



Date: 17th May 2024

To the Supervisory Body,

Namati works to advance social and environmental justice by building a movement of people who know, use, and shape the law. Namati supports grassroots legal advocates, also known as community paralegals, who help people solve justice problems on the ground. Namati also convenes the Grassroots Justice Network, a global network of more than 15,000 legal empowerment practitioners in 175 countries that share knowledge and resources.

Across our network, communities have found themselves in the middle of carbon markets they didn't expect and they don't understand. Namati and our network partners are supporting communities to understand their rights, negotiate fair agreements, monitor project implementation, and seek remedies when violations occur. We are also gathering lessons from across these carbon market experiences to influence national laws and global policy. We have worked with our network members to identify key principles necessary for communities impacted by carbon projects to thrive. We have summarized these as the [Carbon Justice Principles](#), informed by this [roundtable discussion](#).

As global carbon markets expand, the communities that we work with expect to see more projects with funding from the sustainable development mechanism. We hope that these projects will bring the benefits communities envision, including jobs, financial security, and business opportunities. We appreciate efforts in the sustainable development tool to protect human rights and the environment. We include suggestions here that reflect the priorities we are hearing from communities impacted by carbon projects. It includes:

- Land Tenure: Respect for land tenure is a necessary precondition for any carbon project. Since many projects are being considered in regions where there is great tenure uncertainty, it is important for project developers to seek tenure clarity before starting negotiations.
- Fair Free, Prior, and Informed Consent: Throughout the lifecycle of a project, communities impacted by carbon projects need access to information about the project and the ability to decide whether they want the project on their land. In addition to recognizing and respecting the special rights reserved for Indigenous People, the Sustainable Development Tool also needs to establish robust safeguards for all local communities whose rights are impacted by a project. Access to information about the project and free, prior and informed consent are crucial requirements for everyone whose legal or customary land rights are affected.
- Fair Compensation: People living on and using the land impacted by carbon markets must be adequately and transparently compensated. They should be viewed not just as beneficiaries but as critical to the project's success.

Please find enclosed our application of these principles to the Draft: Article 6.4 sustainable development tool (ver. 06.0). We would welcome further discussion on this topic.

Best regards,

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Legend for Columns

1 = Section Number in the document

2 = Paragraph, table or figure number

3 = Nature of input is general, technical or editorial

4 = Comment – the actual feedback or observation, including justification for what needs changing

5 = Proposed change – suggest the text if possible

6 = Assessment of comment – secretariat to document response/action taken to comment

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Section no.	Para., table or figure no.	Type of input G = general T = technical E = editorial	Comment	Proposed change (Include proposed text)	Assessment of comment (Completed by secretariat)
5.3.5.	Para 65; Table 12	T	<p><u>Fair land tenure is critical for successful carbon projects and trust with impacted communities</u></p> <p>The recognition of land rights of people on land where carbon projects take place is a necessary precondition for discussions of removal, compensation, or negotiations. Carbon projects have the opportunity to improve the rights of people impacted by these projects by ensuring that their tenure is documented and recognized before other elements of the project begin. Especially because many carbon projects will take place on land that has a history of unclear tenure, it is imperative that tenure clarity precedes project development.</p>	<p>Before paragraph 65 please insert:</p> <p>The activity participant shall ensure that there is clarity of tenure on prospected land before initiating a discussion of a project. Tenure clarity should be discussed with local and national governments and communities living on and near the land. If communities living on and using the land have not had the opportunity to formally register their land, registration should precede project development.</p> <p>Table 12 should be augmented to include:</p> <p>Is there clarity of tenure for the land where the proposed project will take place according to the local and national governments and communities living on or near the land? <i>If no, respond to the guiding questions.</i></p>	

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Section no.	Para., table or figure no.	Type of input G = general T = technical E = editorial	Comment	Proposed change (Include proposed text)	Assessment of comment (Completed by secretariat)
5.3	Para 65; Table 12	T	<p><u>Include free, prior and informed consent as a stand-alone principle</u></p> <p>For the carbon market projects to have a positive impact on the communities affected by carbon market projects, the projects have to ensure that the communities have access to information to give informed consent at the project conception and throughout the project life cycle. The current draft only mentions FPIC when there is the potential of resettlement of Indigenous Peoples. We propose an additional principle to guide the Free Prior and Informed Consent (FPIC) for all people who own or use land impacted by a project. This is because many communities, especially in Africa, who are impacted by carbon projects are not officially recognized as Indigenous.</p>	<p>Add the following paragraphs below paragraph 65</p> <ul style="list-style-type: none"> a) No carbon projects should exist without a robust and meaningful Free, Prior, Informed Consent of the people who own or use the land impacted by a project. This includes a right to say no to the proposed projects. Activity participants are responsible for ensuring robust FPIC processes. b) Communities impacted by a project should be able to define what consultation and consent look like in their community. c) Activity participants shall be required to make publicly available all the agreements related to the project. These should be available online and in local languages accessible to the people directly impacted by the project. 	

5.3.5.	Para 65; Table 12	T	<p><u>Fair compensation is necessary for sustainable, mutually beneficial markets</u></p> <p>Communities who have tenure rights to the land impacted by carbon projects should be adequately compensated. Compensation for harm should not be confused with compensation for use of land or other profit sharing.</p> <p>Communities should have the autonomy to make decisions on how to use the finances that flow from the carbon projects should be used since this will ensure that the use of finances is responsive to the communities’ aspirations, priorities and expectations. Funds that flow directly to the state (i.e. funds allocated in state budgets or under national state administration) endow government agencies with extensive authority to use the funds for sector development. Under such systems, communities do not have the authority to use the funds but may derive indirect benefits from the funds.</p>	<p>Following on good practices from other industries and the experiences of impacted communities, we propose the following additional minimum standards before paragraph 65.</p> <p>Activity participants must adequately compensate communities living on the land impacted by a project for the use of their land. This should include:</p> <p>(a) Activity participants must be responsible for ensuring that information about the timing, size, and use of these finances is clearly and transparently communicated in a timely manner that can be used by impacted communities.</p> <p>(b) The majority of project profits should flow directly to communities that own and use the land being used for the project; People within an impacted community should have an understanding of the options for different forms of compensation, including based on annual rent, profit sharing, and employment.</p> <p>(c) The finances flowing to impacted communities should be managed by the communities themselves.</p>
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