

Evaluation of the published policies and Standard Operating Procedures (SOPs) related to the fulfilment of the rights of Free, Prior and Informed Consent (FPIC) of Best Industry Group as set out in the High Carbon Stock Approach (HCSA) Social Requirements

High level summary of findings

An evaluation has been conducted of the published policies and Standard Operating Procedures (SOPs) on the fulfilment of the rights of communities to give or withhold their Free, Prior and Informed Consent (FPIC) to any development on their lands by the Best Industry Group, based on a comparison of its policies and SOPs on the fulfilment of FPIC rights that were available on the date of August 12th 2020, with the High Carbon Stock Approach (HCSA) Social Requirements (SRs) and Implementation Guidance (IG).¹

A key finding of the evaluation is that the Best Industry Group does not have published policies and SOPs on Free, Prior and Informed Consent (FPIC) rights that apply to the entire Corporate Group and that set out in detail the requirements for the fulfilment of FPIC rights, in accordance with the High Carbon Stock Approach (HCSA) Social Requirements (SRs) and Implementation Guidance (IG). Best Industry Group also does not have any sustainability policy at the Corporate Group level that contains commitments either to respecting human rights broadly in all its operations, or specifically to respecting and fulfilling the FPIC rights of all communities that are affected by them. Best Industry Group does not publicly disclose a full list of affiliates and joint ventures so it has not been possible to conduct a complete evaluation across all companies affiliated with the Corporate Group.

In order to prove that Free, Prior and Informed Consent (FPIC) processes are in place for all areas under the management and control of the Corporate Group, and begin demonstrating that the rights of affected Indigenous Peoples and local communities are being respected, especially their right to FPIC to proposed and existing developments that affect them, the Best Industry Group must develop and publish a policy that applies to the entire Corporate Group, and that sets out in detail the requirements for the fulfilment of FPIC rights, in accordance with the High Carbon Stock Approach (HCSA) Social Requirements (SRs) and Implementation Guidance (IG). Best Industry Group must also develop and publish detailed SOPs on the implementation of FPIC processes. These must cover the four tenets of FPIC,

¹ High Carbon Stock Approach Social Requirements <http://highcarbonstock.org/wp-content/uploads/2020/08/HCSA-Social-Requirements-Apr-2020.pdf>

High Carbon Stock Approach Implementation Guidance <http://highcarbonstock.org/wp-content/uploads/2020/08/HCSA-Implementation-Guide-Apr-2020.pdf>

various other aspects required as part of an effective and rights respecting FPIC process as set out in Matrix 2, and all the actions that must be taken for its implementation as set out in Matrix 3. These strengthened policies and SOPs must then be applied in full across all landbanks and development areas of the Corporate Group, and independent verification must be undertaken to prove that FPIC rights are being fulfilled in accordance with the High Carbon Stock Approach Social Requirements and Implementation Guidance.

These findings in no way represent an evaluation of the extent to which the Best Industry Group or its affiliated companies are, or are not, in compliance with these requirements for the fulfilment of Free, Prior and Informed Consent (FPIC) rights, whether in their own operations or in their supply chains. Detailed evaluations of the fulfilment of the rights to FPIC by Best Industry Group remain of paramount importance, and should be undertaken in the field by qualified social experts, with meaningful participation of affected communities. They should use full compliance with the High Carbon Stock Approach Social Requirements and Implementation Guidance as their benchmark for assessing the fulfilment of FPIC rights.

