with communities.

Section 4.1 covers a range of ways that companies have approached the issue of identifying and recognising rights to land and resources. Section 4.2 highlights three key approaches to stakeholder engagement: 1) stakeholder dialogue; 2) integrating conflict management into management systems; and 3) so-called “framework tools.” Section 4.3 covers more formal company grievance mechanisms. Section 4.4 covers community-company agreements and shared benefits/ownership arrangements. Section 4.5 relates to monitoring and evaluation.

Each section provides a brief summary of the approaches, accompanied where possible with one or two case studies illustrating the implementation of these approaches. Inevitably, there is some overlap between sections.

Recognising Rights

Conflicts frequently arise where the customary rights of existing land users are unclear or are not recognised. Most respondents³⁵ highlighted such conflicts as the most serious and the most complex and difficult to address. In such cases a fundamental element of conflict resolution is the identification and clarification of the rights of local land users.³⁶

Frequently the national legislation itself may be adequate but the real problems lie in the human and financial capacity to implement the legislation effectively. For instance, the land rights legislation in Brazil is generally good (with the exception of certain issues related to indigenous peoples), but poor implementation (sometimes exacerbated by corruption) gives rise to cases where the same piece of land may have several owners simultaneously, all of whom are technically “legal.”

In other cases, the lack of a clear and well framed legislation contributes to many conflicts. For instance, the land rights of the indigenous peoples’ (“Indians”) in Brazil are framed by the Constitution based on very general principles. This requires further legislation with more detailed guidelines regulating the enforcement of the constitutional principles, but this legislation does not exist. As a consequence, the definition and demarcation of Indian lands is based on subjective judgements made by the National Indian Foundation (Funai), which creates uncertainty for Indians and non-Indians and is a prime cause of most conflicts.

In these discussions, rights include access to non-timber forest products; rights to allow agricultural activities such as cattle grazing; and protection of sacred sites. Some companies state that they will not move into an area if there are land rights belonging to indigenous peoples or other local communities. Some companies have drawn attention to the difficulties created by changes in legislation or when court decisions grant rights to local communities after the company had already established its operations on a territory. Conflicts frequently result where land rights are reallocated without due consultation with all affected parties.

It was noted that in some cases, indigenous groups themselves and their traditional tenure systems do not incorporate the concept of the forest as a finite area. One respondent gave the example of an indigenous group in Indonesia that insisted that under their customary tenure rules, there was no limit to the forest clearance that could take place for agricultural purposes, unaware that across the forest from them another indigenous group felt much the same way. Eventually the two would meet and a conflict would be likely to occur. Similar perceptions have been encountered elsewhere.

The different views of various stakeholders in relation to rights demonstrate the need for constructive multi-stakeholder dialogue. Some industry respondents, for example, argue that only government – not business – can ultimately “determine” rights, and that it is the duty of business to respect rights, not to declare them unilaterally. For this reason, industry

representatives may argue that they prefer to work “within the legal framework” in addressing issues of rights to land and resources.

On the other hand, citing the norms of international law, NGO respondents point out that once countries become parties to international human rights treaties, their governments then have the obligation to respect and protect the human rights set out in these instruments and these same governments should require that companies also respect such rights. In accordance with international law, human rights are considered to be universal and inalienable, and derive from human beings’ existence not from any act of the State which they precede. Human rights are thus not “determined” by governments but are recognised through the international agreement of governments, after which they should be enshrined in national laws and interpreted through the “determinations” (i.e., judgments) of national and international courts. NGO respondents also point out that most countries’ legal frameworks include both national statutory law and international law and may also include the workings of common law and custom, all of which may be considered to be the source of rights in specific circumstances.

Several tools and approaches are available that can assist companies in identifying the rights of local resource users. The FAO, for example, has produced a handbook providing guidance on conflict management around land tenure conflicts. The guidance is based on the alternative conflict management (ACM) approach, which aims for joint conflict resolution by transforming stakeholders into active and responsible decision-makers through dialogue and collaborative conflict resolution.³⁷ Guidance is available on the overall “business and human rights” landscape, through the work of the UN Special Representative on Business and Human Rights,³⁸ and in sectoral guidance, such as the IPIECA Human Rights Training Toolkit³⁹ and the ICMM Mining and Indigenous Peoples’ Issues Review and Position Statement on Mining and Indigenous People.⁴⁰

Participatory mapping

An effective way to identify customary land rights is through participatory mapping exercises involving affected communities and other stakeholders. Participatory mapping has been widely used in a variety of natural resource management contexts.⁴¹ Ideally, companies should initiate such exercises and incorporate the practice into their ways of working. To date, participatory mapping has generally been initiated by NGOs in attempts to resolve conflicts and promote the rights of local users. The case study of Congolaise Industrielle des Bois (CIB) below demonstrates what can be achieved by an innovative industry-NGO partnership. Major companies such as Ikea are now demonstrating an interest in participatory mapping.⁴²

Techniques employed in participatory mapping have included: use of icons with maps, as in the case of land use planning with indigenous Saami reindeer herders on the Kola Peninsula, northern Russia. This method requires local community resource users to place icons on maps to identify where their livelihood resources are located.⁴³ Another method is 3-D landscape

mapping. This method integrates indigenous spatial knowledge with data on elevations of the land and depth of the sea to produce stand-alone, scaled and geo-referenced relief models. Data depicted on the model are extracted, digitized and plotted.⁴⁴

In other cases, more technical mapping techniques such as the use of Global Positioning Systems (GPS) can be adapted effectively to suit local capacities (see the Congo Basin case study opposite).⁴⁵ PGIS is a merger between Participatory Learning and Action (PLA) methods with Geographic Information Technologies (GIT). PGIS facilitates the representation of local people's spatial knowledge using two- or three-dimensional maps. These map products can be used to facilitate decision-making processes.⁴⁶

Mapping exercises can also be a way to mediate potential conflict between conservation NGOs and forest enterprises, as was the case in the Russian Far East, with Russian forest company Terneiles and a project to map High Conservation Value Forests carried out by a coalition of NGOs including the Worldwide Fund for Nature (WWF), Transparent World and Forest Watch Russia (Global Forest Watch Russia).⁴⁷

There may be some cases where the data gathered through participatory mapping conflicts with government-held data, or the results may not be accepted by government agencies or other affected parties for other reasons. Some conflicts between conservation and use priorities cannot be addressed through mapping. For example, if there are local issues of poverty and communities have no economic alternatives but logging old-growth forest, these issues cannot be addressed through mapping. They require more fundamental socio-economic resolution.

Frameworks for “rights-based approaches”

Ensuring that development programmes adhere to internationally recognised human rights norms has come to be referred to as a “rights-based approach to development.”⁴⁸ The human rights thus invoked are those established by international declarations and treaties and these rights are upheld by one of the three main pillars of international law: human rights, the others being environment and trade.

Two key types of framework employed by implementers of rights-based approaches to conflict management are based on: (a) the certification process; and (b) the right of indigenous peoples to give or withhold their free, prior and informed consent (FPIC) to proposed operations that may affect their other rights.

Certification has proven to be a motivation for some companies to radically change their practices in both the environmental and social spheres. Very few companies have managed to secure and retain FSC certification in tropical forests. The case study below describes the collaboration between Congolaise Industrielle des Bois and the Tropical Forest Trust towards securing FSC certification of CIB's forests in the Congo basin (Box B).

In order to scale up their efforts in the Congo Basin TFT now seeks to build capacities within other forestry companies in the region to address the socio-economic impacts of their

Box B: Congolaise Industrielle des Bois Secures FSC Certification

In the forests of the Congo basin,⁴⁹ the absence of national legislation that recognises local peoples' traditional rights to forest land (as opposed to farm land or habitations) is at the root of most of the conflicts between communities and forest companies.

Congolaise Industrielle des Bois (CIB), a subsidiary of the Danish timber conglomerate Dalhoff Larsen and Horneman Group (DLH), partnered with the Tropical Forest Trust (TFT), an international forest conservation organisation based in Geneva, to meet the standards for FSC certification in its forestry operations in the Congo Basin. A total of 750,000 ha of tropical forest have been certified as a result of this collaboration. Lucas van der Walt, CIB's environment manager explains CIB's motivation: “No one was sure if this kind of forest operation was possible in the Congo Basin, but we decided that if a company wants to be here for the long term, sustainable forest management is the only way forward. We hope that these efforts will ultimately translate into a smarter, cost-effective and more profitable business.”

The collaboration with TFT focused particularly on addressing the FSC Principle 2 (Tenure and Use Rights and Responsibilities) and 3 (Indigenous Peoples' Rights). A key area where TFT provided technical guidance was in building relations with the local semi-nomadic forest peoples, the Pygmies. This involved developing new techniques for consultation, conflict resolution and benefit sharing.

An important technique was participatory mapping with icon-based Global Positioning System (GPS) units that could be used easily by the non-literate forest people.⁵⁰ The Pygmies took the hand-held GPS devices as they walked through the forest and recorded, by selecting an icon, the location of any valuable forest resources (e.g., natural springs, sacred sites, gathering areas for medicinal plants, and important trees such as those that house edible caterpillars). This information formed the basis for resource maps and subsequent negotiation. Valuable areas for the Pygmies were avoided during the exploitation of the timber resources in the area.

Another technique for promoting communication and mutual understanding is the establishment of a small radio station whose broadcasts are controlled by the forest Pygmies and local farmers.⁵¹ This is a way for the local communities to increase their understanding of and influence over the way that CIB manages the forest.

operations. To this end, TFT is now launching the Centre of Social Excellence for the Forests of the Congo Basin. The Centre will offer a one-year programme for social science graduates to develop expertise in innovative techniques for building relations with local communities and practicing sustainable forest management practices.

Another example of a capacity-building initiative is the Regional Community Forestry Training Centre for Asia and the Pacific (RECOFTC).⁵² Based in Bangkok, RECOFTC offers a range of services to build the capacities of forest stakeholders to engage in community-based forest management. The centre specialises in a range of specific areas, including conflict resolution techniques and participatory monitoring and evaluation, and offers training courses and study tours, among other things. RECOFTC works with industry, government and civil society organisations.

CIB's primary motivation for engaging with social issues was to secure FSC certification as a step towards more sustainable, rational and cost-effective forestry operations. TFT and other organisations, such as the Forest Peoples Programme, believe that the implementation of FPIC could be an equally, if not more, important driver than certification for companies in the future, particularly where FPIC is introduced into national legislation. A 2008 study makes this argument and analyses key issues and challenges.⁵³ A similar study was undertaken by the Forest Peoples Programme to review the issues around FSC certification compliance and making FPIC work in eastern Borneo.⁵⁴ The guide for companies, *Free, Prior and Informed Consent and the Roundtable on Sustainable Palm Oil*, provides guidance on putting FPIC into practice.⁵⁵

In Indonesia, APRIL has been piloting a conflict resolution process based on the principles of FPIC. The pilot initiative focuses on resolution of an existing conflict, but the company proposes to incorporate FPIC more broadly (and pre-emptively), drawing on the experience of this case study (Box C).

