

Practitioner's guide for local stakeholder consultation

HOW TO ENSURE ADEQUATE PUBLIC PARTICIPATION IN CLIMATE MITIGATION ACTIONS

Version 1.0 - April 2018



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Contact information:

Eva Filzmoser, Executive Director

eva.filzmoser@carbonmarketwatch.org

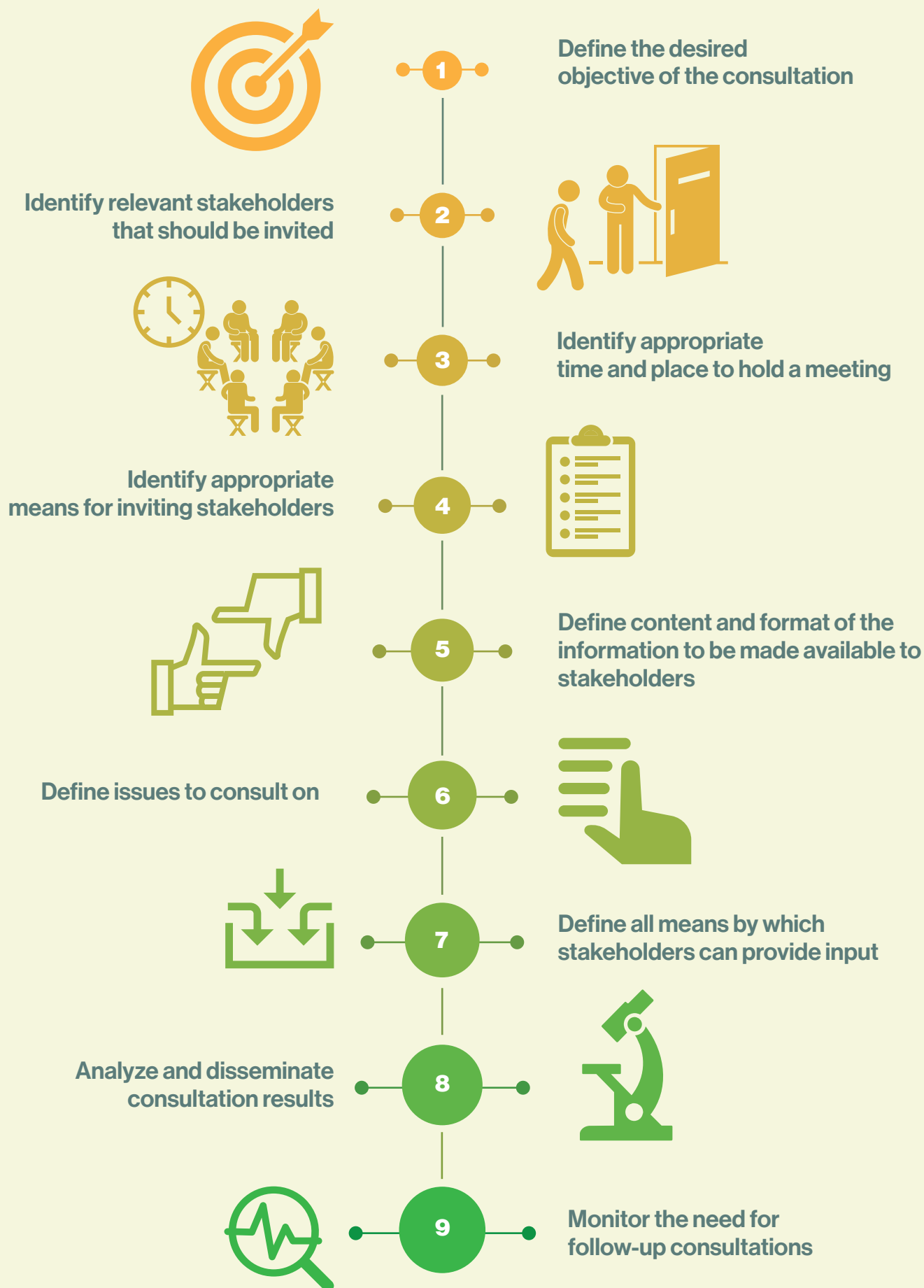
Gilles Dufrasne, Policy Researcher

gilles.dufasne@carbonmarketwatch.org

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Introduction

Over the past 20 years, global efforts to mitigate the effects of climate change have increasingly relied upon the implementation of local mitigation projects. While aiming to reduce emissions in the most cost-effective way, some of these projects have built up a record of adverse impacts on local people, resulting in the displacement of populations or the privatisation of natural resources. A significant contributor to these negative impacts is the lack of positive interaction and collaboration between local people and project developers. Stakeholder consultations have often been relegated to a low-priority status and have been either ‘top-down,’ or there have been no such procedures at all. In 2018 and beyond, project-based mitigation efforts are likely to continue to play a significant role in the coordination of international efforts to combat climate change. Robust rules for stakeholder participation in consultations therefore need to be included in the regulatory texts, which will serve as the basis for such mitigation mechanisms. This includes, amongst other schemes, the Sustainable Development Mechanism (SDM) and the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). However, the applicability of such rules is by no means limited to projects, which issue carbon credits; all types of mitigation efforts should ensure that the views of local communities are incorporated throughout the project’s lifecycle, including in its design and implementation.

Engaging, and then involving civil society and local peoples and communities in consultations around the development and implementation of emissions abatement projects is a sound investment, and a core element of good governance. It is also a duty for States to protect their people and involve them in decisions that will impact their lives. Consultation is not a single event, but rather a deliberative process, which allows stakeholders the opportunity to participate in decision-making on an ongoing basis. Stakeholder consultations help build public trust, avoid disputes before they escalate, improve the quality of the decisions reached, strengthen compliance, and ultimately lead to better projects.

This handbook is a step-by-step guide to successful stakeholder consultations. It draws on international principles and standards as well as on recognised good practices in climate and development projects. It is relevant to everyone who needs to carry out stakeholder consultations for climate mitigation projects or is looking to buy carbon credits, including policy-makers, project and programme developers, development banks, and investors. It serves as a checklist for verifying the successful consultation of new projects, as well as existing projects, and helps ensure that proper measures have been adopted to prevent adverse impacts on local communities.