Matrix 1 Published policies and SOPs of Best Industry Group related to the fulfilment of FPIC rights

The first matrix sets out the published policies and policy statements and Standard Operation Procedures (SOPs) of the Best Industry Group or its affiliated subsidiary or company (referred to collectively as “**Corporate Group**”²), where it has been necessary to look at that level, that are related to the fulfilment of FPIC rights.³

Published policies and SOPs related to the fulfilment of FPIC rights	Yes	No	Description of policies or SOPs where these exist
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² [Corporate Group is as defined by the Accountability Framework Initiative](https://accountability-framework.org/definitions/?definition_category=41) including those subsidiaries or companies where there is formal ownership, investments, and/or an ownership or management relationship, as well as those where there is family control, financial control, beneficial ownership and/or shared resources. https://accountability-framework.org/definitions/?definition_category=41

³ As the evaluation is concerned with the role in the production, processing and trade of forest risk communities by the ten Corporate Groups, only affiliated subsidiaries and companies involved in these activities have been included in it. Due to the complex nature of many Corporate Group structures and the varying levels of disclosure, some relevant companies may have been missed out.

An explicit Corporate Group sustainability policy with specific commitments on the fulfilment of FPIC rights and respect for human rights ⁴		*	The Best Industry Group has no explicit sustainability policy.
Any sustainability policy of the Corporate Group's affiliated subsidiaries or companies which includes references to the fulfilment of FPIC rights		*	Best Industry Group subsidiaries do not have any published sustainability policy.
SOPs on the operationalisation of these policy commitments on the fulfilment of FPIC rights		*	The Best Industry Group does not have any published FPIC SOPs.
Any explicit commitment by the Corporate Group, and/or its affiliated subsidiaries/companies, to ensure the fulfilment of FPIC rights by any affiliated subsidiaries/companies		*	The Best Industry Group has no explicit sustainability policy that applies to all affiliated companies.
Any explicit commitment by the Corporate Group and/or its affiliated subsidiaries/companies (as defined) to ensure the fulfilment of FPIC rights by all third party suppliers		*	The Best Industry Group has no explicit sustainability policy that applies to all third party suppliers.
Any explicit Corporate Group stand-alone policy on human rights including FPIC rights		*	The Best Industry Group has no stand-alone policy on human rights including FPIC rights.
Membership of HCSA, entailing commitments to the fulfilment of FPIC rights in all developments, by all affiliated subsidiaries/companies, and by third party suppliers		*	The Best Industry Group is not a member of the HCSA. Best Industry Group has not submitted any HCSA assessments to the peer review mechanism, despite evidence from civil society organizations that it is engaging in new plantation development in Indonesia. ⁵
A commitment to the fulfilment of FPIC rights via membership of any other voluntary certification schemes with a certification standard that requires the fulfilment of FPIC rights.		*	The Best Industry Group is not a member of voluntary certification schemes.
Any other public statements by the Corporate Group and/or its affiliated subsidiaries/companies containing commitments to respect human rights including FPIC rights, such as commodity-specific or sector-wide policies with commitments to the fulfilment of FPIC rights, or 'No Deforestation, no development on Peat, no Exploitation' (NDPE) statements		*	

⁴ See Appendix on FPIC and international human rights instruments in the Methodology for the evaluation, found at www.ran.org/FPICevaluation

⁵ Chain Reaction Research. "[The Chain: Repeat Offenders Continue to Clear Forests for Oil Palm in Southeast Asia](#)". Chain Reaction Research. 2020.

Matrix 2 High-level summary evaluation of the published FPIC SOPs of Best Industry Group against the key tenets of FPIC and the HCSA Social Requirements

The second matrix gives a high-level summary evaluation of the published Free, Prior and Informed Consent (FPIC) Standard Operating Procedures (SOPs), where these exist, of the Best Industry Group, against the four core tenets of the fulfilment of the rights to FPIC, and the High Carbon Stock Approach (HCSA) Social Requirements (SRs),⁶ according to the criteria set out below.

Important note to consider when reviewing Matrix 2: No SOP = No published Standard Operating Procedure

Evaluation criteria for FPIC SOPs	Corporate Group FPIC SOPs coverage of this Aspect	Strengths and weaknesses
Are the four tenets of FPIC set out sufficiently clearly? ⁷ In keeping with SR 7	No SOPs	No FPIC SOPs, which is where dedicated and detailed FPIC procedures, and an explanation of the four tenets of FPIC should be outlined.
What provisions exist in relation to the requirement that all sections of affected communities are represented fairly and without discrimination? In keeping with SRs 2 and 12	No SOPs	No FPIC SOPs where such detail would be set out.
What provisions exist in relation to the requirement that the process is genuinely participatory, with meaningful engagement and negotiation conducted fairly and in good faith?	No SOPs	No FPIC SOPs where such details would be set out.