Box C: APRIL Pilots an FPIC Approach in Indonesia

Asia Pacific Resources International Holdings Limited (APRIL) is a major world producer of fibre, pulp and paper. APRIL has established a Land Dispute Resolution Protocol based on FPIC principles.

This protocol is based on participatory mapping and third-party mediated negotiations with communities. In 2007, the protocol was developed and piloted in Lebuk Jering, a region of Riau Province, Sumatra Island, Indonesia.

In Lebuk Jering, APRIL was granted concession rights for an Acacia mangium plantation. These were granted without the participation or consent of local communities, and failed to take into account their customary rights. The communities subsequently objected and conflict soon escalated. In response to criminal damage to property, APRIL brought in the security forces and repressive action was taken against the communities.

At this time, APRIL came under new management and invited local NGO Scale Up to act as a third party mediator, alongside APRIL's own trained negotiating team and independent social advisors. Together with the communities of Lebuk Jering, they agreed on a process of conflict resolution. The two-year conflict resolution process followed an FPIC-based framework. This involved mapping the customary lands of local communities; assessing the areas of overlap with APRIL concession areas; building community consensus on local claims and negotiating positions; resolving conflict claims with migrants and negotiating for a restoration of rights to communities; and establishing benefit sharing agreements. The process was observed by independent observers, including the Forest Peoples Programme.

APRIL's experience demonstrates that an FPIC-based approach requires modification to take account of regional specifics and constraints. A regionally applicable FPIC protocol needs to protect both communities and companies from the actions of local elements – often operating under the guise of community/indigenous rights – who are motivated by quick profits from land compensation packages. This is common practice in Indonesia (and other countries) and is damaging to both economic development and community stability.⁵⁶

Stakeholder Engagement

Getting stakeholder engagement right is acknowledged as being of critical importance to natural resource extraction companies that are keen to secure their “social licence to operate” in local communities, and manage relations with other key stakeholders, including NGOs and government. Several reports have been produced providing detailed guidance on stakeholder engagement. A key publication is the IFC's 2007 manual: *Stakeholder Engagement: A Good Practice Handbook for Companies doing Business in Emerging Markets*.⁵⁷ Further publications produced by and for the oil, gas and mining sectors can also provide useful guidance, for example materials produced by oil, gas and mining associations (IPIECA, ICMM) and the multi-stakeholder *Framework for Responsible Mining*.⁵⁸

Environmental impact assessments involve stakeholder engagement and are generally required by law in most countries. In our survey, three industry respondents specifically highlighted impact assessment as a key conflict resolution mechanism. Social impact assessments, resettlement plans and indigenous peoples' plans are increasingly required (as good company practice and as a requirement of project finance).⁵⁹ How a stakeholder engagement process is conducted is more important than the fact of it taking place, as the experience of respondents demonstrates (see below).

A range of mechanisms are required for effective stakeholder engagement and conflict management. In *A brief guide to community engagement in the Australian plantation sector*, Dare et al (2008) provide practical guidance for companies including a table of different stakeholder engagement tools.⁶⁰ Ideally, stakeholder identification and analysis takes place in the earliest stages of planning an operation, and should include: resource mapping and consideration of legal issues (see “Recognising Rights” above); mapping of stakeholder interests and potential conflicts; and prioritisation of issues.⁶¹

Many tool-kits and manuals have been prepared on company-community dialogue, for the forest sector and other sectors.⁶² Multi-stakeholder dialogue is an approach frequently cited as good practice. However, this depends on how it is conducted (time, place, range of participants). Some respondents noted, for example, that strategic engagement, with different stakeholders at different times and employing appropriate techniques, can be more effective than attempts to bring all stakeholders around the same table. Others noted that bringing in third parties can be a way of addressing the polarisation of debates between companies and communities or NGOs.

Respondents provided diverse examples of dialogue between companies and communities that have been employed with varying degrees of success. Most respondents expressed the need for more structured approaches and broader sharing of good practice. In general, there appears to be a genuine lack of understanding on the part of some companies about how to conduct dialogue effectively with communities. Several respondents expressed a need for some kind of industry standardisation or good practice guidance for conducting dialogue and engagement.

While most companies identified communities as the key stakeholder group involved in conflicts, several respondents highlighted the role of NGOs, in direct conflicts or in the mediation of conflict. A range of types of conflict with NGOs was identified, ranging from representation of community interests, to negotiations around protected areas, to more ideological campaigns.⁶³ Some respondents noted that conflicts with NGOs that were opposed to plantation forestry per se were particularly difficult to resolve. In other cases, respondents noted their appreciation of the work of NGOs in mediating conflicts with communities, and in creating the conditions for productive dialogue.

Relations with workers' unions were only mentioned by a few survey respondents. This may be because for many of the companies interviewed, workers' rights are well established and enforced through domestic labour law. In some countries, however, trade unions struggle to get their rights heard and governments do not enforce their own laws. Many forestry workers are not in trade unions but need to be informed of their rights (based on the ILO standards), including their rights to be in a union. The union federation Building and Woodworkers International (BWI) has established agreements with some major forestry companies,⁶⁴ which have in some cases helped to establish better relations with the workers. BWI is making efforts to get greater involvement of unions in certification processes. In Ghana and Malaysia, forest worker unions have been involved in consultations around forest certification, but these are exceptions. One company respondent from Ghana referred to use of Collective Bargaining Agreements with workers.

Stakeholder dialogue

Some industry respondents noted the need for more industry guidance on how to establish and manage stakeholder dialogue. Capacity building and guidance are frequently required for companies and communities (and other stakeholders), in order to prepare the parties for dialogue. Lessons can be learned from dialogues organised by non-industry bodies, such as the International Tropical Timber Organisation⁶⁵ and The Forests Dialogue. Some respondents emphasised the importance of mediation and noted that guidance is required for effective mediation (Box D).

Integrating conflict management into management systems

It is important for a company not only to listen to the needs and concerns of stakeholders, but also to address these needs and concerns – sometimes by adapting and amending company practices, and to provide feedback to stakeholders on the company response. In order for this to be effective, the company team that specialises in conflict management needs to be well integrated into the rest of the operations; ways of addressing disputes and conflicts need to be embedded into normal practice and need to be the responsibility of operational managers; conflict management needs to be part of the overall management system of the operation. There are many books providing practical guidance on aspects of forestry enterprise management that are relevant to conflict avoidance and resolution.⁷¹

Box D: Aracruz Cellulose: Conflict Resolution Through Dialogue in Brazil

Aracruz Cellulose is based in Brazil and is a major pulp producer, responsible for 27% of the world's supply of eucalyptus pulp.

In Espírito Santo, Aracruz has been involved in a long running dispute with local indigenous peoples over land rights.⁶⁶ When Aracruz first established operations in this region in 1967,⁶⁷ the indigenous Tupinikim and Guarani had no formally recognised land rights in the region. Aracruz and the communities still disagree on whether (all) the indigenous peoples were actually living on these lands in the 1960s before Aracruz moved to the area.⁶⁸

In 1982 a small indigenous reservation was created alongside Aracruz lands and Aracruz ceded some of their land to the reservation. The indigenous communities requested expansion of their territory in 1993, 2002 and 2005. In 1998 and 2005 they moved on to Aracruz lands to protest at the amount of land that had been conceded. In 2005 they also entered Aracruz's industrial installations. The federal police were brought in to remove people from the lands and the conflict became violent.

Attempts have been made to resolve this conflict via a formal conflict resolution process involving the indigenous communities, represented by their leaders; the Brazilian government's department for indigenous affairs (FUNAI); and the Federal Public Attorney's Office. Formal consultations have also been held with the communities to seek endorsement of their leaders' decisions. FUNAI has established Working Groups to assess the claims and make recommendations to the Minister of Justice, who has legal responsibility for making decisions on land allocations.

In 1998, a 20-year agreement was negotiated between Aracruz and the communities, including hand-over of land to the communities and support for community development projects. This agreement lasted until 2005.⁶⁹ The latest agreement, involving a further expansion of indigenous land, was signed in December 2007. The main provisions were that Aracruz would not appeal against the decision, but legal assurances were given to Aracruz that the reservation would not be expanded further. Aracruz also committed to fund an ethno-environmental study and to support further community projects.

The conflicts with the local indigenous peoples have hindered Aracruz in securing FSC certification. Aracruz withdrew an FSC certificate it acquired via purchase of another forestry operation in another region after protests from indigenous and environmental pressure groups. Efforts to reapply for FSC certification continue to face sustained opposition from these groups.

One of the lessons from the conflict has been the need for a robust conflict resolution process to overcome the lack of trust and understanding between the company and the communities. There is a need for a credible facilitator to overcome the polarisation of discussions. Aracruz is currently introducing a new community relations process, including: (a) strengthening the system of community liaison representatives; (b) establishing a meaningful dialogue, including discussing plans before the activities take place and then returning to talk to people, and establishing committees to address specific issues; (c) identifying priority communities and focusing efforts in the most critical ones; and (d) using consultants e.g., NGOs or more independent people to help build relations and understanding.

Aracruz now is conducting dialogues, involving NGOs, at state and national level. They have agreed to invite other companies. In two states the dialogues have proven to be effective. In the third state it is less successful and the dialogue remains polarised. A dialogue is being facilitated at the national level by the Bio Atlantic Institute.⁷⁰

Both Stora Enso and Weyerhaeuser reported in some detail on various ways that their companies seek to avoid and address conflict situations. Both reported that they do not have a universal procedure or overarching “tool” to manage conflict situations. Instead they employ a range of tools. Both companies have grievance processes, which cover a part of the conflict resolution approach. Both companies reported a relatively high level of awareness within their companies relating to the social impacts of their operations. A further evolution in both company’s approach is that conflict issues are resolved as close to the ground as possible, with a strong focus on listening to local stakeholders and responding to their needs and concerns by making changes in company practice at that level.

Weyerhaeuser further reported that a key evolution in company consciousness is demonstrated by the level of integration of the group that deals with social issues. Disputes and conflicts are seen as lying within the accountability of the forestry operation as a whole. This is in contrast to the previous situation when environmental and social compliance was seen as the responsibility of the environmental or legal departments.

Stora Enso seeks to embed conflict avoidance and conflict resolution into normal procedures, employing a range of tools in various areas of their operations. There is no detailed company policy on conflict management, but it is seen as good company practice. Management systems, such as the environmental management system (ISO 14001) and other certification initiatives, including FSC, are key tools for embedding the conflict resolution procedures into company operations. Environmental and social impact assessments are seen as a way to identify potential conflicts in the earliest stages of a forestry (or other) operation. These feed into management plans, with appropriate monitoring systems. Effectiveness of the procedures is monitored both internally and externally via audits by the management system certifiers.