The guide builds on our long experience in monitoring and reforming the stakeholder consultation rules of the Clean Development Mechanism (CDM) established under the United Nations Framework Convention on Climate Change (UNFCCC), and which to date counts 8000 registered projects. While the future of the CDM is limited, demand for offsetting credits is likely to increase in light of the coming implementation of the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), as well as the uncertainty around the establishment of the Sustainable Development Mechanism (SDM). The wealth of experience provided by the CDM on the challenges faced in the day-to-day implementation of climate mitigation projects will remain valid for many years to come, not only for future carbon offsetting projects, but also for all other climate mitigation projects implemented through various schemes and programmes. The lessons learned from the CDM have therefore been incorporated into this guide, to help create a ‘next-generation’ approach to stakeholder consultation.

The recommendations in this guide are an expanded version of the concept note prepared by the UN Climate Change Secretariat, summarising years of input from various stakeholders on how to improve the stakeholder consultation process¹. We thank all organisations that have endorsed this guide and which have contributed to the Secretariat’s note through useful comments, for their support in putting effective stakeholder consultations at the core of every project that aims to fight against climate change while upholding human rights.

More specifically, this guide contains:

- Detailed step-by-step guidance on how to conduct stakeholder consultations in a manner that promotes full and effective participation of all relevant stakeholders
- A description of relevant practices that must be taken into account, including the right to consultation; the right to free, prior and informed consent (FPIC); and the corporate responsibility to respect human rights
- Practical steps on how to put the recommendations from the Secretariat into action
- A reflection on ways to audit and validate steps taken to conduct a stakeholder consultation

This guide does not constitute a standard as such, and should not be used as such. In due course, this guide may be formulated in such a manner as to provide such a standard, subject to consultation, and following international best practice.

1 UNFCCC, “Improving Stakeholder Consultation processes” See [here](#)



Benefits of stakeholder participation in climate mitigation action

Stakeholder participation is critical to achieving successful outcomes and avoiding or minimising adverse impacts of development and climate projects. By involving stakeholders and incorporating their concerns and feedback, project/programme developers can improve project design and outcomes, identify and control external risks, and establish a basis for ongoing collaboration with relevant parties. Effective consultation helps build the capacity of stakeholders to develop appropriate benefit sharing arrangements, and generates ownership of the decisions made².

