



Accountability
Framework

Together, making
ethical supply chains
the new normal

AFi Training and Learning webinar series

Protecting land rights in commodity supply chains

June 14, 2022





Accountability Framework

Together, making ethical supply chains the new normal



Civita Patriana
Programs
Coordinator,
Foundation of
Sustainable Forest
Peoples, Indonesia



Anouska Perram
Coordinator and
Sr Counsel,
Forest Peoples
Programme



Justin Dupré-
Harbord
Principal Project
Manager,
Proforest



Megan Olson
Land Tenure
Specialist,
Landesa



Karen Steer
Manager,
Rainforest Alliance &
AFi Backbone Team
(moderator)



A view from the ground




Civita Patriana

A View from the Ground

Losing land can mean losing lives for indigenous peoples





I was working in the field with my daughter when the police officer fired his shots. Because of the shock, my daughter fell ill.



My daughter was only 8 back then and she has been very traumatized ever since that she doesn't want to go to the field again.



Violations of Rights by Upstream Companies – some examples

- Land expropriation and violation of customary and community tenure and resource rights
- Violent land conflicts: use of violence, intimidation, and threat
- Intimidation and criminalisation: of community leaders, customary landowners and human rights and environmental defenders, frequently in association with the police and military and sometimes with backing of local judicial system
- Violations of the right to free, prior, and informed consent
- Violations of the right to freedom of association
- Violations of the right to food security, clean water, a healthy environment, cultural heritage and cultural integrity
- Denial of other rights, e.g., the right to justice, the right to decent work