In their Latin American operations, for example, as part of land evaluation, Stora Enso checks various items such as historical land use, ownership status, indigenous claims, and prospective land use, such as land reform initiatives. Current land purchase programmes also take into consideration who might be impacted by the purchase. Efforts are made to find alternative opportunities for those who worked for or rented land from the previous landowner. Options might include employing people on the new Stora Enso operation; or giving rights to farmers to continue grazing their cattle on the land.

Stakeholder dialogue is organised via regular community meetings with the aim of building dialogue between the company and community and identifying concerns about potential negative impacts. In more mature operations the dialogue also includes components to help communities design their own development objectives, while also helping the company to focus its social investment spending effectively. Different business units and regions have their own approaches. In Latin America, Stora Enso’s “Good Neighbour Programme” offers an informal procedure by which communities and neighbouring landowners are able to channel minor grievances to the company for resolution. Designated company representatives, commonly field

staff supported by social responsibility staff, are appointed to maintain dialogue with local communities, while an allocated person within the company is responsible for ensuring that any grievance or other type of issue will be addressed. For more complex dialogues, a trained third party mediator may be brought in.

Internally, company experts share good practice ideas and are currently building their stock of tools. For example, members of an internal expert network on plantations and sustainability meet once or twice a year and have a monthly teleconference. Stora Enso also partners with other organisations, drawing on their expertise to develop and implement various approaches. In Uruguay, for example, they have used the WWF “Landscapes Outcomes Assessment Methodology,”⁷² and in Brazil they have participated in national and local-level dialogues convened by The Forests Dialogue (Box E).

Box E: Veracel’s Strategies for Meeting Its Social Commitments in Brazil

Veracel is a joint venture partnership between Aracruz Cellulose (Brazil) and Stora Enso (Sweden-Finland). Veracel owns 164,000 ha of land in ten municipalities in the southern Bahia State, eastern Brazil.

Of these lands, 47.5% is made up of eucalyptus plantations, while 48% is set aside for environmental recovery and preservation and around 4.5% is occupied by infrastructure. In their 2007 Annual Report, Veracel lays out a structured approach to meeting its social commitments, which it terms “strategies for social intervention and community knowledge.”⁷³

The Veracel strategies include the following:

- **Social Networks programme:** Established in 2006 in partnership with the Institute for the Development of Social Investment (IDIS), the aim of this programme is to encourage communities to identify their own social and economic assets and develop collaborative community projects. It includes monitoring and evaluation of the projects. Action plans have been developed for some of the communities and will be developed for others as the programme progresses.⁷⁴
- **Social inventory:** This involves mapping communities in order to establish a basic understanding of local social realities. This inventory work has been carried out in the 10 municipalities where Veracel operates (42 districts and villages). Mapping carried out in 2007 characterised the social infrastructure needs of the communities, identified partnerships, environmental and economic assets and liabilities. In 2008 work was carried out on implementation of strategic sustainability actions.
- **Social articulation and mobilisation:** Veracel has appointed some of its staff as “sustainability agents” to work with trained community members to build dialogue on social and sustainability issues. These dialogues started up in 2007 and continued in 2008.
- **Dialogue with authorities:** In 2007 and 2008, Veracel engaged in formal dialogue with mayors and other municipal representatives.
- **Meeting with neighbours:** This involves establishing communication channels with local landowners where Veracel’s forestry operations are located. The programme consists of bi-monthly meetings including company presentations, tours to operational sites. In 2007 the meetings and tours were attended by 83 rural landowners.

Framework tools

The term “framework tools” is used here to refer to integrated approaches that attempt to address a broad range of functions and issues, and are frequently labelled as “tool kits.” Framework tools have been developed by companies, industry associations and NGOs for community engagement and conflict resolution. The *IFC Stakeholder Engagement* manual referenced above is one such tool, providing detailed guidance on various aspects of stakeholder engagement. The mining industry appears to be taking a lead in promoting such tools. These include *Anglo-American’s Socio-Economic Assessment Toolkit* (SEAT) (see below); and the International Council on Minerals and Mining (ICMM)’s *Community Development Tool Kit*.⁷⁵

Of the industry respondents in our survey, four companies described a structured approach to stakeholder engagement, but only one respondent reported usage of a formal “framework tool.” This was Mondi Business Paper, which has adopted usage of SEAT from its parent company, Anglo-American (Box F).

The main complaint of respondents in relation to framework tools is the limited utilisation of these tools. Many attempts to use them remain in the pilot stage of development and there is very little detailed publicly available information available on how effective their implementation has been on the ground. There has been very little independent review by local stakeholders and third parties.

Some respondents have identified a need for more in-depth case-study research; effective and independent monitoring and evaluation procedures; and broad lesson sharing. Only then can such approaches be replicated, scaled up and rolled out with any significant impact. In general such tools need to be specially adapted to local contexts. It is important to involve communities closely with monitoring and assessment, and in the design of locally-appropriate versions of these tools.

Company Grievance Mechanisms

Company grievance mechanisms constitute more than just a series of public meetings with local communities. They provide communities with appropriate channels of communication to make their concerns known to the company as they arise, and importantly they offer a formalised internal process within the company for addressing grievances.

This area of corporate conflict management practice is still emerging among transnational corporations. Increasingly grievance mechanisms are required by certification initiatives and project finance standards (see Section 3). Company grievance mechanisms are explicitly called for in the third report of Professor John Ruggie, the Special Representative of the UN Secretary-General on Business and Human Rights, as part of his Protect, Respect and Remedy framework.⁷⁷ However, in practice corporations are still in the process of testing out such

Box F: Mondi Adopts Anglo-American’s Socio-Economic Assessment Toolbox

Mondi Business Paper⁷⁶ has adopted Anglo-American’s **Socio-Economic Assessment Toolbox (SEAT)** as an instrument for evaluating its local social and economic footprint, and eliciting impressions, requests and complaints about the company’s performance from stakeholders (including communities, employees and suppliers). The goal of SEAT is to improve management of the company’s impacts, and to support host communities in meeting their wider development aspirations.

SEAT is based on structured interviews with various stakeholder groups. The SEAT toolbox can be used throughout the project cycle, and ensures that ongoing stakeholder engagement leads to company responses, including appropriate changes in company practice, with feedback to stakeholders.

The process consists of five stages:

- Defining the objectives of the SEAT process
- Profiling the operation and neighbouring communities and identifying key issues
- Evaluating the social and economic impacts of the site, including via stakeholder consultation
- Providing guidance on management responses to key issues (e.g., pollution prevention; appropriate social investment focus, etc.)
- Preparing a SEAT report and feeding back to stakeholders

SEAT aims to bring precise and comparable metrics and a rigorous methodology to the assessment of a company’s corporate social responsibility (CSR) performance. It is designed to be flexible enough to adapt to the local situation and local issues. Combined teams of specially trained Mondi experts and local staff carry out the assessments and work together with the company’s management to develop responses to issues raised. The findings are reported to internal and external stakeholders. Use of SEAT is not mandatory. However, it is considered to be “best practice” within Anglo-American and the Mondi Group, and indeed more broadly.

Piloting of SEAT began in 2005. To date, the Mondi Group has carried out SEAT pilot assessments, in Russia, Slovakia, Poland and South Africa. The Russian pilot took place at Mondi Business Paper’s mill in Syktyvkar, the Komi Republic, in northern Russia. A further SEAT assessment of Mondi Business Paper’s forest operations in the Komi Republic began in 2006. SEAT pilots also took place at Mondi’s Ruľomberok paper mill in Slovakia and the Swiecie paper mill in Poland. Five SEAT processes were conducted in South Africa, involving interviews with more than 2,000 stakeholders.

According to the SEAT reports, Mondi Business Paper is seen as a responsible employer, a significant economic presence in the localities where it is based, and an important social investor in those areas. Social investment spending includes support for social welfare, education, sports and cultural programmes; orphanages and veterans associations in Russia; HIV/AIDS prevention and the Black Economic Empowerment Programme in South Africa. In 2004 Mondi spent around EUR 1.7 million on social investment in the Komi Republic. In Slovakia, they spent EUR 240 million on upgrading the mill’s operations, with an annual social investment budget of around EUR 1.8 million.

The SEAT findings for the Komi Republic showed room for improvement in terms of the company’s environmental performance, alternative employment initiatives and additional social programmes. In South Africa, the SEAT report demonstrates the need for the company to improve its communications and the balance between support for local and international projects. Mondi management is now addressing these issues. In Swiecie, local suppliers and Mondi employees interviewed as part of the SEAT assessment emphasised the importance of maintaining and increasing the involvement of local small and medium enterprises (SMEs) in the supply chain. As a result the Mondi management team in Swiecie has committed to building supplier capacity and enhancing opportunities for local enterprises.

mechanisms, and implementation can be patchy. The oil, gas and mining sectors appear to be heading this evolution in corporate practice, and lessons can be learned from their experience.⁷⁸

Company grievance procedures tend to have at a minimum a telephone hotline with a publicly advertised number. They may also comprise a network of community liaison officers (company representatives who live in the community) and/or multi-stakeholder committees that are regularly convened to address specific issues. A formal grievance mechanism requires an internal company procedure for logging complaints, with dedicated staff to deal with the complaints. Frequently there is a stated time frame (e.g., 20 days) by which the company pledges to resolve issues. There may be a special committee or arbitration panel to deal with particularly complex issues; and there may be the opportunity for third party mediation. The complainant generally signs a formal statement when the grievance is resolved to their satisfaction.⁷⁹

Several companies (across various sectors) have set up an ethics hotline for stakeholders anonymously to report concerns and raise issues they may be reluctant to raise in person. An ethics hotline protects an organization from inappropriate or illegal behavior that could not only cause problems for an individual, but also for the organization and its stakeholders. Two key attributes of ethics hotlines are (a) anonymity; and (b) a responsive company at the other end of the line⁸⁰ (Box G).

Box G: Weyerhaeuser's Ethics Hotline

Weyerhaeuser is one of the world's largest forest products companies, with forestry operations in North America, Europe, South America and Asia. In 1997, Weyerhaeuser established an environmental management system (EMS) standard aligned with the ISO 14001 EMS standard, and has many of its operations certified to the ISO standard.

ISO requires a process to be in place for receiving community complaints and grievances. This requires the company to consider the grievances and respond to them. Since 1976 Weyerhaeuser has operated under a business ethics policy and code of conduct, which also require a grievance procedure. The Business Conduct Office enables and encourages employees and other stakeholders to report on any violations of the company ethics policy and code of conduct.