Stakeholder consultation is a key tool to protect and promote human rights in climate mitigation projects, as called for in the Paris Agreement³. Meaningful participation of local communities in a project cycle helps to put issues on the table so they are considered and addressed, and negative impacts are minimised in the early stages of the project cycle.

As described by the World Bank, stakeholder consultation is a dialogue between the project developers and its stakeholders. The State is to play a crucial role in this process: it is responsible for designing and implementing robust rules on stakeholder consultations and the protection of vulnerable actors in the implementation of all types of projects or policies, and it often acts as a project developer itself and is therefore responsible for conducting the entire consultation process. For projects with environmental and social impacts, this dialogue “will not be a single conversation but a series of opportunities to create understanding about the project among those it will likely affect or interest, and to learn how these stakeholders view the project and its attendant risks, impacts, opportunities, and mitigation measures”⁴.

Best practice consultation

Broad public participation and stakeholder consultation in climate mitigation actions is consistent with international law in general and climate law in particular. The right to public participation in decision-making is specifically called for by the UNFCCC, which requires that Parties must promote and facilitate “public participation in addressing climate change and its effects and in developing adequate responses”⁵. It is also recognised in the Rio Declaration, Agenda 21 and the Aarhus Convention, which aim to strengthen international cooperation against climate change in a way that does not generate harm to individuals or peoples.

Furthermore, the UN Guiding Principles on Business and Human Rights clearly state how both States and businesses have obligations regarding the protection of human rights, including a duty for businesses to conduct a human rights due diligence, which should “Involve meaningful consultation with potentially affected groups and other relevant stakeholders”⁶.

According to these sources, the right to informed consultation and participation shall be guaranteed through timely access to information, full and effective participation in the consultation process, and a means to provide stakeholders with recourse when specific rules and standards have not been properly met. With respect to indigenous peoples and local communities, there are more strict requirements: the rights of indigenous peoples and members of local communities must be respected by ensuring consistency with the UN Declaration on the Rights of Indigenous Peoples and by taking into account relevant international obligations, including free, prior, and informed consent as appropriate (e.g. in case of forced eviction, impacts on lands, territories or resources). This means that affected peoples and communities

2 African Development Bank (2001), “Handbook on Stakeholder Consultation and Participation in ADB Operations”, [see here](#)

3 Paris Agreement preamble

4 World Bank (2012), “Guidance Notes on Tools for Pollution Management”

5 United Nations Framework Convention on Climate Change (1992), p.10

6 UN Guiding Principles on Business and Human Rights (2011), p.19

have the right to say no, a decision, which will have to be respected. Saying 'yes' generates what is referred to as a social license to proceed, and is critical to project viability.

Free, prior and informed consent

As described by former UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya: "The particular indigenous peoples or communities that are to be consulted are those that hold the potentially affected rights, the consultation procedures are to be devised to identify and address the potential impacts on the rights, and consent is to be sought for those impacts under terms that are protective and respectful of the rights. Where the rights implicated are essential to the survival of indigenous groups and foreseen impacts on the rights are significant, indigenous consent to those impacts is required, beyond simply being an objective of consultations."⁷

Drawing on recognised principles and norms of international law and 'good' governance, stakeholder consultations should be consistent with the following:

