

PARTICIPANTS

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- Christopher Kidd; James Whitehead - Forest Peoples Programme
- Dawn Robinson; Justin Dupre Harbord – Proforest
- David Ganz; Laurie Puzio – RECOFTC
- Genevieve Taft-Vazquez - Coca Cola
- John Mwaiseghe; Liz Alden Wiley - Community Land Action Now! (Kenya)
- John Nelson, Robin Barr - Earthworm Foundation
- Mark Constantine – IG Co-chair
- Mylène Raimbult - NEPcon
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- Robert Steinhardt - IKEA
- Sam Szoke-Burke - Columbia Center on Sustainable Development
- Sarah Mercadante - PepsiCo
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BACKGROUND

The Interlaken Group initiated a webinar series to assess the challenges posed by COVID-19 to global supply chains, investments, and community land tenure, entitled: *Monitoring Investments and Supply Chains During the C-19 Pandemic: Emerging Practices, Innovations, and Recommendations*. The purpose of these online discussions was to leverage the position of the Interlaken Group and its associated networks to ensure that land tenure and sustainability concerns remain at the center of response and relief efforts. The series was anticipated to yield a jointly developed knowledge product with which to influence and/or direct practice within and outside of the Group's immediate network.

The webinar series was initiated on May 14, where the Interlaken Group organized a stock-taking meeting to assess the unfolding impacts of COVID-19 in global supply chains and identify priority areas for intervention. A second webinar was organized on June 17 to explore the concept of community-based monitoring as a potential solution to enhance supply chain and investment monitoring initiatives and due diligence in an operating environment where access to rural areas by field teams will be curtailed.

The third and final installment of the discussion series was held on June 30. The purpose of the discussion was to explore emerging practice and questions being considered by companies, investors, NGOs, and communities to ensure robust due diligence and consultations in the COVID-era.

CONTEXT

Corporate, investor, and NGO stakeholders are beginning to grapple with the critical questions that will define investment appraisal, due diligence, certification, and farmer/community engagement in the

COVID-era. Most of these processes are reliant, at least in part, upon the mobilization of field teams to travel into rural areas for on-sight assessment and validation, which will likely be reduced in future. Many groups are developing workarounds and adapting existing systems to ensure continuity in these processes. Some inspiration may be found among producer companies which have developed systems that integrate geo-located technology to provide a “real-time” link to rural farmers and distributors, though these platforms are not widespread. The certification community have relaxed criteria and postponed required field visits. At the same time, local communities are concerned that the shift towards more remote solutions may put at risk already fraught and unevenly respected requirements for the achievement of FPIC. Stakeholders are asking many of the same questions, and are proposing similar “work-arounds”, but there are as yet few solutions.

OVERVIEW

The Chairs opened the meeting with a reminder of the objectives and the ground rules, including Chatham House Rule. The session was not recorded, though the Chairs emphasized that this issue could be revisited to meet the needs of the Group.

The Chairs introduced guiding questions for the session, including:

1. What challenges have arisen with respect to liaising with producers, investees, and communities because of the pandemic?
2. What “work arounds” have your organization found to address these challenges?
3. How can FPIC be achieved where connectivity is limited?
4. What principles might define proper due diligence, community consultations, certification, and FPIC processes in the COVID-era?

Panelists provided short introductory comments to kick off the discussion from the perspective of the development finance community, certifiers and auditors, and Indigenous Peoples and local communities (IPLCs). The following key points arose from the three panelists’ presentations:

- Ensuring robust due diligence in an environment where access to the field will be reduced is a challenge. Development finance institutions (DFIs) are challenged to understand with whom they can collaborate to understand the physical environment around investments, to cooperate with authorities, and engage with communities. How can DFIs improve and intensify these activities knowing that many will be conducted from a distance?
- DFIs are considering how to empower and rely more on local partners through leveraging technology and supporting trainings to “up-skill” consultants and resource persons. Leveraging more local resource persons might be combined with more reliance on remote technologies like satellite imagery, videos, and other media to drive robust due diligence.
- There is interest to explore how communities might be engaged to play an active role in investment due diligence. This would involve a substantial change in the perception of IPLCs from the investor perspective, that is, seeing communities as an issue or risk to be assessed and mitigated, towards engaging local peoples as counterparties to an investment and as critical sources of information and expertise. Though there is appetite, there are concerns as to the verifiability and validity of community data and inputs in this context.
- Given the new operating environment, inadequacies and limitations of workarounds to undertake investment due diligence, investors are faced with re-assessing the levels of residual risk with which they can be comfortable.