Weyerhaeuser has established an Ethics Line (a telephone number) and the web-based hotline, Weyerhaeuser Ethics Online, which can be used by employees, vendors, contractors, community members and others.⁸¹ Weyerhaeuser hired an independent company Listen Up to run the online hotline. Complainants submit a case report, and are assigned a case number, which they can use to track the progress of the complaint. Listen Up staff process the complaints into a confidential case report and refer it to Weyerhaeuser's Ethics and Business Conduct department. The ethics committee addresses both internal and external grievances and responses to the grievances are logged. Indigenous peoples' rights issues tend to be addressed in other forums due to their complexity.

Of the industry representatives surveyed, only three respondents referred specifically to a more or less formalised company grievance mechanism. These mechanisms included a combination of a telephone hotline, community liaison officers, and allocated company personnel or a commission or committee to address complaints. It appeared that some companies who were obliged by their certification commitments to have a "grievance mechanism" had not yet established such formalised procedures for addressing community complaints and were instead relying on more ad-hoc solutions. Those respondents who reported on the use of telephone hotlines indicated that these tended to be more useful for smaller scale issues, and were generally not employed for major issues, such as land use conflicts. Some small-scale issues were addressed on the ground without the need for communities to use the hotline or the community liaison networks.

Questions remain as to whether a more sophisticated grievance mechanism could address more complex issues. Naturally, land use issues need to be addressed before the complaints arise. However, a grievance mechanism – a channel by which people can make their complaints about a process or operation – should be an integral part of any land rights resolution processes. In the case of the BTC pipeline (BP and partners in Azerbaijan, Georgia and Turkey), most of the complaints submitted via the project grievance mechanism that operated during the construction phase of the project (2002–2006) were in relation to land and the level of proposed compensation.

It is important for the process of making and resolving complaints is de-coupled from the company's engagement with the community or that of their partner organisations. If the only people that local communities have to talk to about their grievances are the ones responsible for the sources of their grievances, then this limits their ability to make their complaints and ensure that they are resolved.

Industry and non-industry respondents noted the lack of a standard mechanism for the forest industry that could be adapted for specific conditions. However, non-sector specific guidance is available on how to implement such procedures to comply with international standards.⁸² Furthermore, several examples of grievance mechanisms in practice can be found on the Internet (mostly relating to the oil, gas and mining sectors).⁸³

In Tasmania, a group of forestry companies have come together in collaboration with local government, farmers and tourism groups to establish the Good Neighbour Charter to promote constructive dialogue and build mutual trust and respect between the forestry industry and neighbouring land users (Box H, next page).⁸⁴

Third party grievance mechanisms

The International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group set up the Compliance/ Advisor Ombudsman (CAO) in 1999.⁸⁷ Any individual or group can make a complaint to the CAO about the social or environmental impacts of a project financed by IFC or MIGA. The CAO works with the complainant to agree a

Box H: Tasmanian Forest Companies Launch Their “Good Neighbour Charter”

The charter was signed in 2008 by Forestry Tasmania, Gunns Limited, Norkse Skog Boyer Mills Australia Limited, Timberlands Pacific Pty Ltd, FEA Pty Ltd and Great Southern Limited.

It was endorsed by the Tasmanian Farmers and Graziers Association, Tourism Industry Council Tasmania, Local Government Association of Tasmania, Forest Industries Association of Tasmania (FIAT), Forests and Forest Industry Council of Tasmania, Tasmanian Forest Contractors Association, and Private Forests Tasmania.

The key issues covered in the charter include care of the environment, managing fire risk and planned forest burning, protection of tourism, recreational and landscape values, road safety, and control of weeds and pests. The charter commits its signatories to:

“ ... ensure active, ongoing and timely communications with neighbouring landowners by:

- Informing the neighbours and key stakeholders of planned forest operations
- Transparently explaining the detail of the Forest Practices Plan⁸⁵ with interested neighbours following a reasonable request and with suitable notice. For legal reasons, information that may be commercial in confidence may not be disclosed
- Consulting with neighbours and responding appropriately on issues of concern
- Providing access to local field staff and managers of forest operations

We encourage neighbours to communicate directly with field staff to obtain information, discuss concerns and work to resolve issues in a timely manner.”⁸⁶

If neighbours have concerns or queries, they are encouraged to contact the local forestry company field staff, whose contact details are provided during initial neighbour consultations. Direct line phone numbers to the forestry operations are also provided in the Good Neighbour Charter pamphlet, and neighbours have the option of calling these numbers if they feel that the field staff have been unable to address their concern or query. The contact details of the Forest Practices Authority are also provided, and neighbours encouraged to contact them in the case of breaches of the Forest Practices Code. Further contact details of other organisations that endorsed the charter are also provided.

process to address the complaint, typically based around mediated dialogue. These include the Independent Recourse Mechanisms of the European Bank of Reconstruction and Development⁸⁸ and the African Development Bank; the Asian Development Bank’s Accountability Mechanism (five complaints since 2004) and the Inter-American Development Bank’s Independent Investigation Mechanism. These banks have reported between six and less than one complaint per year being resolved via these channels.⁸⁹

Two global voluntary initiatives of relevance to this report include the OECD Guidelines for Multinational Enterprises and the UN Global Compact. The 41 states that have signed up to the Guidelines for Multinational Enterprises are obliged to set up National Contact Points, whose functions include handling complaints and helping the parties to resolve them. Trade Unions and NGOs can lodge a complaint against a company in a member state or non-OECD

state that has adhered to the Guidelines. By February 2008, 19 complaints had been addressed across all the NCPs since 1976.

Fifty-seven forestry companies and SMEs are currently registered as members of the UN Global Compact.⁹⁰ The Global Compact’s Integrity Measures represent a process that aims to elicit a response from the company (i.e., initiate dialogue) rather than being a full blown process for resolving the grievances. However, the dialogue should lead to the company itself resolving the issue. Failure to respond to the initial invitation to dialogue can result in the company becoming “inactive” (i.e., not a full participant) until they do take up the invitation to dialogue. As of February 2008, fifty-six complaints had been addressed since 2004, which is considerably more than the other initiatives.

Also worthy of note are some NGO-run initiatives that relate to specific other sectors, such as Oxfam Australia’s Mining Ombudsman Project, which has established a formal process for independent consideration of community grievances, addressed through mediated dialogue between the complainants and the mining company in question.⁹¹ Another example is the grievance mechanism set up by Hewlett Packard in Mexico that is now run by the NGO CEREAL and covers a number of other IT companies operating in the same region. Given the complexities of the legal system this mechanism is now preferred for dispute resolution.⁹²

The Round Table on Sustainable Palm Oil (RSPO)⁹³ has its own Grievance Process to address complaints made against RSPO members.⁹⁴ Grievances are passed to the Grievance Panel, which is responsible for resolving the grievances, according to RSPO statutes and standards. Individual RSPO members are also expected to have their own functioning grievance or complaints mechanisms at the project site level to resolve disputes.⁹⁵ There is also a Procedure for Complaints and Grievances relating to the performance of RSPO certification bodies.⁹⁶

Sharing Benefits and Ownership

Several studies have explored a range of partnership arrangements established between companies and local landholders or communities, which are aimed at sharing benefits from and/or ownership of forestry operations.⁹⁷ This section discusses shared benefit and ownership strategies devised and promoted by companies. Part of the motivation for such strategies is conflict management and relationship building with local communities and producers. It is with this perspective that these arrangements are discussed here.

Weyerhaeuser had major outgrower strategies in the USA in the 1970s and 1980s, but these have largely been replaced by a fully competitive market. Today the model is being rolled out in developing countries and emerging markets. In South Africa, companies have been establishing outgrower schemes with local populations since the early 1980s (see Box I, next page). In Ghana, new legislation that came into effective in 1998 obliges logging companies to negotiate a “Social Responsibility Agreement” with the customary owners of the lands where

they propose to operate. In China, the government has encouraged joint ventures between communities and local companies, co-operative groups and foreign companies.

Outgrower schemes involve companies providing production and marketing services to farmers to grow trees that the company subsequently purchases according to contractual agreements. These schemes provide a mechanism for companies to expand their sources of timber, while ensuring livelihood benefits to the local communities who traditionally use the forests. One of the first such schemes was established by Sappi in South Africa (see Box J below).

In joint ventures, the company and community partners share equity and split the profits in proportion to their respective shares. An example of a joint venture is Burns Lake Native Logging Ltd., which was established in 1974 as a joint venture between Weldwood Forest Company, West Fraser Forest Company, and Burns Lake Native Development Corporation in British Columbia.⁹⁸ Other arrangements include simple contracts where communities are paid to protect trees in lands already allocated to the company, and where companies deliver contributions to local development (e.g., schools and health care) in return for community co-operation.⁹⁹ Two case studies of outgrower schemes (and in the case of APRIL, a further livelihoods programme) are provided here (Boxes I and J).

Box I: APRIL's Livelihoods Programmes to Combat Illegal Logging in Asia

With its Community Fibre Farms programme, APRIL builds partnerships with local land owners to establish their own Acacia plantations.

APRIL provides seedlings, fertilizers and financing or assistance in securing financing; and also maintains the plantations. After six years, the wood is harvested and the local landowners receive a share of the profits. The scheme is designed to operate for up to six rotations, or approximately 40 years. By helping the local farmers become partners in their operations, APRIL are also able to tap the skills of traditional loggers. They thus provide them with a viable livelihood alternative to illegal logging.

APRIL's Integrated Farming System has been designed to provide local people with an alternative, sustainable source of income to illegal logging, and build economically sustainable and self-reliant communities. Participation in the initiative is by communities, rather than individual trainees, to stimulate local development. Four training centers offer courses in horticulture, livestock rearing, freshwater fish farming, composting, waste recycling and food processing. In addition to the training, local farmers are also provided with cattle and/or fish, fertilizer, seed and pesticides to help them start up their own farms. APRIL'S Field Officers provide ongoing support and advice when the initial training has been completed. To date APRIL has trained over 2500 farmers in 85 villages in Riau Province.

Box J: Sappi's "Project Grow" Initiative in KwaZulu Natal, South Africa

Sappi is an international pulp and paper company and the second largest private forest owner in South Africa. It manages 260,000 hectares of plantations or 18% of the country's total, with a further 40,000 hectares of plantations in Swaziland.

Sappi¹⁰⁰ established its "Project Grow" outgrower scheme in 1983 with smallholder eucalyptus plantation growers on communal lands of KwaZulu Natal. Project Grow started with three growers farming eight hectares. By 2006, 15,000 hectares had been planted by over 9,800 farmers.

Project Grow is managed by the community development NGO Lima Development Foundation. Under the scheme, local communities sign a contract with Sappi, entitling them to free technical advice and training; free seedlings; an interest-free loan to cover inputs, along with further advances to cover cash flow issues during the growth of the trees. Under the Project Grow scheme, the farmers do not own the lands that they plant. Individuals are granted rights to community-owned land for plots of an average size less than one ha per family. Farmers can pay other members of the community for work carried out on the plantations. Around 80% of the workforce are women. When the trees are harvested, Sappi pays the growers the value of the produce minus any advance payments.