- A. COMPLIANCE WITH NATIONAL AND INTERNATIONAL LAW** – As project/programme developers initiate and undertake consultations and obtain or fail to obtain consent as and when appropriate, their actions should be consistent with their obligations and responsibilities under national and international law. For example, established principles of international human rights law provide that all people are entitled to fundamental rights and freedoms, including the right to consultation. Governments bear the primary duty to protect and fulfil human rights.
- B. "NO HARM"** – Similarly, project developers should adhere to the "no harm" principle, a widely recognised principle of customary international law that serves as the basis for several international treaties and agreements (including the UNFCCC). In the context of climate change, this represents the basic concept that climate actions should not cause unacceptable harm to communities or ecosystems. Effective consultations serve as one means to prevent harm and safeguard the rights of affected individuals, peoples and communities.
- C. PUBLIC PARTICIPATION IN DECISION-MAKING** – including access to justice and redress, is a well-established principle under international human rights and environmental law, and central to the legitimacy of proposed projects. The Aarhus Convention⁸ and the recently negotiated Escazu Convention for Latin America and the Caribbean are of particular importance as their members have committed (or, in the case of the Escazu Convention, will commit upon ratification) to implementing these principles in all of their environmental decisions.
- D. PROPORTIONALITY** - The level of consultation should be proportional to the level of impact that is likely to result from a particular activity or project.
- E. INCLUSIVENESS** - The groups and sectors of the population that have contributed the least to climate change are often the most vulnerable to its impacts, and are sometimes excluded from decision-making. In order to ensure these and other interested and affected parties are represented, as broad a range of key stakeholders as possible need to be included in consultation activities.
- F. EQUALITY** – Equity and non-discrimination play an important role in climate mitigation. Vulnerable groups, particularly women and children, often experience disproportionate impacts of climate change and measures taken to mitigate those impacts. These impacts also materialise in different ways for different groups. Project/programme developers must take into account – and seek to address rather than further exacerbate – existing inequities and discriminatory practices. These principles are enshrined in various international agreements, including the UN Declaration on Human Rights, the UNFCCC Paris Agreement, and the UN Declaration on the Rights of Indigenous peoples; and have been supported by several expert bodies such as the Committee on the Elimination of Discrimination against Women.
- G. RESOURCES** – Marginalised stakeholders often lack the capacity to participate meaningfully in consultation activities. They may not speak the language of project proponents, must travel to consultations, have no arrangements in place to manage work activities in their absence and are often forced to stay at home to look after children. These stakeholders require support (institutional, technical, or financial) to offset the transaction costs associated with being involved in consultation activities.
- H. TRANSPARENCY AND ACCOUNTABILITY** - Transparency and accountability are inextricably linked to the rights of access to

7 Human Rights Council (2012). UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya

8 Currently, 47 States are Parties to the Aarhus Convention

information, and the responsible behaviour of all parties involved in project design and implementation. If affected stakeholders do not know, or cannot see, what other parties are doing or saying with respect to proposed activities, they are unable to prevent potentially irresponsible behaviour, or hold others to account. Guided by these principles, project/programme developers should ensure that individuals and communities are informed of the potential impacts of such activities, and take appropriate action to respond to stakeholders' concerns.

- I. **DEMOCRACY, AGREEMENT AND DISPUTE SETTLEMENT** – Stakeholders require effective opportunities to participate in decisions as to how project activities should be carried out. This includes the freedom of choice to say yes or no, by means of appropriate methods for reaching agreement between parties, and access to dispute settlement mechanisms where agreement cannot be reached, or if proposed activities cause social or environmental harm. Clearly delineated methods for reaching agreement and settling disputes help prevent current or future conflicts from escalating, and avoid future revocation of the social license for project activities.
- J. **IMPLEMENTATION** – understood as putting commitments into practice – is critical to meeting stakeholders' needs, and combatting climate change. Consultation processes require a clear delineation as to how proposed activities will mitigate climate change. Benefit sharing mechanisms also need to be negotiated during initial consultation so that expectations of all parties are properly managed. Taken together, these commitments help guarantee that the project makes a durable contribution to sustainable development and poverty alleviation, the central objective of the Paris Agreement.



9 steps for carrying out effective stakeholder consultations

1. Define the desired objective of the consultation

Careful planning is key to a successful consultation. Before the actual consultation is held, several elements need to be agreed upon.

- The objectives of the consultation should be defined in advance in order to clarify what stakeholders can expect from the consultation.
- In addition to having a legal mandate, the consultation requires a clear delineation of who should be involved in the process and how, and the project's objectives and desired outcomes should be explained in a way that is understood by all stakeholders⁹. This is important to create realistic expectations and to ensure that trust is maintained.
- For the consultation to be successful, a two way flow of information must be set up between project proponents and stakeholders, so that everyone has the opportunity to react to the information presented, and ensure that their feedback is reflected in the final outcome.