⁶ High Carbon Stock Approach Social Requirements. <http://highcarbonstock.org/wp-content/uploads/2020/08/HCSA-Social-Requirements-Apr-2020.pdf>

⁷ The right to give or withhold consent; that the process is free of coercion; that it is based on sufficient information; and that it takes place prior to any development

In keeping with the principle of self-determination, and with SRs 1 and 7, the information tenet		
What provisions exist in relation to the requirement that the FPIC process be fully transparent at all stages as part of fully informing rights holders? In keeping with the information tenet of FPIC in SR 7	No SOPs	No FPIC SOPs where such details would be set out.
What provisions exist in relation to the quality assurance aspects of the process including independent verification? ⁸ Necessary for the effective fulfilment of all rights including FPIC rights	No SOPs	No FPIC SOPs where such details would be set out.
What provisions are made for addressing any grievances that arise during the process? In keeping with SRs 7 and 10, and fundamental to the fulfilment of all rights including FPIC rights	No SOPs	No FPIC SOPs where such details would be set out.
What provisions exist in relation to the fulfilment of FPIC rights in existing operations? In keeping with SRs 10 and 13	No SOPs	No FPIC SOPs where such details would be set out.

⁸ This should include provisions for ongoing monitoring, with adaptive management and continuous improvement

Matrix 3 – Comparison of the published FPIC SOPs of Best Industry Group to the specific actions required for the fulfilment of FPIC rights under the HCSA Social Requirements and Implementation Guidance.

The third matrix presents key findings from a comparison of the FPIC SOPs to the specific actions that are required for the fulfilment of FPIC rights under the HCSA Social Requirements, including the Social Requirements (SRs) themselves and the detail on their operationalization provided in the Implementation Guide (IG).

Important note to consider when reviewing Matrix 3: No SOP = No published Standard Operating Procedure

Actions required for the fulfilment of FPIC rights under the HCSA SRs and IG	Documentation requirements	If and how the action is covered in SOPs	Necessary additions to SOPs to align with HCSA SR and IGs
1. Identify all potentially affected communities (ACs) in the Area of Interest (AOI) ⁹ SR 2 IG Step 1.3a	List of all ACs located in AOI, with indication of extent/ways in which likely to be affected	No SOPs	No SOPs

⁹ Affected communities (ACs) are defined by the HCSA to include indigenous people and local communities, as set out in the introductions of the SRs and IG.

High Carbon Stock Approach Social Requirements <http://highcarbonstock.org/wp-content/uploads/2020/08/HCSA-Social-Requirements-Apr-2020.pdf>

High Carbon Stock Approach Implementation Guidance. <http://highcarbonstock.org/wp-content/uploads/2020/08/HCSA-Implementation-Guide-Apr-2020.pdf>

<p>2. Visit each AC and inform them¹⁰ of:</p> <p>a. The proposed development plans and their potential positive and negative impacts; details on compensation and other benefits; and possible alternative means of meeting local development needs¹¹</p> <p>b. Their right to say no to the proposed development</p> <p>c. Their rights to : determine their own representatives; appoint advisors to support them throughout the process; set the terms for engagement, in line with customary rules, protocols and structures for decision-making; and agree the timing of the process; and the associated requirement that these processes are fair and non-discriminatory. (In line with SRs 2, 12)</p> <p>d. The company's obligations with regard to FPIC (under national law, and according to international norms, including as set out by the HCSA SRs and other sustainability mechanisms)</p> <p>e. That these obligations include the establishment of a grievance mechanism, if ACs do give their consent, in order to mediate any issues arising during the process of engagement, assessment and negotiation¹²</p> <p>f. What is involved in the assessment and land-use planning processes (land tenure and usage study (LTUS), HCV-HCS assessment, and Social and Environmental Impact Assessment (SEIA)), and in the engagement and negotiation processes</p>	<p>Full records of engagement with each AC, including lists of attendees, detailed agendas, and minutes and/or recordings of the content of all meetings and other interactions¹³</p> <p>Compilation of relevant information on a-f</p> <p>These records and all the relevant information are made accessible to ACs and other stakeholders, in appropriate format/language, according to arrangements that have been mutually agreed¹⁴</p>	<p>No SOPs</p>	<p>No SOPs</p>
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¹⁰ All information must be shared transparently with ACs, in a format and language accessible to all sections of communities