Sappi takes a structured approach to initial engagement with the outgrower communities. First of all they seek the blessing of the local chief and senior community members. They then hold community discussions, in order to tell them about the proposed project. They invite individuals in the community to come forward if they are interested in becoming growers under the scheme. Sometimes an arrangement is agreed with a whole community. Ongoing communication and engagement with the communities ensure that issues are addressed as they arise, in a collaborative way by the company and the community.

Some issues they have faced include: theft of seedlings and timber (through opportunism or lack of awareness of the initiative); problems with regulations on water use and securing water licences for communal land; road infrastructure; technical and management support for local enterprises to assist with harvesting; and issues around payments. Some plantations may be subject to land reform and restitution processes if they have been established on land previously expropriated from the previous users.

Companies consider outgrower schemes to be an effective approach for ensuring a sustainable supply of timber while sharing benefits (and risks) with local communities. The schemes also offer smallholder outgrowers a way to use idle lands to generate economic returns. Further benefits include the potential to involve and benefit the whole community. All participants benefit but no-one gets anything for free, which stimulates a sense of ownership and commitment to the scheme. Interest-free loans and a guaranteed market make the project more attractive and feasible to the outgrowers.

Project Grow and other outgrower schemes allow disadvantaged communities to overcome barriers to access to the industry. The scheme also stimulates business in other areas. The growers use the money generated by the schemes to invest in other business activities, as well as allowing families to put their children through further education. The schemes themselves generate significant local employment opportunities, as well as work for contractors who assist with planting and harvesting.

The Sappi outgrower scheme has been running for 23 years and other schemes have also been established in South Africa by Mondi (since 1989), the South African Wattle Growers Union and Natal Cooperative Timbers. Similar schemes have been set up in Ghana, in India and Indonesia.¹⁰¹

Monitoring and Evaluation

Corporate initiatives are to be welcomed. However, they are only as effective as the internal systems and staff of the companies that commit to them. Good forestry practice requires robust monitoring and evaluation procedures to be in place to ensure transparency and effective working of the systems. Five out of the fifteen industry respondents in this survey specifically stated that monitoring and evaluation were part of their approach to conflict management. However, other respondents may carry out monitoring and evaluation, but did not consider it relevant to mention in their survey response.

Monitoring and evaluation is carried out internally as part of a company environmental and social management system (see section on Stakeholder Engagement). Regular audits are carried out by auditors on behalf of certification initiatives. Some respondents expressed scepticism about the ability of both internal monitoring and evaluation procedures and those of certification auditors to ensure full transparency.

Participatory monitoring and evaluation is an important technique promoted by NGOs and researchers working in this area. With this approach the local communities and other stakeholders are actively involved in the monitoring activities, and the company reports back to them on results, addressing issues that are raised. For example, Veracel (Brazil) has a participatory monitoring programme close to its pulp mill. The Odour Perception Network is a group of volunteers living in neighbouring communities who have been trained to record and report perception of odours. In 2007 the network involved 22 volunteers from seven local communities and a total of 11 odour reports were submitted (against 17 in 2006).

While the results of some monitoring exercises are published, and good practice in transparency is increasing among corporations including in the forest sector, companies nonetheless have a great deal of control over how the information is presented. Several of our non-industry respondents emphasised the importance of independent third party monitoring to hold industry to account and to pick up and reveal conflicts in a timely manner.

International organisations, notably Global Witness, have been promoting an approach called Independent Forest Monitoring (IFM).¹⁰² This is a tool for assessing and strengthening legal compliance in the forest sector internationally. IFM aims to improve transparency in the short term while helping to develop a sound legislative and regulatory framework for responsible forest management. Official forest law enforcement activities are complemented by the objectivity and public credibility of an independent third party. IFM is based on a partnership between an official “host institution” responsible for oversight of the forest sector and an appointed monitoring organisation that observes the agency’s work and documents illegal activity in forestry and related trade. The evidence-based results are made widely available to all levels of government, industry, and civil society. Monitors expect a response to their reports and guard against entrenched resistance to improved governance.

Some monitoring and evaluation issues are particularly complex. Discussions around FPIC have revealed the need for better understanding of how it can be monitored and measured. Respondents suggest that monitoring and evaluation methodologies and techniques need to be tested and standardised in order to be effective and useful. This applies not only to FPIC, but also to other social and conflict-related issues. There is a lack of reliable social indicators and procedures.

The Global Reporting Initiative has established an internationally recognised and respected reporting framework for environmental and social performance, used by many corporations for their monitoring and reporting activities. The mining industry has developed sector-specific guidance on GRI reporting. The oil and gas industry is now seeking to develop their own. This might also be an option for the forest sector as a way to develop more standardised indicators.

There is increasing interest in the business community about the need to monitor not only the direct impacts of a commercial operation on the local environment and community, but to assess the overall development impact, including contribution to poverty alleviation and socio-economic development beyond the life of a project. The WBCSD and IFC are developing approaches to measuring the impact of business activities on society, including indirect project impacts and the overall contribution to local development.¹⁰³ A collaboration between Unilever and Oxfam focused on the potential links between international business and poverty reduction.¹⁰⁴ The above are all potential sources for experts to draw on in expanding and improving on current monitoring and evaluation procedures for the forest sector.

What are the Limitations of Company-Led Mechanisms?

Some respondents expressed scepticism about the potential of company-led mechanisms to significantly improve conflict situations in the majority of forests, as promoting such mechanisms is only likely to have an impact on the companies that already want to do things better. Where the worst conflicts are taking place, the companies involved are frequently those with an exclusive focus on short-term profit-making. In cases where governance is weak, local companies may simply do what they can get away with. Nonetheless, the research also demonstrated that there was a genuine need for more guidance and learning among some companies that did want to improve their practice.

Some respondents argued that in order to make a positive impact across the board, improvements in standards of conflict management would need to be married to the introduction of supportive policy and legal reform. If you have competition that does not care and does everything illegally there is less motivation to do things right yourself. Companies need a level legal playing field and the government has the responsibility to impose the rules. In many developing countries international standards are not imposed, a situation that is worse in more isolated regions, where ILO standards are not followed, and there is no social security, health care or schools. Local communities may apply pressure for better performance, but the authorities might be abusive of local rights.

Respondents warned against assuming that voluntary mechanisms for conflict resolution would be able to solve long-term historical omissions on the part of the state. Many of the conflicts associated with the forest industry are rooted in long-running historical issues around land rights and poor governance. These may not be issues that can be addressed through enlightened corporate practice. For example, in Indonesia the 1967 Forest Law did not take into account the rights of local indigenous people, which still results in conflicts today. In Brazil, the vast majority of conflicts with forest companies take place in areas of low development and poor governance.

Parties' lack of access to independent tribunals, arbitration mechanisms or courts can hamper application of international good practice standards. Promotion of good practice in impact assessment may be undermined if the government agencies who monitor or approve impact assessments are corrupt. Conflicts can be politicised and might emerge at the time of elections, with land offered to people in exchange for votes. Companies tend to have little influence over this, although they could make attempts to engage in policy dialogue to improve the overall policy environment.

Respondents emphasised the need for independent recourse mechanisms, monitoring and evaluation systems to ensure that company mechanisms are operating effectively, and the need to provide transparency.

Conclusions and Next Steps

The key conflict issue identified by most of our respondents was that of recognising and negotiating rights to land and resources. For a company, this and other issues can be related in a broader sense to management of stakeholder relations. Most respondents identified the local communities living close to a forestry operation or pulp mill as the key stakeholders in most cases, but important stakeholder groups also include workers and contractors or outgrowers, neighbouring commercial landowners, environmental and human rights NGOs, and government agencies.

According to our survey, there was a tendency for non-industry respondents, including those who work closely with industry, to favour rights-based approaches for managing conflict and potential conflict. Two key rights-based approaches are based on: (a) certification requirements; and (b) the principle of free, prior and informed consent (FPIC).

The approaches developed by companies, drawing on international corporate standards and the experience of other natural resource sectors (particularly oil, gas and mining) tend to be based on stakeholder management systems. Good practice examples go beyond stakeholder engagement to addressing and resolving issues as an integral part of company operations.

From our survey results and the evidence of referenced reports, it is clear that rights-based approaches and stakeholder management systems are still evolving in the forest sector. For example, while grievance mechanisms are required by certification initiatives, there is little evidence of broad adoption of formal grievance mechanisms. Complaints procedures appear to be largely ad hoc, or in their early pilot stages. Respondents also identified the need for much more dialogue and capacity building around rights-based approaches, particularly in relation to putting FPIC into practice.

The survey revealed that a range of mechanisms and flexible, locally tailored approaches are required to address conflicts. This poses a challenge to the development of industry-wide and company-wide mechanisms, standards and guidelines. Solutions need to be designed for the local context and in close collaboration with local stakeholders. However, this does not preclude the need for industry-wide sharing of experience and knowledge, and the development and testing of broadly applicable principles and methodologies. In-depth analysis of how management systems and rights-based approaches are working in practice was beyond the scope of this report, but is a necessary next step.

This report has tried to identify the tools and approaches that can be initiated, tested out and implemented by companies. It is clear that for these initiatives and processes to be effective, companies need to forge effective and equitable partnerships with other players, including the

communities themselves, NGOs, research organisations and government. Some of the key points that have emerged from this research are summarised below.

Rights and Responsibilities

Where there is an inadequate national legal framework, poor implementation or weak governance, additional measures are frequently required to identify and negotiate rights to land and resources. For this reason most certification standards and safeguard policies have requirements that go beyond the minimal requirements of legality. Contrasting views on the bases of rights and responsibilities may exacerbate misunderstandings and conflicts between civil society organisations and the private sector. Respondents expressed the need for constructive multi-stakeholder dialogue and capacity building to promote understanding around the respective rights and responsibilities of communities, government and industry.

There is a need to reconcile through negotiation the different understandings and models of consent held by stakeholders. While international norms (including the UN Declaration on the Rights of Indigenous Peoples) do provide guidance, promoters of FPIC emphasise the importance of integrating principles of consent into national legislation. There is a need to avoid FPIC becoming a political issue that creates conflict through misunderstanding. Instead, there is value in building on the positive experience of using the concept as a framework for rights-based approaches to conflict management.

Meaningful Dialogue

Ensuring that engagement and dialogue between companies and communities or other stakeholders is meaningful – i.e., more than just a box-ticking exercise – appears to be a key concern of both industry and non-industry respondents. Consulting local populations from an early stage about any proposed project and its likely impacts is an important principle. Local people's expectations and uncertainties are better managed through open and honest dialogue than by suppressing information.