Checklist:

- Have the objectives of the consultation been defined in advance in order to clarify what stakeholders can expect from the consultation?
 - Have all potential sources of harm to local stakeholders and the environment been identified?
 - Have a) preventative solutions to avoiding potential harm been developed? Or b) have the affected people identified compensatory actions, so that they are, *on their own recognisance*, at least as well off after the implementation of the project as they were before?
 - In order to ensure that the project does not significantly increase inequalities within a community, a) have all potential benefits from the project been identified and b) are there appropriate methods of distribution among stakeholders in place?
-

As highlighted by the UNFCCC, it must be communicated to the stakeholders how their input and comments will be included and reflected in the final outcome for the project design. Proposed steps and actions to engage stakeholders and include them in decision-making need to be explained, and opportunities for feedback incorporated. For example, it should be defined how stakeholder comments are addressed and what avenues are available for them to raise concerns and resolve disagreements with the envisioned programme or project. This includes the right of stakeholders to register their express disagreement with or deny consent for the proposed project, and the duty of project developers (or other entities responsible for the development or implementation of the project) to respect and address this disagreement.

2. Identify relevant stakeholders

When planning the consultation, all relevant stakeholders that have an interest in the project must be identified. The selection must be done in a transparent manner, ensuring that all interested parties will be contacted and provided with the opportunity to engage¹⁰.

At least the following groups, notwithstanding those required by the host country rules, must be invited¹¹:

- Local people and communities impacted by the project, including marginalised groups, or duly designated representatives authorized by them
- Local policy makers and representatives of local authorities
- An official representative from the host country's government unit responsible for the project
- Local non-governmental organisations (NGOs) working on topics relevant to the project, or active in the protection of the communities and peoples who are likely to be affected by the project
- Representatives from local women's organisations and other organisation representing relevant groups (such as religious organisations)

9 UN-REDD (2012), "Guidelines on Stakeholder engagement in REDD+ Readiness", p.7, [download here](#)

10 UN-REDD (2012), "Guidelines on Stakeholder engagement in REDD+ Readiness", p.7

11 UNFCCC, "Improving Stakeholder Consultation processes" paragraph 27(a)

Furthermore, it is essential to ensure that a broad spectrum of interests and views are represented, paying particular attention to those population groups that are frequently marginalised, including women, youth, the poor, informal sector workers, ethnic minorities, indigenous peoples, disabled or elderly people, and members of the LGBTQ community¹².

Checklist:

- Has the organiser been able to prove that invitations were extended to all identified groups of stakeholders in a timely manner, in accordance with section 3 below, and that their comments were invited through an appropriate medium (see section 4)?¹³
 - In case certain stakeholders were not invited, does the organiser have an appropriate justification for excluding them?¹⁴
 - Has the organiser provided information as to how stakeholders were identified?
-

3. Identify appropriate time and place for the meeting

The meeting should be scheduled at a convenient time, date and place to ensure that stakeholders can attend it. Work arrangements, accessibility to all stakeholders, and cultural or religious sensitivities when it comes to location must be taken into account. Timing should in particular be appropriate to allow stakeholders who are responsible for family care to attend the meeting.

Notice of the consultation meeting should be given at least 30 days before the meeting takes place, to allow sufficient time for stakeholders to make arrangements to participate¹⁵.

The adequate choice of location is important to create an atmosphere that allows all stakeholders to freely express their views and provide input to the discussions without intimidation. This consideration extends to the physical setup of the chosen location, which should avoid excessive representation of hierarchy, but rather invite all willing participants to contribute to the discussion. In some cases, this condition cannot be met without holding two separate meetings, for example if one group of people does not feel comfortable sharing their views in the presence of another group due to social, cultural or other types of pressures.

Checklist:

- Is there evidence that the stakeholder consultation was announced to all stakeholders through an appropriate medium (see sections 2 and 4) at least 30 days prior to the consultation meeting?
 - Has the reasoning for choice of location, including reflection on cultural appropriateness been provided?
-

4. Identify appropriate means of outreach

It is important to be proactive in the outreach to stakeholders and to make sure that invitations reach all relevant people. Taking into account best practices and national and cultural circumstances, including appropriate measures to ensure a gender-sensitive communications process, adequate and effective means and media shall be used to inform stakeholders about the consultations and the project.

