



Forest Peoples Programme

supporting forest peoples' rights



ANNUAL REPORT 2005

FPP was founded to

**support the peoples
who live in forests
and depend on them**

***we aim to create political space for
them to secure their rights, control their
lands and decide their own futures***

for their livelihoods.

we focus on

- getting the rights and interests of forest peoples recognised in policies and programmes
- supporting forest peoples to build their capacity to claim and exercise their human rights
- countering top-down policies and projects that affect forest peoples
- promoting community-based, sustainable forest management
- coordinating NGO actions on forests in line with forest peoples' visions
- linking up indigenous and forest peoples' movements at the regional and international level

FPP began in 1990

as a project of the World Rainforest Movement. In 1997 we became an independent NGO registered in the Netherlands. We retain our links with WRM as its northern secretariat. In 1999 we set up our charitable arm, the Forest Peoples Project, registered in the UK (www.forestpeoples.org/project.shtml).



Forest Peoples Programme

supporting forest peoples' rights

Director's

Message

This was an encouraging year for Forest Peoples Programme. We had some significant successes and launched some important new initiatives with our partners. The overall situation in the world's forests is hardly encouraging, and forest peoples continue to suffer serious abuses of their rights – more mines, more dams, more roads, agribusinesses, illegal logging, plantations and forest colonisation schemes, all imposed without taking the rights of forest peoples into account. It would be easy to get depressed by the seemingly endless stream of gloomy news that we receive daily through from the media, the web and from our networks. So it is important for all of us that we can point to instances of reform, recognition and restitution of rights and say, 'this is how it should be. And this is how it can be!' The dispossession of forest peoples and destruction of forests is not inevitable.

FPP celebrated the significant shift in World Bank policy signaled by its adoption, after years of controversy, of its new policy on Indigenous Peoples. In close coordination with indigenous peoples' organisations we had pushed concertedly over many years for a policy that aligns with international law. We got less than we asked for but, by accepting that future projects should only go ahead subject to a process of 'Free, Prior and Informed Consultation' and 'Broad Community Support', the Bank has taken an important step towards accepting that indigenous peoples should control what happens on their lands.

Our close collaboration with an Indonesian civil society and indigenous peoples' consortium, Sawitwatch, also led to detailed advocacy at the Roundtable on Sustainable Palm Oil. The work was successful and in November last year the Roundtable adopted a strong standard committing the industry to respect indigenous peoples' rights and the rights of women and workers. If this standard is applied it could mean an end to the reckless clearance of forests and takeover of indigenous peoples' lands by the palm oil industry.

Our legal and human rights teams also had a major victory in winning a case brought on behalf of the Maroon community of Moiwana against the Government of Suriname, at the InterAmerican Court of Human Rights. The community claimed that the Government had failed to provide redress for the 1986 massacre which they had suffered at the hands of the Suriname security forces. The court found the Suriname government guilty of serious human rights abuse and ordered it to pay over one



million US dollars in damages to the surviving community members. A further case at the InterAmerican Commission on Human Rights charging the Government of Suriname for failing to protect the rights of Saramaka Maroons, whose lands have been allocated to logging and mining interests, also made good progress.

Our legal and human rights work and work on international financial institutions in Africa was carried out in collaboration with our charitable arm, the Forest Peoples' Project, helping to build the capacity of indigenous organisations in central Africa to seek redress for violations of their rights. The charity's annual report can be downloaded from our website.

Policy gains do not always translate into improved performance. In April, we coordinated with a large number of NGOs to publish, in four languages, a hard-hitting and influential report showing how the World Bank is failing to apply its new Forests Policy thereby jeopardizing forests and forest peoples. The report shot to the top to the list as the most popular of our publications on our newly improved, tri-lingual website.

Our community-level work with indigenous partners in Venezuela, Cameroon, Thailand, Guyana and Suriname advanced well, as we pioneered with them means of documenting, and pushing for recognition of, their customary systems of forest management. Through an impressive series of case studies, the communities were able to present compelling evidence, to the governments party to the Convention on Biological Diversity, that the communities know how to manage their own lands and forests and how their customary systems should be protected and encouraged by legal means.

Solutions to the problems faced by forest peoples exist. Policy and legal reforms, shifts in investment strategy, and market choices, can all alleviate pressure on their forests and lands. Armed with secure rights, indigenous peoples can regain control of their lands and livelihoods and make decisions that are good for people and good for the planet. Thanks to all of you who helped us to achieve these gains and the many other advances documented in more detail in the following pages.