It is important for companies to provide sufficient information so that local stakeholders can develop informed opinions about the company's activities; take part in decision-making processes; negotiate equitable benefits; and ensure that negative impacts are mitigated or compensated adequately. This includes provision of information and advice about legal rights, particularly in relation to land rights and access to natural resources. There is a need to ensure active input from all parties; with decisions made collectively, not presented to communities as a fait accompli.

Some industry respondents felt that there was need for more guidance for industry on how to conduct dialogues with local communities. Mediation of dialogue was frequently identified as a key issue, and the choice of mediator was seen as critical to the effectiveness of a dialogue. Meaningful dialogue requires modes of communication and types of information to be appropriate to local levels of education and awareness, and the examples provided by respondents demonstrate considerable innovation in this area (see Section 6.4 Techniques and technologies, below). Verifying the effectiveness of the communication and information process is also important (see Section 6.5 Monitoring and evaluation, below).

Ensuring meaningful participation and dialogue requires that consultation processes feed directly into company decision-making processes, allowing local populations to have an influence on the way that an operation is implemented and to be aware that they can have that influence.

Company Management Systems

Both industry and non-industry respondents highlighted the importance of conflict avoidance and resolution being embedded in business practice. There is evidence of emerging good practice in this area, in the forest sector as well as in other natural resource sectors. Companies manage potential conflict and other social issues through impact assessments, management plans, systematic rather than ad hoc engagement with stakeholders, and more fundamental, long-term management of relationships. Some industry respondents provided examples of more formalised approaches in the form of strategies and "framework tools." Such tools need to be analysed (independently) and applied more broadly in locally appropriate ways in order to promote good practice across the board.

Supply chain management is a key issue. A company with excellent policies can easily overlook the performance of its subcontractors, including the conditions of work and the rights of subcontractors' employees. Very often these workers are members of the local communities in which the company operates and are some of the most directly affected by forestry activities. There is a need for companies to build the capacity to monitor and take some responsibility for ensuring that subcontractors also respect internationally and company-recognised rights. Neglecting the supply-chain perspective will undermine efforts to implement good practice, and will increase the risk of conflict.

Techniques and Technologies

New technologies and techniques are being developed to identify rights and needs, facilitate dialogue, and manage conflict. Particularly interesting is the use of innovative information and communications technologies (ICTs) to overcome some of the obstacles (such as literacy) that

local communities might face when taking part in decision-making. Respondents noted the importance of using established methodologies – such as those employed by certification initiatives – and the need to be rigorous, transparent and unbiased in their use. Tools and approaches need to be tested out in different circumstances and the findings disseminated in the form of case studies, including in-depth analysis of successful (and less successful) approaches, gaps in the available mechanisms and approaches, and guidance on how to overcome obstacles to filling these gaps.

Monitoring and Evaluation

Respondents noted the need for more robust and standardised monitoring and evaluation systems, and the need to develop and standardise monitoring techniques that can be adapted to local conditions. Adequate resources need to be invested in monitoring and evaluation. There is currently a lack of appropriate and standardised range of social indicators (adaptable to local conditions). Specific approaches (such as those based on the concept of FPIC) will need to build acceptance of associated techniques and indicators. Greater transparency is required in reporting on monitoring results. Non-industry respondents emphasised the need for participatory monitoring and independent third party monitoring, and there is some evidence of emerging awareness and good practice in this area.

Company Capacity Building

There is a lack of understanding and specific skills within many companies to develop and implement effective conflict management procedures and processes, particularly in relation to complex issues. Respondents noted the importance of: the composition and skills of the company's social team; the need for more social experts, including anthropologists, working for companies full time on conflict prevention and resolution; support for local company managers, who are frequently under pressure; good internal and external communication channels and skills; adequate resources to fund a useful process; and integration of the social team into the management structure of the company to ensure that issues are addressed in an integrated fashion. Uncertainty about the costs and implications of specific approaches can be addressed through pilot initiatives to test the practical, financial and logistical issues involved in effective implementation.

Respondents emphasised that it is not only important for large corporations to build their capacities. Initiatives such as the Tropical Forest Trust's Centre for Social Excellence in Forestry Management in the Congo Basin and the Regional Community Forestry Training Centre for Asia and the Pacific (RECOFTC) in Bangkok aim at building the capacities of smaller companies.

Community Capacity Building

There is a need to empower local populations to negotiate effectively with developers. This means building local peoples' capacity first of all to understand their rights, and secondly to use the range of tools that can help them defend their rights. This might include training, exchange visits, information dissemination, workshops, school-based materials, and various communications media, including theatre, music and radio. This kind of work could be carried out with the support of international NGOs and research institutions. Companies could support capacity building (e.g., through seminars and information dissemination) before they engage into negotiation processes, in order to ensure that local communities participate fully, effectively and equitably in the negotiations.

Role of the Public Sector

Several respondents emphasised the importance of involving and seeking to influence governments. Some highlighted the importance of exploring the potential for influencing the policy environment by demonstrating international good practice: such standards have greater impact if they lead to some kind of legislation that ensures they are incorporated into general practice. It was suggested that companies could initiate policy dialogue to this effect. In general, company-led mechanisms should be matched by parallel engagement with legislative and regulatory agencies. Public sector institutions can also be involved as mediators as in the role of the Federal Indigenous Agency in the case of Aracruz and the conflict in Espirito Santo.

As noted by survey respondents, fundamental questions of ownership and the allocation of forest concessions sit at the heart of conflict situations, including problems of illegal logging. They point to the need for capacity building within government agencies in this area (e.g., addressing issues of corruption and weak governance). All would benefit from capacity building within government agencies to improve their understanding and enhance their ability to provide just and lasting solutions to conflicts over forest land and resources.

Appendix A: Respondents and Reviewers

Non-industry respondents and reviewers

Mubariq Ahmad, WWF Indonesia
 Steve Bass, International Institute for Environment & Development (IIED), UK
 Marcus Colchester, Forest Peoples Programme, UK
 James Griffiths, World Business Council for Sustainable Development
 Peter Kanowski, Australian National University
 Marion Karmann, Forest Stewardship Council, Germany
 Lars Laestadius, World Resources Institute, USA
 John Leigh, International Tropical Timber Organisation (ITTO), Japan
 Jerome Lewis, University College London, UK
 Duncan Macqueen, IIED, UK
 Scott Poynton, Tropical Forest Trust, UK
 Bob Ramsay, Building and Wood Workers International, Switzerland
 Caroline Rees, Harvard Kennedy School, USA
 Alan Smith, Forest Stewardship Council, Germany
 Jacki Shirmer, Australian National University
 Roberto Smeraldi, Friends of the Earth Amazonia
 Sonja Vermeulen, IIED, UK

Industry respondents (*longer questionnaire, interview, and/or review*)

Neil Franklin, April, Indonesia
 Peter Gardiner, Mondi, South Africa
 Cassie Phillips, Weyerhaeuser, USA
 Carlos Roxo, Aracruz, Brazil
 Kaisa Tarna-Mani, Stora Enso, Uruguay
 Carl Van Loggerenburg, Sappi, South Africa

On behalf of industry members:

Robin Barr, Tropical Forest Trust, Indonesia
 Elie Hakizumwami, Global Forest and Trade Network (GFTN) Central Africa

Industry respondents (*short questionnaire only*)

AB Klaipedos Kartonas, Lithuania
 Cikel, Brazil
 Faber Castell, Brazil
 Forest Products Export J.S.C of Quang Nam (Forexco Quangnam), Vietnam
 La Chonta, Bolivia
 Pallisco and Centre Industriel et Forestier de Mindourou (CIFM), Cameroon
 Samartex Timber and Plywood Co. Ltd., Ghana

Appendix B: Questionnaires

Short Questionnaire

1. What types of conflict with communities, workers and contractors has your company experienced? (Include demands for “free, prior and informed consent” if appropriate.)
2. What procedures and mechanisms does your company employ for conflict avoidance and resolution? If possible, please provide web references or contact details for more information.
3. Does your company policy or a certification initiative require such mechanisms to be in place?
4. How do you ensure that stakeholders are aware of and understand these mechanisms?
5. What procedures and mechanisms are most effective at avoiding or resolving conflict?
6. What mechanisms are less effective? What further guidance and lesson sharing is required?
7. Do you have any good practice case studies or experiences to share with us? If possible, please provide web references or details of a contact person for more information.

Long Questionnaire

1. What types of conflict with stakeholders (including communities, workers and contractors) has your company experienced to date?
2. What are the main factors that give rise to these conflicts?
3. What experience have you had in relation to demands for “free, prior and informed consent” (whether or not this has been related to conflict)?
4. In general how does your company manage conflict avoidance and conflict resolution?
5. How do you avoid or resolve conflicts over the use or acquisition of the customary lands of indigenous peoples?
6. Does your company operate its own complaints procedures and mechanisms for conflict avoidance and conflict resolution? Please could you describe these?
 - a. What are the main features? (Do you have a description on your web-site?)
 - b. Since when have they been in operation?
 - c. How frequently are the mechanisms used?
 - d. Do you have a company standard/model for these mechanisms?
 - e. Do the mechanisms extend to contractors/suppliers?
 - f. Do you have the involvement of third parties to investigate/mediate conflicts?
7. Does your company have a policy that requires such mechanisms to be in place?
8. Which initiatives (e.g., FSC, RSPO) is your company part of that require that you have mechanisms to deal with conflict? How do these initiatives monitor your compliance with these requirements?
9. How do you ensure that stakeholders are aware of and understand the conflict resolution mechanisms that you operate?
10. What outcomes have resulted from use of the mechanisms in the past? What is the range of possible outcomes? (e.g., recommendations to management; compensation; arbitration)
11. How effective are these mechanisms in resolving conflicts?
 - a. Which mechanisms/aspects are most effective?
 - b. Do you have any good experiences to share with us?
 - c. What are the main obstacles to effectiveness?
 - d. How is effectiveness monitored and assessed?
12. What mechanisms are used by other entities to address conflicts in your areas of operation?
13. Are there mechanisms used by other companies that your company would consider using?
14. Is there demand from industry for sharing/guidance on good practice in conflict resolution?
15. What might be the role of a group such as The Forests Dialogue in providing an opportunity for sharing and developing standards of good practice? What other forums exist to this end?