Protecting collective land rights through corporate due diligence



Anouska Perram

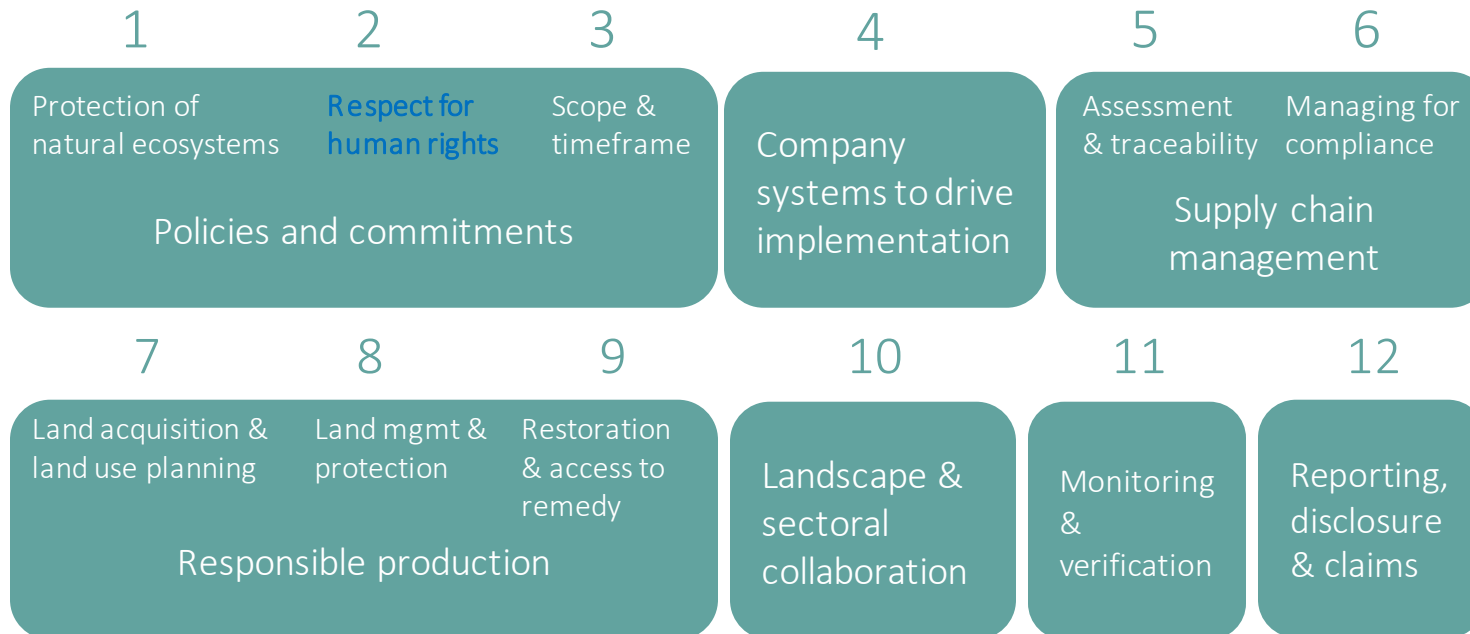


The Accountability Framework initiative

Coalition of **26 civil society organizations** working to increase clarity and consistency of expectations for agriculture and forestry supply chains free of deforestation, ecosystem conversion, and human rights abuses

The Accountability Framework

Roadmap of Core Principles, definitions, guidance to support companies & industry groups in meeting supply chain goals



A guide for effective due diligence

- ✓ Follows recognized due diligence frameworks (OECD, UNGP), with practical guidance for each step
- ✓ Environmental and human rights
- ✓ Backed by consensus to meet the expectations of buyers, investors, and stakeholders
- ✓ Interoperable with existing systems and a harmonized approach
- ✓ Universally applicable
- ✓ Attuned to the value chain



Core Principle 2.2: Respect for IP/LC rights

Companies publicly commit to respecting the rights of indigenous peoples and local communities (IP/LC) in all production and trade, including:

- Business activities carried out in a manner consistent with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)
- Human rights due diligence to avoid adverse impacts to human rights, and to prevent and mitigate any harms
- Effective grievance mechanisms and remediation when harms have occurred
- Free, Prior and Informed Consent (FPIC) secured prior to any activity that may affect IP/LC rights

Implementation, monitoring, and verification is allocated across the supply chain:

- Upstream companies typically hold the greatest direct responsibility for engaging with IP/LC, and for carrying out activities at the supply-base level
- Downstream companies cascade commitments up the supply chain and establish supplier control and engagement mechanisms
- All companies along the supply chain are responsible for ensuring IP/LC rights are respected



International instruments relevant to indigenous peoples and of local communities (not exhaustive)

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights (arts 1, 27)
- International Covenant on Economic, Social and Cultural Rights (arts 1, 11, 15)
- International Convention on the Elimination of All Forms of Racial Discrimination (art 5(v)(d))
- African Charter on Human and Peoples' Rights (esp. art 14)
- American Convention on Human Rights (art 21)
- UN Declaration on the Rights of Indigenous Peoples
- ILO Convention No. 169 on the Rights of Indigenous and Tribal Peoples
- UN Declaration on the Rights of Peasants



Stepping up: Protecting collective land rights through corporate due diligence

- Corporate responsibility to respect human rights – this is a responsibility to achieve a **human rights outcome**
- Process requirements:
 - Policy commitment to respect human rights (clear and specific on what the impacts connected to land can be and are likely to be)
 - Undertaking corporate due diligence
 - Grievance mechanisms
- Provision of remedy – this also requires achieving an **outcome**



Key elements for indigenous peoples and local communities** relative to land

- Self-determination – indigenous peoples and (some) local communities have the right to determine their own development priorities
- Indigenous peoples and local communities have customary rights to land that are not recognised or documented by national law – international human rights law protects these land rights
- Indigenous peoples' right to land include the **right to restitution of land**
- Effective participation (consultation, participatory impact assessments and negotiations on benefits) as well as free, prior and informed consent are central tenets of appropriate engagement with indigenous peoples and local communities.
- Engagement with indigenous peoples **self-chosen representatives** is essential.