Invitations should be provided through oral and written means as well as through notices, including door-to-door announcements, local radio announcements, emails, announcements at public meetings, phone messages, announcements in community centers, cultural centres, schools, and places of worship (churches, shrines, temples, mosques, etc.), among others¹⁶.

It is important to consider the most appropriate means of outreach – for example, written invitations will not be effective in providing notice to illiterate populations. In areas where a significant part of the population is illiterate, the information shall be provided orally, for instance by local radio or public announcer. These communications must be made in all local languages.

12 African Development Bank (2001), "Handbook on stakeholder consultation and participation in ADB operations", p. 11, point 3.2.9

13 UNFCCC, "Improving Stakeholder Consultation processes" paragraph 27(d)

14 UNFCCC, "Improving Stakeholder Consultation processes" paragraph 27(b)

15 UNFCCC, "Improving Stakeholder Consultation processes" paragraph 32(a)

16 UNFCCC, "Improving Stakeholder Consultation processes" paragraph 29

Checklist:

- Has evidence been provided that consultation notice was distributed in the appropriate places, taking into account the demographics of the stakeholders¹⁷? Such proof can include, for example, invitation letters, list of invitees, etc.
 - Is there evidence that consultation notices were translated into all local languages?
 - Can it be demonstrated that a follow-up was undertaken to ensure that stakeholders received the meeting notice?
-

5. Define the type and format of the information needed

Adequate and timely information needs to be provided to stakeholders in the appropriate local language(s) and style. Prior to the consultation, stakeholders should have access to the following material:

- A non-technical summary of the project, ensuring the project can be easily understood
- A description of potential impacts of the project based on an independent assessment
- Other relevant information about the project that enables stakeholders to understand the project, including location and scope, among other aspects

This information shall be included in the stakeholder consultation invitation and also be made available to the broader public using websites. A more detailed explanation of the project, including technical specifications, should be made available to all stakeholders upon request, and this right to information should be clearly advertised in the non-technical summary distributed.

In addition to providing information on the project, the organiser of the consultation should provide participants with a list of organisations, which are qualified to conduct further independent research on the project, thus allowing stakeholders to seek information from third parties.

Checklist:

- Is there proof that the relevant information material was distributed in a timely manner?
 - What evidence is there that stakeholders were granted access to more detailed information on the project?
-



6. Define issues to consult on

The consultation is held to provide information in an accessible manner, taking local culture(s) into consideration, to invite comments and feedback from stakeholders and to answer any questions raised.

Translation into local language(s) is essential.

The agenda for the meeting should include the following elements:

- Opening of the meeting with an introduction giving everyone present the opportunity to understand with whom they are meeting
- Presentation of the project in simple non-technical terms that enables stakeholders to understand the project and its impacts
- Information on project scope, lifetime, and impacts
- Description of potential impacts that the project may have, both positive and negative, on the environment and the local communities as well as how these will be addressed¹⁸
- Information on means to raise concerns and/or seek recourse for impacts that occur during the project implementation
- Question and answer session, giving stakeholders the opportunity to raise any questions they may have regarding the project

Addressing community-based grievances

When concerns or grievances arise that are not addressed during the consultation process, stakeholders must have a means to seek recourse. The project/programme developer needs to establish a robust grievance mechanism to ensure that those who may be negatively impacted by climate mitigation actions can raise their concerns and have them addressed in a timely manner. In addition, there should be a transparent and independent process available to stakeholders for seeking recourse outside of the grievance mechanism established by the project developer. This could be through the national judiciary system, or another means, and project developers should have a duty to highlight this possibility to stakeholders as part of the information communicated to stakeholders in accordance with section 5.