Endnotes

- 1 See for example: www.theforestdialogue.org; www.globalwitness.org; www.etfrn.org; www.rightsandresources.org; www.illegal-logging.info; <http://ran.org/>
- 2 This includes tools initiated and promoted by other actors for potential adoption by forest companies.
- 3 The industry questionnaire can be found in Appendix B.
- 4 The email survey used email lists of the Forest Stewardship Council, the Global Compact and the Global Forest and Trade Network.
- 5 These included members of The Forests Dialogue and contacts provided by the International Institute for Environment and Development.
- 6 For a more comprehensive coverage of international norms relevant to sustainable and ethical forest management, see Lesniewska 2005.
- 7 This section and Section 4.1 have benefited in particular from correspondence with Marcus Colchester of the Forest Peoples Programme and Cassie Phillips of Weyerhaeuser.
- 8 The Declaration was adopted by vote at the 2007 UN General Assembly with 144 countries in favour, 4 against and 11 abstentions.
- 9 The text of the Declaration can be found at: <http://www.un.org/esa/socdev/unpfii/en/drip.html>
- 10 See also, for example, *Saramaka People v. Suriname. Preliminary Objections, Merits, Reparations and Costs*. Judgment of 28 November 2007. Series C No. 172. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_172_ing.pdf.
- 11 Some national and local legislation has already incorporated references to FPIC, e.g., the Philippines Indigenous Peoples' Rights Act (see: http://www.wipo.int/tk/en/laws/pdf/phil_indig.pdf) and mining-related legislation of some Australian states (see Bice, S. and J. Ensor (2005) *Oxfam Australia: The Rights Based Approach and the Mining Industry* at http://www.oxfam.org.au/campaigns/mining/docs/minerals_council.pdf).
- 12 See also the *Framework for Responsible Mining*, p.61, for further references to public statements by banks and companies in relation to community consent and consultation with indigenous peoples. See also Appendix A3 of the Framework for Responsible Mining (pp.116-119) for a list of international instruments, multi-stakeholder processes and UN positions in relation to FPIC. (See: <http://www.frameworkforresponsiblemining.org/>)
- 13 See <http://www.fsc.org/> and <http://www.pefc.org/>
- 14 There is also a range of national forest certification schemes, many of which are endorsed by PEFC.
- 15 See: <http://www.sfiprogram.org/>
- 16 See: <http://www.csa-international.org/>
- 17 The next version of FSC principles may require a social management plan.
- 18 FSC-Canada, however, recognizes that consent may not be attainable and accepts best efforts to obtain consent. See the Canadian National Boreal Standard Interpretation of Indicator 3.1.2 (<http://www.fsccanada.org/NationalBoreal.htm>).
- 19 Nussbaum, R. and M. Simula (2005) *Forest Certification: A Review of Impacts and Assessment Frameworks*, The Forests Dialogue: Connecticut, USA, p.6 (<http://research.yale.edu/gisf/assets/pdf/tfd/certreview.pdf>) The assessment frameworks analysed were: the Confederation of European Paper Industry (CEPI) Matrix; the International Forest Industry Roundtable (IRIF) Framework; the World Bank-WWF Alliance Questionnaire for Assessing the Comprehensiveness of Certification Schemes (QACC); and the Forests and the European Union Resource Network (FERN) report "Footprints in the Forest."
- 20 See for example statements from the CEOs of Weyerhaeuser and Sappi: <http://www.weyerhaeuser.com/Sustainability/CEOMessage>; <http://www.southafrica.info/about/sustainable/sappi-120608.htm>. But see also for example <http://weyerhaeuser.com/Sustainability/Citizenship>
- 21 The issue of supply chain management and ethical performance standards has also been explored in relation to the oil and gas industry. See for example: IIED, SustainAbility and WWF (2008) *Towards good practice in the oil & gas contracting chain* [<http://www.iied.org/pubs/display.php?o=G02255&n=89&l=143&k=oil>]
- 22 See: <http://www.oecd.org/daf/investment/guidelines>
- 23 See: <http://www.business-humanrights.org/Gettingstarted/UNSpecialRepresentative>
- 24 The extractive and energy sectors, for example, have the Voluntary Principles on Security and Human Rights [<http://www.voluntaryprinciples.org/>]. Industry associations such as the International Council on Mining and Metals (ICMM) [<http://www.icmm.com>], the International Petroleum Industry Environmental Conservation Association (IPIECA) [<http://www.ipieca.org>], and the International Association of Oil and Gas Producers (OGP) [<http://www.ogp.org.uk>] also provide guidance.
- 25 FAO (2006) *Responsible Management of Planted Forests: Voluntary Guidelines* <http://www.fao.org/forestry/plantedforestsguide/en/>
- 26 http://www.wbcsd.org/DocRoot/bmnnOr4B00090agIWkLU/SFPIprinciples_130308_proof10.pdf
- 27 IFC (2006) *Policy on Social and Environmental Sustainability*, para. 31. [<http://www.ifc.org/ifcext/sustainability.nsf/Content/SustainabilityPolicy>]
- 28 IFC, *Performance Standard 1 (Social and Environmental Assessment and Management Systems)*, para. 23 [<http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards>]
- 29 <http://www.equator-principles.com/>
- 30 EBRD (2008) *Environmental and Social Policy* [<http://www.ebrd.com/about/policies/enviro/policy/index.htm>]
- 31 The full document can be found at: http://www.adb.org/Documents/Resettlement_Plans/LAO/Forest-Plantation/31344-01-ppta-rf.pdf

- 32 EBRD (2008) Environmental and Social Policy, Performance Requirement 10, paras. 24-26
- 33 North American indigenous rights expert, personal communication.
- 34 The toolkit is currently in draft form (as of March 2009). See: <http://www.wbcsd.org/templates/TemplateWBCSD5/layout.asp?type=p&MenuId=Nzk&doOpen=1&ClickMenu=LeftMenu> and http://www.wbcsd.org/DocRoot/rRRHbtaborVKGMKxw8xY/ExBrief%20Forest_230209_4print.pdf
- 35 This refers to all industry respondents, apart from one pulp and paper factory respondent for whom environmental pollution was the main source of conflict; and one forestry company respondent who reported that they have had no conflicts with communities in 20 years of operations. Non-industry respondents also highlighted land and access rights as the key source of conflict for forestry operations.
- 36 As one respondent observed, not all claimed rights are actual rights, and a formal process is required to clarify what actual rights are.
- 37 FAO (2006) Land Tenure Alternative Conflict Management, FAO: Rome. http://www.fao.org/sd/dim_in1/in1_061001_en.htm
- 38 See: <http://www.business-humanrights.org/Gettingstarted/UNSpecialRepresentative>; in particular Ruggie, J. (2008) Protect, Respect and Remedy: a Framework for Business and Human Rights, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises [<http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>]
- 39 See: http://www.ipieca.org/activities/social/social_hr.php
- 40 See: <http://www.icmm.com/page/208/indigenous-peoples>
- 41 For example: Brody, H. (1981) Maps and Dreams, Douglas and MacIntyre: Vancouver, British Columbia; and Poole, P. (2006) "Is there life after tenure mapping?" In Participatory Learning and Action, No.54, April 2006, IIED: London, pp.41-49 [http://www.iied.org/NR/agbioliv/pla_notes/index.html]
- 42 Personal communication with non-industry survey respondent.
- 43 See: Robinson, M.P. and Kassam, K.S. (1998) Sami Potatoes: Living with Reindeer and Perestroika, Bayeux Arts: Calgary, Canada.
- 44 See: Rambaldi, G. and Callosa-Tarr, J. (2002) Participatory 3-Dimensional Modelling: Guiding Principles and Applications, ASEAN Regional Centre for Biodiversity Conservation, Los Banos, Philippines.
- 45 See also: Forest Peoples Programme (2008) Free, Prior and Informed Consent and the Roundtable on Sustainable Palm Oil: a guide for companies, which provides further direction on conducting participatory mapping.
- 46 IIED (2006) "Mapping for change; practice, technologies and communication", Special edition of Participatory Learning and Action, No.54, April 2006, IIED: London, pp.41-49 [http://www.iied.org/NR/agbioliv/pla_notes/index.html]

- 47 See: Aksenov, D.E. (2004) Mapping High Conservation Value Forests of Primorsky Krai Russian Far East [<http://www.globalforestwatch.org/english/russia/maps.htm>]
- 48 Alston, P. and M. Robinson (eds.) (2005) Human Rights and Development: towards mutual reinforcement, Oxford University Press, Oxford; Peter Uvin, 2004, Human Rights and Development, Kumarian Press, Bloomfield.
- 49 The Congo Basin is a tropical forest covering between 187 and 207 million ha (according to ITTO) and spanning the Democratic Republic of Congo, the Republic of Congo, Angola, Equatorial Guinea, Central African Republic, Cameroon and Gabon. It is the world's biggest tropical forest outside of the Amazon [source: Lewis et al 2008].
- 50 The hand-held device was designed by anthropologist Jerome Lewis and configured by UK-based Helveta Ltd.
- 51 The World Bank's Development Marketplace Programme is also providing support to this initiative [<http://www.developmentmarketplace.org>]
- 52 See: <http://www.recoftc.org/site/index.php?id=343>
- 53 Lewis, J., Freeman, L. and S. Borreill (2008) Free, Prior and Informed Consent and Sustainable Forest Management in the Congo Basin: A Feasibility Study conducted in the Democratic Republic of Congo, Republic of Congo and Gabon regarding the operationalisation of FSC principles 2 and 3 in the Congo Basin, Intercooperation, Swiss Foundation for Development and International Cooperation: Berne; and Society for Threatened Peoples: Switzerland [http://www.intercooperation.ch/offers/news/FPIC_Congo_Publication_eng.pdf]
- 54 Colchester, M. and M.F. Ferrari (2007) Making FPIC Work: Challenges and Prospects for Indigenous Peoples, FPIC working papers, Forest Peoples Programme: UK [http://www.forestpeoples.org/documents/law_hr/fpic_synthesis_jun07_eng.pdf]. Further publications relating to FPIC are available at: http://www.forestpeoples.org/documents/law_hr/bases/fpic.shtml
- 55 The mining industry is a leading sector in exploring the implementation of FPIC. See for example: Martin, S. (2007) Free, prior and informed consent: the role of mining companies, Oxfam Australia <http://www.oxfam.org.au/campaigns/mining/ombudsman/consent.html>; Bice, S and J. Ensor (2005) The Rights Based Approach and the Mining Industry, Oxfam Australia http://www.oxfam.org.au/campaigns/mining/docs/minerals_council.pdf
- 56 Sources: <http://www.aprilasia.com//index.php?/content/view/47/101/> and email correspondence with representatives of APRIL and the Forest Peoples Programme.
- 57 The manual can be accessed at: [http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_StakeholderEngagement_Full/\\$FILE/IFC_StakeholderEngagement.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_StakeholderEngagement_Full/$FILE/IFC_StakeholderEngagement.pdf)
- 58 See: http://www.ipieca.org/activities/social/social_about.php; <http://www.goodpracticemining.org/>; <http://www.frameworkforresponsiblemining.org/index.html>