Dynamic due diligence – two key elements



Increased scope, depth and coverage over time



Businesses may need to make more and wider (systemic) changes in the medium to long term

Effectiveness of processes and actions are measured against **outcomes**. This means:

- responsibilities are only met where there is continuous improvement
- human rights impacts, including of directly linked activities, must be effectively addressed within a reasonable time.
- What starts off as “directly linked” may become, by continuous omission, cause or contribution



Remedy

- Remedy should be built in as a cost of doing business. Don't think of remedy in strictly legal terms. If your company is profiting from harm to someone else (even from afar), it's fair that you give something back.
- Consult on remedy and appropriate steps to take. If communities want you to stop buying, in most circumstances that is the option you should be considering. However, many communities will ask for something else (engagement and improvement).
- Money is often not an adequate remedy. Accept that communities may not accept less than land restitution – that may mean you can never adequately mitigate (and need to consider ceasing supply)



FPIC consultation in Malaysia, 2021

Respecting Indigenous Peoples and Local Communities land rights in commodity sourcing



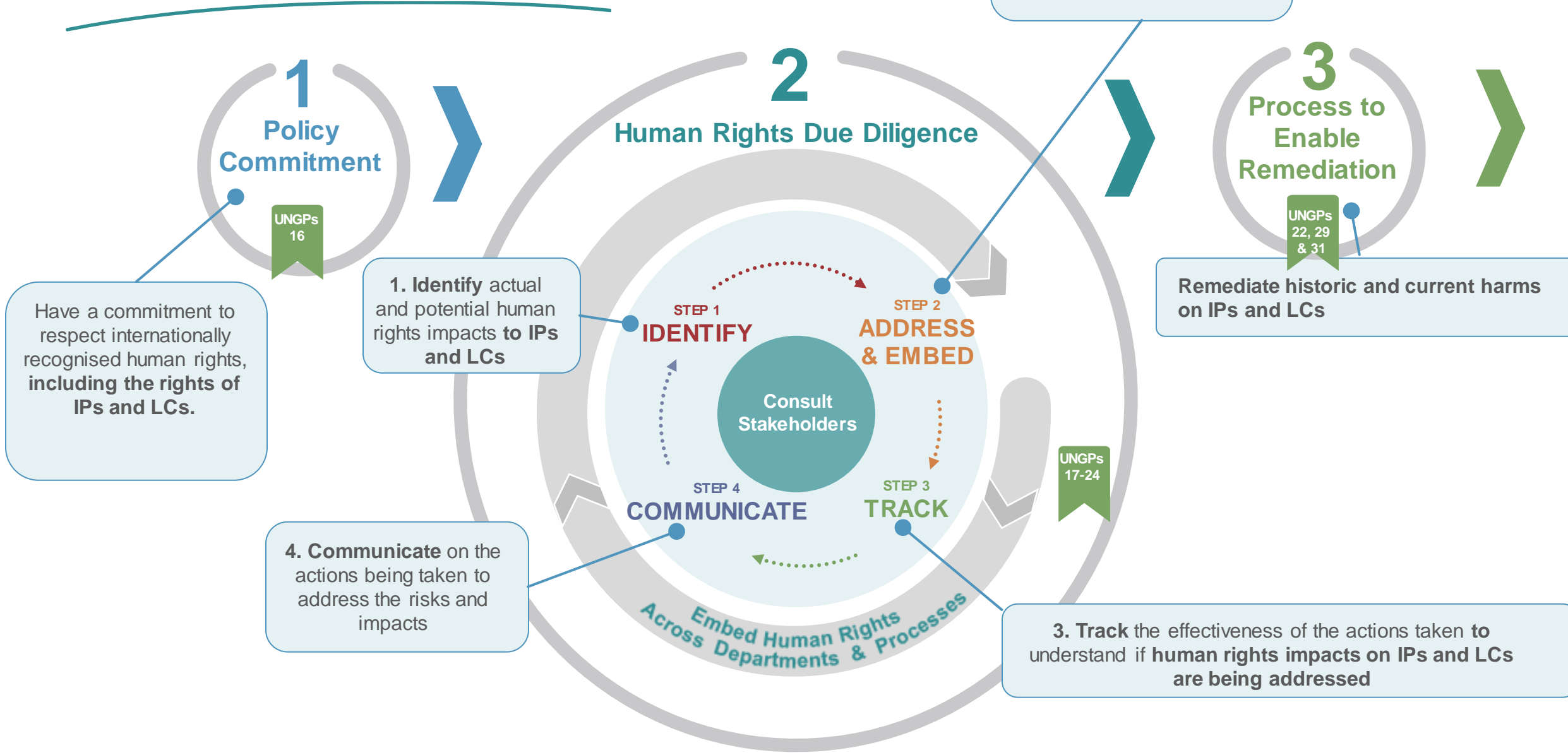
Justin Dupré-Harbord



Megan Olson



Respecting Indigenous Peoples and Local Communities (IPLC) rights in agricultural supply chains: Taking a UN Guiding Principles (UNGPs) Approach



Assessing risks and impacts on Indigenous Peoples and Local Communities



- National level risk data
- Commodity specific risk data
- Targeted country risk assessments
- Data from on-the-ground projects/initiatives
- Stakeholder consultation
- Grievance data
- Supplier risk

Key points:

- Review and build on existing data
- Information gathered directly from rights-holders
- Prioritise countries and commodities to start taking action
- Use existing data to start taking action while continuing to work on improving understanding of risk over time

Taking action within and beyond the supply chain

Within the supply chain

Volumes and Suppliers

The **tools and systems** used to **engage with suppliers** - both direct (T1) and further upstream.



Beyond the supply chain

Landscapes and Sectors

Using leverage to **address systemic issues**:

- **Direct investment** for specific in-country initiatives and **engagement** at national or regional government level.
- **Collaboration** within sectoral initiatives, multi-stakeholder and/or peer-to-peer initiatives.



Engaging suppliers on respecting Indigenous Peoples and Local Communities land rights