¹¹ The corporate ownership of the proposed project; the scale of the development; the length of the permit and nature/stage of the permitting process; and any other associated planned infrastructure such as roads, ports, warehouses, processing facilities etc., must also be disclosed fully to the ACs that may be affected by it

¹² According to mutually agreed arrangements and in line with international human rights norms on grievance mechanisms

¹³ These records should reflect (and so help to ensure) fair representation, full information disclosure, and the genuinely participatory/meaningful/good faith/fair nature of the process throughout the engagement, assessment and negotiation processes

¹⁴ SR 1 mandates the establishment of a 'social knowledge dossier' in which all relevant documentation related to the proposed development can be stored and made available as appropriate to rights holders and other stakeholders, with rights holders involved in setting the terms of access.

SRs 7,2, 10			
<p>3. Ensure that each AC has an opportunity during this preparatory stage to either consent to continued participation in the processes of engagement and assessment, or to withdraw from them, with sufficient time for consulting with advisors if they so choose</p> <p>FPIC GATE 1</p> <p>SRs 7, ,2, 1 IG Step 1.3c</p>	<p>A formal record of the decision of each AC, and of how it was reached, showing that the process has been free of coercion, representative and non-discriminatory¹⁵</p> <p>Also made accessible to each AC</p>	No SOPs	No SOPs
<p>4. Establish the actual mechanisms for ensuring genuinely participatory assessment and land-use planning processes, and for ensuring meaningful engagement and negotiation processes conducted fairly and in good faith including:</p> <p>a. Who will be involved in which aspects, including which members of each AC and independent and/or technical advisors on each side</p> <p>b. The forum, format and frequency of interactions for engagement and negotiation, ensuring sufficient time for full consideration by the AC at each stage</p> <p>c. Procedures for recording and communicating information, including records and outputs of engagement processes, of assessments, and of the negotiations. These must all be made accessible to ACs in an appropriate format and language</p> <p>d. Procedures for reporting and addressing any grievances that arise during the assessment and engagement processes (and possibly beyond)</p> <p>SRs 2,7,12,10</p>	<p>Full records kept of engagement process, including attendees and minutes/ recordings of all meetings</p> <p>Documented details of the agreed arrangements in relation to all aspects (a-d)</p> <p>Made accessible to ACs in appropriate format/language</p>	No SOPs	No SOPs

¹⁵ Independently verified quality assurance is necessary at this point, during the process (*ongoing monitoring*) to ensure that this is the case, by checking that the written and video records show: (i) meetings attended by good proportion and representative cross-section of ACs; (ii) that meetings have covered fully/sufficiently all the necessary points in 2 from a to f; (iii) the FPIC gate has been formally documented, and the process only continued with those ACs that have given consent; (iv.) this only occurs following the independent verification of this first stage (preparation stage 1 in the SRs' Implementation Guide)