Marcus Colchester

“ This is how it should be. And this is how it can be! The dispossession of forest peoples and destruction of forests is not inevitable. ”

Laws & Rights

FPP's Legal and Human Rights Programme (LHRP) provides legal advice and training for forest peoples around the world to secure and defend their rights in domestic and international law. The LHRP works to improve international human rights standards for indigenous peoples, and provides specialist litigation support. The three main strategies are to: pursue complaints and cases through the international human rights system, support forest peoples' efforts at national level by building their capacity to know and use laws and human rights commitments, and use international human rights procedures to leverage legal and policy changes. Currently AHLRP works mainly in the Guiana Shield and Central Africa. It also provides extensive legal analysis and strategic inputs to FPP's IFIs Programme.

The LHRP's work in 2005 was funded by Arbeitsgemeinschaft Regenwald und Artenschutz, Cordaid, Ford Foundation, Miserior, Netherlands Committee for IUCN, North South Institute and Novib. Collaborative work with Forest Peoples Project was funded by a grant from the Sigrid Rausing Trust to Forest Peoples Project.

International Legal Cases

Inter-American Court of Human Rights

► On 15 June 2005, nearly ten years of sustained work by FPP and indigenous and tribal peoples in Suriname came to fruition in a groundbreaking judgement. The *Case of Moiwana Village v. Suriname* concerns the massacre of more than 50 Cottika N'djuka maroons (descendants of escaped

slaves) by the Surinamese military in 1986. The Inter-American Court of Human Rights unanimously ruled that, under the American Convention on Human Rights, Suriname had violated the human rights of 130 named members of Moiwana village, including the rights to humane treatment, to freedom of movement and residence, to property and to judicial guarantees and protection. The judgment is a

landmark decision with regard to the rights of internally displaced persons, reparations for violations of land rights and the right of indigenous and tribal peoples to give or withhold consent. It establishes a strong legal basis for recognizing and securing the land and resource rights of indigenous and tribal peoples in Suriname and other countries.

Suriname must make individual and collective reparations including the demarcation and titling of the Moiwana community's traditional territories, with the participation and informed consent of the representatives of the victims and neighbouring communities. It must also provide a development fund of US\$1.2 million for health, housing and educational programs in Moiwana village, to be completed within five years.

“*The judgment is a landmark decision on reparations for violations of land rights and the right of indigenous and tribal peoples to give or withhold consent.*”

The focus is now on getting the Court decisions implemented, including tracking the work of the government Commission set up to implement the Court's order on land rights. We have already drafted an organic law, now being discussed by indigenous peoples and maroons, and have started drafting a series of ordinary laws and implementing regulations to give effect to the organic law.

The judgment requires the Moiwana community, and the neighbouring Cottika N'djuka villages and indigenous peoples of the Lower Marowijne River to consent to decisions on land demarcation. FPP is therefore helping these communities map their territories and has drafted an accord setting out the terms of their cooperation on the land rights aspects of the Moiwana case and codifying the traditional boundary between their respective territories.

Inter-American Commission on Human Rights

► In 2000, after four years of preparatory workshops and meetings and evidence production, FPP assisted the traditional authorities of 63 Saramaka maroon villages to file a petition with the Inter-American Commission on Human Rights. This case challenges Suriname's granting of logging concessions on the plaintiffs' lands, and Suriname's failure to legally recognise and guarantee their rights to own and control their lands and territory. During 2005 FPP kept the Saramaka informed about the progress of the case, and supported them to meet with the President of Suriname to explore negotiating a settlement. In November 2005, the Commission reached its decision, finding Suriname in violation of the American Convention on Human Rights. The full details of the Commission's decision is currently still confidential.

National Support Actions

Guyana ► During 2005 FPP provided our partner, the Amerindian Peoples Association (APA), with intensive training, analysis and briefings to support their inputs to the highly contentious process of revising the Amerindian Act. This was successful in that the Bill was amended to require indigenous peoples' consent for mining and logging on, or contiguous to, titled indigenous lands. The Bill also includes a series of environmental safeguards in relation to mining activities that represent a significant step forward in Guyanese environmental law, and recognises the role of the National Toshias Council in a variety of national decision-making mechanisms. The government however refuses to institute specific provisions for environmental and social impact assessments directly into the revised Amerindian Act, although provision is made for indigenous communities to adopt such regulations through their village councils and for these regulations to be gazetted as formal laws of Guyana should the Minister approve them. A number of communities have therefore asked APA and FPP to support them to develop, implement and enforce such regulations once the Bill is adopted.

The Bill went before Parliament at the end of 2005, still containing serious deficiencies in regard to indigenous rights (see page 6). FPP and APA continued to press for the consent provision to apply also to untitled indigenous lands, and to delete a clause allowing the Minister to override indigenous peoples' consent in the case of large-scale mining 'in the public interest'.

