

# Operationalizing FPIC: *Tales from the Trenches of Travail & Triumph*

*Presentation for:*  
Compliance Advisor Ombudsman  
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# Operationalizing FPIC: Overview

- The Sakhalin Model
- Achieving FPIC Consent
- Obstacles to Achieving FPIC
- Maintaining FPIC Consent
- Assessing FPIC Compliance

# The Sakhalin Model

Indigenous-Government-Corporate  
Collaboration in Managing Social Risk



*An Approach to Achieving FPIC*

# The Sakhalin Model

The Sakhalin-2 LNG Project--one of the first private sector projects recognized by IFC as achieving FPIC:

- For the Sakhalin Indigenous Minorities Development Plan 2 (2011-2015)
- For the Sakhalin Indigenous Minorities Development Plan 3 (2016-2020)

*How did they get there?*

12.14.2005

# Sakhalin-2 Project Context

- Offshore oil extraction
  - Onshore pipeline and LNG processing in Russian Far East
  - One of largest foreign investments in Russian Federation: US\$20 billion+
- Sakhalin Island population  $\approx$  500,000 people
  - Indigenous Minorities  $\approx$  4,000 people
    - Nivkh
    - Uilta (Orok)
    - Evenk
    - Nanai

# From Protests...

A large crowd of people, many wearing winter hats and coats, is gathered in a snowy outdoor area. The scene appears to be a protest or a public demonstration. In the foreground, a person is seen from behind, wearing a light-colored winter jacket and a hat. The crowd extends into the background, where some vehicles and structures are visible. The overall atmosphere is one of a significant public gathering in a cold, snowy environment.

- Prior to robust engagement: indigenous protests publicized around the world
- 20-24 January 2005: Indigenous Minorities blockade Sakhalin-1 and 2 to protest livelihood impacts
  - Local, national and international media coverage
- Sakhalin Island's Indigenous Minorities demand independent cultural impact assessment and IP Development Fund

A photograph of three men in business attire shaking hands. The man on the left is wearing a dark suit and tie. The man in the center is wearing a grey suit and tie. The man on the right is wearing a blue jacket over a red shirt. They are standing in front of a banner with Russian text. The banner includes the words 'ПЛАН СОДЕЙСТ' at the top, 'РАЗВИТИЮ КОРЕННЫХ МАЛОЧИСЛЕННЫХ НАРОДОВ СЕВЕРА САХАЛИНСКОЙ ОБЛАСТИ' in the middle, and '16 - 20' at the bottom right. There is also a logo on the left side of the banner.

## ...To Praise

Today, the project enjoys praise from affected Indigenous Peoples as well as from Russian and international IPOs. The Sakhalin Model has emerged as a successful approach to corporate-indigenous-government relations and collaboration.

*(e.g., IFC SE Guidebook; WB/IFC Workshop;  
UN Permanent Forum Case Study)*

# Recipe for Success

- Development of three 5-year SIMDPs (Sakhalin Indigenous Minorities Development Plans) since 2006
- Three tries at BCS/FPIC (ICP) taught key lessons on gaining trust
  - Company realization (with EBRD push) on need to change
  - GFN efforts to realize change
  - External facilitator-consultant helpful

# Recipe for Success: Free

- Non-interference in indigenous politics; IP decide on own participation format and representatives
- Letting local people determine what's "sustainable" and how to handle controversies without coercion
- Shared decision-making: Govt, Company, IP

*Maintaining the core approaches of mutual respect and capacity-building*

# Recipe for Success: Prior & Informed

- Intensive Consultation: Multiple Rounds extending over a year
- Meeting on Indigenous Home Grounds
- Participatory approach: Working Group of IP, Govt, Company representatives
- Engagement and giving voice: Soliciting all concerns to understand (and delimit) scope of redress
  - Common ground; collaborative interactions
  - Enabled IP to be seen and taken seriously
  - Enabled Company to respond systematically

# SIMDP3 Components

| <b>Social Development Program</b>                                   | <b>Traditional Economic Activities Support Program</b>                    |
|---|---|
| US\$ 160,000/year   | US\$ 160,000/year   |
| 5 Sub-components:   | 4 Sub-components:   |
| <ul style="list-style-type: none"><li>• Culture</li></ul>           | <ul style="list-style-type: none"><li>• Self-Sufficiency Grants</li></ul> |
| <ul style="list-style-type: none"><li>• Education</li></ul>         | <ul style="list-style-type: none"><li>• Business Plan Grants</li></ul>    |
| <ul style="list-style-type: none"><li>• Health</li></ul>            | <ul style="list-style-type: none"><li>• Capacity-Building</li></ul>       |
| <ul style="list-style-type: none"><li>• Capacity-Building</li></ul> | <ul style="list-style-type: none"><li>• Micro-Loans</li></ul>             |
| <ul style="list-style-type: none"><li>• Sports</li></ul>            |   |

# Achieving FPIConsent: BCS / ICP for Process & Project

# Consultations and GFN

## Project Preparation

### EARLY

- Meaningful consultations for initial community engagement [ICP]

### LATER

- GFN process to decide on i) FPIC process (consent to the terms of consent), and ii) project contractual offer [i.e., mitigation/benefits package; FPICConsent]

## Loan Negotiations / Implementation

- Mitigation/benefits package covenanted
- Consent cannot be revoked or suspended over dissatisfaction regarding non-contractual issues
- GFN invoked if complaints of contractual non-performance

# Consent for what?

## *Need to clarify*

- For the project?
- For project activities?
- For project mitigation/benefits plans?