- For the audit and certification community, COVID has meant that staff are facing difficulty to carry-out the field components of their work. This is problematic because interviewing and developing relationships is fundamental to ensuring accurate results and requires face-to-face interaction.
- The pandemic has interrupted commodity certification and audit processes. Elements of the certification process, including field visits, have been paused to ensure that companies and investors are able to shift their attention address to the various impacts of the COVID crisis. However, this pause is not indefinite. Companies and investors are actively pushing to restart these processes to ensure they do not lose important certification. Yet Indigenous Peoples and local communities are focused more on maintaining the health and safety of rural communities, rather than actively communicating with certification holders.
- Achievement and maintenance of free, prior, and informed consent (FPIC), which is a critical component of commodity certifications, requires time and resources, both of which have been disrupted by the pandemic. It is unclear how willing companies and investors will be to invest in re-engaging and re-establishing the relationships that are critical for FPIC. In the new operating environment, achievement of FPIC will be even more resource and cash intensive.
- Workarounds, including those relying on technology, must be “culturally appropriate” and acceptable to IPLC counterparties. A highlight of successful adaptation in the auditing and certification space may be that “consent” of IPLCs is sought in addition to their active participation in decision making and validation.
- The COVID pandemic has revealed the stark challenges faced by IPLCs, like assassination, threats and intimidation, increases in deforestation and destructive environmental practices, and violations of FPIC. In many developing countries, IPLCs lack legal certainty over the areas that they occupy, which exacerbates issues associated with FPIC, consultations, and due diligence. Local peoples may lack statutorily recognized rights to these areas in national law, but not in international law and standards. FPIC is not a checklist, but rather a fundamental right through which IPLCs can safeguard their peoples and cultures.
- It is not reasonable for companies and investors to engage only with national government representatives when assessing or pursuing investment opportunities. It is also equally necessary to engage with IPLCs as the local owners or rural lands and forests. In many countries, there are platforms and spaces which have been established by IPLCs for just this purpose which ought to be utilized.
- IPLCs generally face problems with access to technology, and due to remoteness, challenges with connectivity. Virtual workarounds are useful, but not the path forward to ensure robust consultations, due diligence, or to achieve FPIC. Direct dialogue with IPLCs via established spaces is required.
- There is an opportunity to improve local capacity for monitoring, due diligence, and reporting. Joint creation of information between the private sector and IPLCs is an important and under-developed area for potential collaboration. It is also critical that companies and investors prevail upon developing country governments to support land tenure reforms and the rights of IPLCs.
- IPLCs, as the owners of rural lands and forests, are open to dialogue with the private sector in the pathway to development, but it is important to leverage existing and dedicated spaces to facilitate dialogue and collaboration. There remain substantial power imbalances between rural communities on the one hand, and governments and the private sector on the other.

After the panelists shared their initial remarks, participants reflected on introductory comments and the guiding questions. Reflections included that:

- Quick restart of operations or investment is at odds with the challenges and priorities for local peoples, who are occupied with ensuring the safety of their communities. Best practice for companies and investors should be pausing to ensure that local peoples are engaged and supportive. The ability to slow down is required to ensure that monitoring, due diligence, and FPIC are robust and valid. At the same time, the economic realities of the crisis means that many private sector stakeholders lack the financial ability to pause. In some contexts, companies and investors are required to produce or invest within a certain amount of time or they lose the rights to a particular concession.
- Work arounds require communication, trust, and common systems that communities and companies both recognize as fully credible. How do we begin to embed the monitoring, assessment, and due diligence process within the communities that are being impacted? How can we set up ongoing systems of reporting and monitoring that are inclusive of communities?
- A virtual response cannot be the full answer to the remote accessibility issues that have arisen. A ground presence and face-to-face interaction is eventually required, especially in countries where connectivity is low. Emerging workarounds for due diligence in West Africa have included:
 - Only sending field teams into rural areas once rigorous preparations have been completed, such that field teams can visit individual households for interviews, provide PPE, and maintain appropriate social distance;
 - Complementing virtual audits and interviews by engaging a trusted local resource person to either, for example, sit in on interviews or to accompany video teams to validate location; and
 - Conducting webinars to train and “up-skill” local facilitators and resource persons.
- Companies and investors are uniquely positioned to influence governments to support land tenure reforms or implement legislation and policy to secure community land tenure. Interlaken Group platforms in country represent critical entry points to advance reforms with developing country governments.

NEXT STEPS

The Chairs wrapped up the meeting with a short discussion on next steps the Group could take to advance the results of the webinar series. Several options were proposed:

- Development of a high-level guidance document describing the emerging principles and practice for due diligence, monitoring, verification, and FPIC in the age of COVID.
- Continuation of webinar series and connections. There was demand for a deeper dive on community-based monitoring, as well as more practical discussions on emerging practice and tools being leveraged to ensure robust due diligence and monitoring. There was interest in exploring how land tenure and community engagement have contributed to more “resilient” supply chains and mitigated health, safety, and economic impacts associated with the pandemic.
- Exploring how to reinstate Interlaken Group country engagements, which were paused beginning March 2020.