- ⁵⁹ See: <http://www.iaia.org/modx/assets/files/SP2.pdf>; <http://www.ifc.org/ifcext/sustainability.nsf/Content/EnvSocStandards>; and Secretariat for the Convention on Biological Diversity (2004) Akwe:Kon Guidelines on cultural, environmental and social impact assessment of developments on or affecting sacred sites and lands and waters traditionally occupied or used by indigenous and local communities <http://www.cbd.int/doc/publications/akwe-brochure-en.pdf>
- ⁶⁰ Dare, et al (2008) Technical Report 181: A brief guide to community engagement in the Australian plantation sector, Co-operative Research Centre for Forestry: Tasmania, (table is on pp.8-10).
- ⁶¹ Macdonald, C. et al (2005) Community Development Toolkit, World Bank/ICMM: Washington/London. (Tools No.1 and No.10) [<http://www.icmm.com/page/629/community-development-toolkit->]; International Finance Corporation (2007) Stakeholder Engagement: A Good Practice Handbook for Companies doing Business in Emerging Markets, IFC: Washington, p.13 [http://www.ifc.org/ifcext/enviro.nsf/Content/Publications_GoodPractice_StakeholderEngagement]; Anglo-American Socio-Economic Assessment Toolkit (SEAT) [<http://www.angloamerican.co.uk/aa/development/society/engagement/seat/>]
- ⁶² See: Joaquim et al. 2005; Dare et al 2008, pp.8-10; Higman et al 2005; IFC 2007; IIED's Power Tools series at: <http://www.policy-powertools.org/> (full references in References section).
- ⁶³ These range from the campaigns to address conflict in the forests of Cambodia and Burma by Global Witness [<http://www.globalwitness.org/pages/en/forests.html>]; the Rainforest Action Network campaign against Weyerhaeuser [<http://understory.ran.org/2008/04/17/ran-exposes-weyerhaeuser-to-shareholders/>]; to Greenpeace's "Cut and Run" report about Kimberley Clark [<http://kleercut.net/en/taxonomy/term/58>].
- ⁶⁴ See: <http://www.bwint.org/default.asp?Issue=Multinationals&Language=EN>. BWI endeavours to have agreements with companies that also cover their suppliers.
- ⁶⁵ ITTO is an intergovernmental organisation promoting conservation and sustainable management and use and trade of tropical forest resources. See: <http://www.itto.or.jp>
- ⁶⁶ Reports on this struggle report different perspectives and statistics depending on who is reporting.
- ⁶⁷ A pulp mill was set up in 1978.
- ⁶⁸ The Guarani's habitat was formerly in the South of Brazil, and some families moved to the area after the indigenous reservation was created in 1982, with the permission of the Tupinikim.
- ⁶⁹ In 1999, in a separate agreement, the indigenous communities also signed a Forestry Development Contract, becoming one of Aracruz's largest single suppliers of timber.
- ⁷⁰ Sources: <http://www.fian.org>; <http://www.norwatch.org>; <http://www.motherearth.org>; <http://www.aracruz.com/>; interview with Carlos Roxo, Aracruz Cellulose
- ⁷¹ Several books provide practical guidance on aspects of forestry enterprise management that are relevant to conflict avoidance and resolution. See for example: Higman, S., Mayers, J., Bass, S., Judd, N. and R. Nussbaum (2005) *The Sustainable Forestry Handbook*, Earthscan: London

- ⁷² See: http://www.panda.org/about_wwf/what_we_do/forests/publications/?uNewsID=120980
- ⁷³ Veracel's 2007 annual report can be found at: <http://www.veracel.com.br/web/en/outros/sustentabilidade.html>
The social strategies are outlined on pages 50-51.
- ⁷⁴ More information on this programme can be found on pp.48-49 of Veracel's 2007 Annual Report and at <http://www.veracel.com.br/web/en/outros/noticias0087.html> on the website.
- ⁷⁵ The ICMM toolkit can be found at: <http://www.icmm.com/page/629/community-development-toolkit->
- ⁷⁶ Together with Mondi Packaging, Mondi Business Paper makes up the Mondi paper and packaging division of the mining and natural resources company Anglo-American. The Mondi Group has more than 130 subsidiaries in 46 countries and over 50,000 employees.
- ⁷⁷ See: <http://www.business-humanrights.org/Documents/RuggieHRC2008>
- ⁷⁸ Examples of oil industry grievance mechanisms established by BP and Shell ventures respectively can be found at:
<http://www.bp.com/sectiongenericarticle.do?categoryId=9021684&contentId=7042408> and
http://www.sakhalinenergy.com/en/ataglace.asp?p=aag_main&s=6
http://www.sakhalinenergy.com/en/documents/Grievance_Leaflet_en.pdf
- ⁷⁹ See Schwarte and Wilson 2009; Rees 2008a and 2008b; and Rees and Vermijs 2008. Examples of oil industry grievance mechanisms established by BP and Shell ventures respectively can be found at: <http://www.bp.com/sectiongenericarticle.do?categoryId=9021684&contentId=7042408> and
http://www.sakhalinenergy.com/en/ataglace.asp?p=aag_main&s=6
http://www.sakhalinenergy.com/en/documents/Grievance_Leaflet_en.pdf
- ⁸⁰ See for example Silent Whistle at: http://www.allegiance.com/silentwhistle/ethics_hotline.php
- ⁸¹ See: <http://www.weyerhaeuserethicsonline.com>
- ⁸² For example: The IFC/MIGA Complaints Advisory Ombudsman has produced guidance for companies: *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*. See also Rees, C. (2008) *Rights-Compatible Grievance Mechanisms: a guidance tool for companies and their stakeholders* (cited as Rees 2008b in references).
- ⁸³ BP grievance mechanisms:
<http://www.bp.com/sectiongenericarticle.do?categoryId=9021684&contentId=7042408>; Sakhalin Energy Investment Company Ltd grievance process and public grievance leaflet:
http://www.sakhalinenergy.com/en/ataglace.asp?p=aag_main&s=6;
http://www.sakhalinenergy.com/en/documents/Grievance_Leaflet_en.pdf;
- ⁸⁴ Sources for this section: <http://www.fiatas.com.au/index.php?id=289> and
<http://www.forestrytas.com.au/news/2008/11/new-charter-promotes-cooperation-and-communication-in-forestry-industry>
- ⁸⁵ Required under the Tasmanian Forest Practices Act
- ⁸⁶ The charter can be found at: <http://www.forestrytas.com.au/news/2008/11/new-charter-promotes-cooperation-and-communication-in-forestry-industry>

- 87 <http://www.cao-ombudsman.org/html-english/about.htm>
- 88 <http://www.ebrd.com/about/integrity/irm/index.htm>
- 89 Source: Rees 2008a (these and other figures are current as of February 2008).
- 90 <http://www.unglobalcompact.org/>
- 91 <http://www.oxfam.org.au/campaigns/mining/ombudsman/>
- 92 Source: Rees and Vermijs 2008a
- 93 The Roundtable on Sustainable Palm Oil (RSPO) is a non-profit association of players in the palm oil supply chain (including growers, processors, retailers, NGOs and investors) that aims to “promote the growth and use of sustainable palm oil through co-operation within the supply chain and open dialogue with its stakeholders.” See: <http://www.rspo.org/>
- 94 See: http://www.rspo.org/resource_centre/RSPO%20Grievance%20Procedure.pdf
- 95 Criterion 6.3 of Principles and Criteria [http://www.rspo.org/Key_documents.aspx]
- 96 Annex 5 of RSPO Certification Systems [http://www.rspo.org/resource_centre/RSPO%20certification%20systems.pdf]. The SFI standard in the U.S. and Canada includes grievance processes parallel to those of the RSPO.
- 97 See for example Landell-Mills and Ford 1999; Mayers and Vermeulen 2002
- 98 See: <http://www.nafaforestry.org/nafaiog/nafaiog3.php>; and <http://www.blndc.ca/html/blnll.html>
- 99 See: Mayers and Vermeulen (2002) *Company-community forestry partnerships: from raw deals to mutual gains?* IIED: London, UK.
- 100 Sappi is an international pulp and paper company and the second largest private forest owner in South Africa. It manages 260,000 ha of plantations or 18% of the country's total, with a further 40,000 ha of plantations in Swaziland.
- 101 Sources for this section: Sappi's Project Grow Report, 28 June 2006, at: <http://research.yale.edu/gisf/assets/pdf/tfd/poverty/SAPPI.%20Project%20Grow%20Report..pdf>; <http://www.fao.org/docrep/010/a1346e/a1346e14.htm>; Landell-Mills and Ford (1999); Mayers and Vermeulen (2002); and interview with representative of Sappi in South Africa.
- 102 IFM is also referred to as Independent Monitoring, Independent Observation, and Third Party Observation. It has been implemented in Cambodia, Republic of Congo, Honduras and Nicaragua. References include: Global Witness (2005) *A Guide to Independent Forest Monitoring* http://www.globalwitness.org/media_library_detail.php/140/en/a_guide_to_independent_forest_monitoring; <http://www.globalwitness.org/ifm>; Resource Extraction Monitoring <http://www.rem.org.uk/>; Cameroon IFM site <http://www.observation-cameroun.info/>; the Overseas Development Institute project on forest legality verification systems at <http://www.verifor.org/>
- 103 See <http://www.wbcds.org/web/measuringimpact.htm> and http://www.ifc.org/ifcext/media.nsf/Content/IFC_Results_Measurement respectively
- 104 http://www.csreurope.org/solutions.php?action=show_solution&solution_id=237

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The International Institute for Environment and Development (IIED) has been a world leader in the field of sustainable development since 1971. As an independent policy research organisation, IIED works with partners on five continents to tackle key global issues—climate change, urbanisation, the pressures on natural resources and the forces shaping global markets. IIED’s work on business and sustainable development aims to build an understanding of where and how businesses can most effectively contribute to sustainable development. In the forest sector, IIED’s research and advocacy work addresses issues around governance, enterprise, climate change and energy, with a focus on helping communities gain control over their local forest resources.

The Forests Dialogue (TFD), formed in 1999, is an outgrowth of dialogues and activities that began separately under the auspices of the World Business Council for Sustainable Development, The World Bank, the International Institute for Environment and Development, and the World Resources Institute. These initiatives converged to create TFD when these leaders agreed that there needed to be a unique, civil society driven, on-going, international multi-stakeholder dialogue forum to address important global forestry issues.

TFD’s mission is to address significant obstacles to sustainable forest management through a constructive dialogue process among all key stakeholders. The Forests Dialogue’s approach is based on mutual trust, enhanced understanding and commitment to change. Our dialogues are designed to build relationships and to spur collaborative action on the highest priority issues facing the world’s forests.

TFD is developing and conducting international multi-stakeholder dialogues on the following issues:

- *Forest Certification*
- *Illegal Logging and Forest Governance*
- *Intensively Managed Planted Forests*
- *Forests and Biodiversity Conservation*
- *Forests and Poverty Reduction*
- *Forests and Climate Change*
- *Small Scale Forestry*
- *Free, Prior and Informed Consent*

There are currently 24 members of the TFD Steering Committee. The Committee is responsible for the governance and oversight of TFD’s activities. It includes representatives of indigenous peoples, the forest products industry, ENGOs, retailers, unions and academia.

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