## *Let's be specific*

- Too broad: which activities?
- What mitigation/benefits?
- *Yes: for a specified (contractual) mitigation/benefits package*

# FPIC for Who: Defining “Affected Communities”

## *Which communities?*

- What if unequal degrees of impacts?
  - Community A: **major** impacts
  - Community B: **minor** impacts
  - How weigh their “votes”?
- Need to problematize “community”: define different types of community, e.g., spatially bound vs. scattered or permanent vs. seasonal

## *Suggestions*

- Consult with PAPs
- SIA (or similar internal IFC exercise) needs to identify communities with “significant effects” and those with “minor effects”
- When determining “support,” weigh their “votes” proportionally

# FPIC: Step by Step Template

- Tripartite Working Group (IP, Government, Company)
- First Round Consultations (all grievances, all requests; consent strategy)
- WG develop draft Agreement (mitigation, benefits plans)
- Second Round Consultations (critique of draft Agreement)
- WG revise draft Agreement (incorporate critique)
- WG decide if further rounds Consultation necessary
- Consent process implemented
- Successful? Congrats? If not: GFN

# Obstacles to Achieving FPIC

# Company Sponsor Issues

- Resistance to Sharing Decision-making power with non-company actors
- Abundance of caution regarding release of information, particularly regarding land purchase/lease
- Reluctance to allocate internal resources to build internal capacity to address IP/Community issues
- Assuming Company technical expertise should always trump IP/community preferences, values, approaches

# Government Issues

- Reluctance to sharing decision-making power with non-government actors as regards IP/community issues
- Attempts to use Company development plans to fill government budget gaps
- Desire to select the indigenous representatives the government has previously worked with as the FPIC representatives
- Objection to confidentiality & anonymity of some community consultations

# Indigenous/Community Issues

- Mistrust of Company & Government as reliable partners
- Mistrust of information received from Company & Government as regards impacts and risks, especially environmental
- Fear “consent” once granted will be misconstrued into an open-ended yielding of future claims and rights
- Fear of inappropriate pressure applied by Company & Government
- Internal IP/community conflicts over control of promised resources (benefits package)
- Unfamiliarity with bureaucratic procedures such as FPIC/PS7

# Maintaining FPIC

Some Practical Tips to Maintain  
Consent over Time

# Maintaining FPIC

- 3-party Internal Monitoring
- External Monitoring
- Effective 3-Party Grievance Mechanism
- Transparency
  - Budget Allocations
  - Process/Decision-making
- Periodic Agreement Renewals

# Cultivating the FPIC Spirit

- ✓ Maintain an atmosphere and relationship of mutual respect - in words and deeds
- ✓ Increase self-reliance & capacity-building as spur to continued participation
- ✓ Power-sharing as basis of partnership (e.g., committees and working groups): IP majorities

# Assessing FPIC Compliance

In Achieving FPIC

In Maintaining FPIC

# FPIC Indicators in the Project Cycle

## SIA/CONSULTATIONS

[Achieving: F, P, I]

- Affected communities identification
- Severity of impacts
- PAPs decision-making processes
- Consent process recommended

## LOAN AGREEMENTS

[Achieving: C]

- Covenant IPP/CDP (and agreements)

## IPP/CDP [Achieving: C]

- Captures agreements
- Documents process, including feedback incorporation

## IMPLEMENTATION

[Maintaining: F, P, I, C]

- Monitoring, Internal & External
- GFN for maintaining contract

# Assessing FPIC Achievement: Consent Targeting & Confirmation

## Factors to Consider

- Numbers of individuals?  
Communities? Ethnic groups?
- What if in multi-ethnic areas?
  - one says yes, one says no  
*or*
  - one big yes, many little no

## Suggestions

- Judgment call: weigh all three factors:
  - numbers of individuals,
  - numbers of communities,
  - proportions of ethnic groups
- Weigh input by degree of Project impact (significant, minor, etc.)

# Assessing FPIC Achievement: “Consent” Dimensions

## IFIs: Calculating Consent

Breadth

(total population, ethnic groups)

X

Communities

(at varying levels of impact)

X

Level of Support

=

**Consent**

## Clients:

### Gain and Maintain Consent

- IPP/CDP should include covenanted mitigation and benefits-sharing measures to garner broad support
- Evaluate GFN approaches, Grievance Mechanisms to maintain consent

# Maintaining FPIC: Dimensions of “Consent”

- Fidelity to Loan Agreements/Covenants implementation of FPIC-related measures
- Continuity of transparency and feedback mechanisms
- Effectiveness and accessibility of Grievance Mechanism
- External Monitoring Reports, including embedding survey into development plan to monitor ongoing community support level

**In Sum...**

**Politics, Power, and Participation**

# Sakhalin FPIC Lesson Learned

## *Meaningful Consultation to ICP to GFN*

- Combat Negative Relations  Meaningful Consultation
- Meaningful Consultation  Meaningful Participation
- Meaningful Participation  Shared Decision-Making

# A Theoretical Note

- Explicit Recognition FPIC is Political
  - Politics = Power to make decisions
- Without shared decision-making, no meaningful participation
- To achieve FPIC, GFN best seen as aiming at shared decision-making

A photograph of four people standing in a snowy, open field. They are all wearing heavy winter jackets, hats, and gloves. The background shows a vast, flat, snow-covered landscape under a pale sky. The text 'Thank you!' is overlaid in the center of the image.

# Thank you!



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