The case filed against the Guyanese government by the Upper Mazaruni Akawaio and Arecuna peoples with FPP support, a potentially landmark aboriginal title suit, is still pending before the courts almost eight years since it was submitted. This is due to the extreme slowness of the Guyanese legal system as well as the defection of the communities' original legal counsel to the government during 2005. Preparations for trial had to start again from scratch, and it is not known how much confidential information the government have now acquired. APA and FPP worked extremely hard to provide the new lawyers with all the evidence needed to prove the case at trial. With an affidavit

drafted by FPP, APA have requested a trial date and that the court hear some evidence in pre-trial depositions, mainly due to fears that some of the key witnesses may not live long enough to see a trial. The government has however sought to delay pre-trial depositions, which would give the APA grounds to take the case to the InterAmerican Court of Human Rights.

FPP also supported the Upper Mazaruni communities to file formal complaints with the Guyana Geology and Mines Commission (GGMC) challenging proposals to licence up to 10 Brazilian-owned river dredges for gold and diamond mining, causing severe damage to the environment and the communities' livelihoods. The Commission suspended issuing of licences, but the government is still vigorously promoting these permits and FPP will probably need to take further action in this case.

FPP assisted APA to critique the official Environmental Impact Assessment for the river dredges, with the help of Robert Goodland, an international expert on Environmental and Social Impact Assessment. The analysis was presented to the GGMC and ministries, and community leaders expressed their opposition to dredging at press conferences and to the Parliament's Committee on Natural Resources – the first time that this Committee has granted indigenous leaders a hearing.

The postponed revision of the Guyana Mining Act under the aegis of a World Bank Technical Assistance Loan may follow the typical pattern of deregulation and providing incentives for foreign investment. FPP therefore began discussions with Bank staff aimed at avoiding this outcome. However Technical Assistance Loans are not subject to the normal range of Bank safeguard policies and therefore FPP may have less leverage compared with other types of World Bank projects (see pages 7- 8).

Suriname ► The Association of Indigenous Village Leaders in Suriname (VIDS) and FPP provided intensive support to enable eight indigenous communities on the border river with French Guiana establish a Commission on Land Rights of Indigenous peoples of the Lower Marowijne (CLIM). The communities have charged CLIM to work with VIDS on land and resource rights and a territorial management plan, including develop-

A river-side indigenous community on the Lower Marowijne River in Suriname. FPP is supporting these communities to obtain legal recognition of their lands and resource rights, and develop management plans for their territory.

Photo: Ellen-Rose Kambel



"Isn't the museum nice? Sure, in a little while you'll have to watch us indigenous people also behind glass. Why? Because we still don't have land rights. Even the otters in the forest have more rights." [Otter holding up a land title – a reference to government plans to establish a nature reserve for protection of the giant river otter in West-Suriname]

Graphic: De Ware Tijd, 17 May 2004



ment of eco-tourism. FPP contracted a conservation biologist to work with the communities to identify resource management planning issues and supported CLIM's objectives by drafting formal petitions under article 22 of the Suriname Constitution seeking recognition of the communities' land and resource rights. The government responded by offering to negotiate a settlement and FPP drafted terms of reference for these negotiations. However, the communities have mandated CLIM, VIDS and FPP to pursue the case, if necessary, to the Inter-American Commission on Human Rights.

FPP supported the Cottica N'djuka communities to submit formal complaints under the Forest Management Act and the Constitution against a palm oil concession on their lands. As a result, government may decide to revoke this concession. If this is not successful, the judgement in the Moiwana case enables the communities to seek an international injunction against harmful activities of State agents or third parties on traditional Moiwana lands.

In West Suriname FPP, VIDS and the North-South Institute supported indigenous peoples threatened by bauxite mining by Suralco and BHP/Billiton, a hydro-power dam and a nature reserve (see cartoon above). The dam will flood large areas of traditional Trio and Lokono territory including at least two Trio villages. During 2005 the communities completed a map of their traditional territory, which both Suralco and BHP/Billiton have accepted. BHP/Billiton also agreed to negotiate protocols with the communities about how to obtain their consent and what 'protecting their traditional rights' (as stated in company policy) means.

FPP will support communities to advocate for free, prior and informed consent in the environmental impact assessments of the bauxite mines, backed by a report by Robert Goodland that

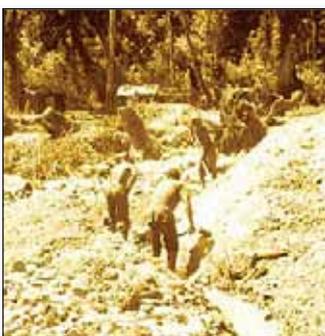
exposed substantial flaws in the environmental and social impact process employed by the companies and their sub-contractor, SRK.