Step 1.3d/2.1			
<p>5. Conduct participatory assessments in conjunction with each AC as follows:</p> <p>a) Land Tenure and Usage Study (LT&US)¹⁶ b) Social and Environmental Impact Assessment (SEIA) (done by assessors) c) HCV-HCS assessments (done by assessors)</p> <p>Full discussion of findings with each AC, and their endorsement of the recommended land-use allocations based on it (done by assessors)</p> <p>SRs 1,7 Steps 1.4 and 2.3b/c</p>	<p>Outputs from the LT&US and two major assessments, the HCV-HCSA Assessment Report and the SEIA Report, which demonstrate the genuinely participatory nature of the process (QA done by HCVRN-ALS)</p> <p>Made accessible to ACs in appropriate format/language according to agreed arrangements</p>	No SOPs	No SOPs
<p>6. Provide each AC with two more opportunities during the assessment stage to either consent to continued participation in the process, or to withdraw from it.</p> <p>FPIC GATE 2 follows the scoping phase of the HCV-HCS assessment, when assessors visit ACs (or a sample of them) before the main assessment takes place, to conduct due diligence on the process thus far.¹⁷</p> <p>FPIC GATE 3 follows the full discussion of the findings of the participatory assessments with each AC, when each has another chance to withdraw from the process.</p> <p>SR 7 Step 2.3a and 2.3d</p>	<p>Record of decision of each AC, and of how reached, showing that process has been representative and non-discriminatory</p> <p>Made available to each AC</p>	No SOPs	No SOPs

¹⁶ Involving preliminary participatory mapping and the collection of other information on tenure and usage patterns,

¹⁷ The due diligence conducted by the HCV-HCSA assessors includes (or should include) ensuring that full information has been provided to ACs, and that their initial consent to the process was granted at FPIC GATE 1 without coercion, and with all sections of ACs fairly represented. This due diligence can be conducted with a sample of ACs to show the general pattern of the engagement process and whether it meets the requisite standards.

<p>7. Co-develop with ACs the proposed Integrated Conservation Land Use Plan (ICLUP) and associated management and monitoring plans (MMP), and the accompanying 'package' of other measures (related to benefits, conservation, employment, 'CSR' grievance mechanisms etc.)</p> <p>SR 7 Step 3.1</p>	<p>Full records kept of engagement process including attendees of meetings and minutes/recordings.</p> <p>The output of the process, i.e. the proposed ICLUP, MMP and 'package'</p> <p>Made available to ACs</p>	<p>No SOPs</p>	<p>No SOPs</p>
<p>8. Conduct negotiations in good faith with each AC on the proposed ICLUP, MMP and package, with sufficient time allowed for full consideration, and independent advice available, in accordance with agreed arrangements</p> <p>This leads to the FINAL FPIC GATE, as each AC either gives their binding consent to what becomes the final ICLUP, or rejects it, and either withdraws from the process, or may enter further negotiations.</p> <p>SR 7 IG Step 3.2</p>	<p>Record of engagement and negotiation process</p> <p>Legally binding record of the agreement itself, if consent is given</p> <p>The final agreed ICLUP, MMP and package</p> <p>All made fully available to ACs in accessible format</p>	<p>No SOPs</p>	<p>No SOPs</p>
<p>9. Ensure this consent or rejection has met all the requirements of FPIC as set out above, before development proceeds, through independent verification of the documentation of all the FPIC procedures set out (including all 4 FPIC gates), thereby confirming the consent or rejection of proposed and final ICLUP by each AC.</p> <p>SRs 2, 7, 12 IG Step 3.3</p>	<p>Evidence that QA standards have been met, and IV conducted of the procedures required for the fulfilment of FPIC rights as set out in this matrix, including desk-checks of all the documentary records and field-checks with a sample of ACs</p>	<p>No SOPs</p>	<p>No SOPs</p>
<p>10. Ensure effective operation of grievance mechanisms as arranged, during the engagement, assessment and negotiation processes, and subsequently for the duration of the ICLUP.</p> <p>SRs 7, 10 Step 1.3d, 2.1, 4.3</p>	<p>Evidence that a grievance mechanism exists and is functioning effectively, with periodic QA and IV to ensure this is the case</p>	<p>No SOPs</p>	<p>No SOPs</p>