- Set clear expectations/requirements for new and existing suppliers
- Assess supplier performance and risk
- Engage and support suppliers

Key points:

- Integrate into existing company supplier engagement systems
- Tailor requirements to the type of supplier and their position in the supply chain
- Engage direct and upstream suppliers
- Prevent future land rights abuses and remediate past and ongoing land rights grievances
- Provide incentives and disincentives for suppliers to comply

Supporting production country and landscape level initiatives on respecting IPLC land rights



- Engagement and/or advocacy at national or regional government level
- Landscape or jurisdictional level initiatives

Key points:

- Implement safeguards for IPLC land rights in all on-the-ground projects/initiatives
- Identify strategic geographies for investment in on-the-ground projects/initiatives with IPLC land rights-focused activities and outcomes
- Collaborate with affected IPLC and with peers, suppliers, government, and civil society wherever possible



Learn more

AFi resources

Materials

- [Core Principles](#)
- Operational Guidance:
 - [Respecting the Rights of Indigenous Peoples and Local Communities](#)
 - [Free, Prior, and Informed Consent](#)
 - [Remediation and Access to Remedy](#)
- [AFi self-assessment tool](#)
- [User guide: How to write a strong ethical supply chain policy](#)

Receive updates in your inbox: [AFi newsletter](#)

Book a one-on-one session with an AFI team member: [Contact Us!](#)

Other resources

Palm Oil Collaboration Group: [Human Rights Due Diligence \(HRDD\) Library of Tools](#)

FPP: [Stepping up: Protecting collective land rights through corporate due diligence](#)

Landesa: [Responsible Investments in Property and Land \(RIPL\) Resource Platform](#)

Proforest: [Intro course to Respecting Indigenous Peoples and Local Communities' Rights in Agricultural Commodity Production](#)



Training and Learning Webinar Series

Join the AFi and partners for a series of webinars about the Accountability Framework & its applications, including:

- Guides, tools, and real-world examples of applying the Framework to achieve supply chain goals
- The latest on deforestation and conversion in climate and emissions targets & reporting
- Best practice in supply chain management
- Reporting on forest-risk commodities and improving your company's sustainability ratings
- Using the Framework in tandem with certification and other tools
- Integrating workers' rights into commodity supply chains
- ...and more!

For more information on upcoming webinars, and for recordings of past ones, visit:
[accountability-framework.org/events](https://www.accountability-framework.org/events)



accountability-framework.org