Checklist:

- Have the presentations used at the consultation been made available to prove that easy to understand (non-technical) descriptions of the activity and key facts were provided?
 - Has evidence been provided that stakeholders had sufficient opportunities to raise questions and concerns (audio or video recordings, photographs, etc.)?
-

7. Define all means by which stakeholders can provide input

The primary form of consultation shall be an in-person meeting to allow for meaningful exchange. However, if local circumstances so require or if identified stakeholders cannot participate, comments should be invited using alternate means. These include, but are not limited to, written input or interviews with stakeholders. Any comments received should be taken into account.

Input from stakeholders should be collected through means that suit the demographics and technical skills of the stakeholders. For example, local communities in remote areas with little access to information technologies should not be required to provide input through web-based platforms, nor should project-related information be shared solely through that medium.

In certain contexts, it should be made possible for stakeholders to provide anonymous input to the consultation, for instance in writing or through an independent and designated contact person. This is crucial in regions where people are at risk of retributions for speaking up due to political, social, or religious pressures.

18 UNFCCC, "Improving Stakeholder Consultation processes" paragraph 26(a)

Checklist:

- What evidence is there that stakeholders were given the opportunity to raise comments in writing or through other means after the in-person consultation?
 - Is there proof that stakeholders were granted sufficient protection or anonymity to allow free speech?
-

8. Analyse and disseminate consultation results

In addition to taking detailed meeting notes, the findings from the consultation should be analysed. Once the information is fully documented, all of the comments received should be assessed against how they should be taken into account in the design of the project. Key issues raised need to be addressed in a concluding report, that comprises comments and feedback received and describes how the outcome of the consultation will be incorporated in the final project design. This report is to be made publicly available, both online and in physical form. In addition, detailed minutes including all concerns raised during the stakeholder meeting should be publicly available online. While taking care not to alter the meaning of the questions raised, these minutes should be anonymized and, where necessary, edited, to avoid putting any individual at risk of repercussions.

Checklist:

- Is there any reasonable justification as to why any comments, including negative ones, were not incorporated in the final report?
-

9. Monitor the need for follow-up consultations

Following the re-design of the project as a result of stakeholder comments, as well as for any other reason throughout the implementation phase, the project developer(s) should assess the need for a follow-up consultation. This should take place if modifications to the project, or unforeseen consequences, result in at least one of the following elements being triggered:



- The scope of impacts is modified and affects new stakeholders who did not participate in the initial consultation, be it because they had not been invited or because the issue had not had a significant impact on them at the time
- The intensity of impacts on one or more stakeholder(s) has changed significantly
- The type of impacts on one or more stakeholder(s) has changed significantly

Follow-up consultations should include at least all the stakeholders who were affected by changes in the project, as well as any stakeholder who attended the first consultation and requests to participate in the follow-up consultation. Appropriate means should be put in place so that the follow-up consultation follows the nine steps set out in this document.

Checklist:

- Has a list of all modifications to the project following the initial stakeholder consultation been provided?
 - If no follow-up consultation is held, is there an adequate explanation as to why project modifications were deemed to have insignificant impacts on stakeholders?
-

This guide has been endorsed by:

ATD (All Together in Dignity) Fourth World	International
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Corporate Accountability	International
Foundation for GAIA	International
International Rivers South Asia	International
Let's talk Climate Action	International
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VIKALP	India
WRI India	India
Zeliangrong Baudi	India
Carbon sink	Italy
El Colegio de Morelos	Mexico
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De Lamar Consulting	Netherlands
Human Rights Foundation of Aotearoa	New Zealand
Protect Piha Heritage Society Inc.	New Zealand
Climate Change Network Nigeria	Nigeria
Asociacion Indigena Ambiental	Panama
FORCERT - Forests for Certain; Forests for Life!	Papua New Guinea
PRRM-Philippine Rural Reconstruction Movement	Philippines
Alliance des Acteurs et Métiers des Energies au Sénégal (AMES)	Senegal
Pro Natura - Friends of the Earth Switzerland	Switzerland
Mom Loves Taiwan Association	Taiwan
Parhelion Underwriting	UK
NGO Ecoclub	Ukraine
Center for International Environmental Law (CIEL)	USA
Community Organizing Center for Mother Earth	USA
Delaware Geographic Alliance	USA
Hawai'i Institute for Human Rights	USA
Wood Hole Research Center	USA
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