Great Lakes Region ► Indigenous partners from Rwanda, Burundi and DRC received hands-on training from FPP during the 37th Session of the African Commission on Human Rights. We helped partners draft statements on recent human rights violations, armed conflict and discriminatory policies affecting indigenous peoples in central Africa and made a statement on the failure of national Poverty Reduction Strategies to address indigenous peoples' rights.

Eastern DRC ► FPP provided training and technical support for the RAPHY network of indigenous support organisations to consult with indigenous and local communities regarding the impacts of DRC forest and mining laws on their lands and livelihoods. The consultation concluded that the mining and forest laws should explicitly recognise indigenous peoples' rights, compensate indigenous peoples evicted from national parks and ensure appropriate procedures and capacity building for indigenous communities so they can participate in consultations, and in negotiations with forestry and mining officials and contractors. The consultation findings will inform advocacy strategies during 2006.

Rwanda ► Our Twa partner organisation CAURWA has been ordered by the government to remove reference to 'Twa' and the term 'indigenous' from its name and statutes, in order to be granted legal personality and permission to operate. FPP produced a briefing setting out legal options for CAURWA and, with CAURWA's local donor Trocaire, we helped CAURWA design a country-

Mining of coltan, a component of mobile phones, in eastern DRC. FPP supported a survey of indigenous and local communities' perceptions of the impacts of DRC mining and forest laws on traditional lands and livelihoods. Photo: RAPHY



wide consultation process to determine the Twas' wishes. The consultation confirmed that Rwanda's Twa want to maintain their cultural identity as Twa, to call themselves Twa and be known as Twa, and for CAURWA to continue supporting them, as there are no government policies specifically to assist the Twa. The assembly at which the results were presented called on the government to understand that the terms 'Twa' and 'indigenous' are not 'divisionist', to put in place special measures to improve the socio-economic situation of the Twa and to continue the dialogue with CAURWA to allow it to continue its work.

Added support for CAURWA's position was provided by the NEPAD Peer Review Mechanism which recommended the Rwandan government to begin intensive dialogue with the Twa and cease its policy of assimilation. The government denied there was an assimilation policy, but recognised the vulnerability of the Twa and pledged to develop a targeted response to their problems. FPP will support CAURWA to follow up on these pledges during 2006.

Uganda ► A landless Twa community has been bought 115 acres on the edge of the Bwindi Impenetrable Forest National Park, south-west Uganda, by a religious mission. FPP held consultations with the community to begin a dialogue on the options for transferring the land title to the Twa community, including the potential involvement of our partner the United Organisation for Batwa Development in Uganda, and institutional mechanisms for managing the land. The dialogue will continue in 2006.

Cameroon ► FPP provided an intensive, week-long training in international human rights for our partner CED's field team and a broad spectrum of staff of other institutions working with indigenous people. Through interactive sessions and role play, participants learned about the international human rights framework, international law and the rights of indigenous peoples and how to document human rights violations. Participants also simulated presenting a case before the African Commission on Human and Peoples' Rights. The training was very well received by participants, and FPP was requested to provide follow-up training.

Philippines ► With the Tebtebba Foundation, FPP held a one week training session in Baguio City for indigenous lawyers and Tebtebba staff on international law and human rights.

Documentation ► FPP produced several widely-used guides and briefings on domestic laws and analyses of legal reform measures for indigenous peoples in Guyana, Suriname, Rwanda, DRC and Cameroon. We published a compilation of all UN treaty body jurisprudence on indigenous peoples 1993-2004 in three languages. This was heavily used by indigenous peoples and some governments in the negotiations on the UN's and Organisation of American States' draft Declarations on the Rights of Indigenous Peoples. We also contributed to the development of standards on indigenous peoples' right to Free, Prior and Informed Consent by the UN Working Group on Indigenous Populations and the UN Permanent Forum on Indigenous Issues.

International Human Rights Mechanisms

CERD ► FPP used follow-up and urgent action procedures established by the UN Committee on the Elimination of Racial Discrimination (CERD) to support calls for a revision of Suriname's draft Mining Act. In March we obtained the first decision of its kind under the follow-up procedure, in which the Committee recommended that the Mining Act

Illegal gold mining along Witte Kreek, Brownswek Nature Reserve, once the most famous white-water river in Suriname. FPP is working with indigenous organisations to press for Suriname's draft Mining Act to take account of indigenous land rights when allocating mining concessions. Photo: Peter Poole





A report by FPP and our partner UOBDU, submitted to the UN Committee on the Rights of the Child, revealed the violation of rights of indigenous Twa children in Uganda. The CRC recommended that the Ugandan government elaborate a plan of action to protect Twa children's rights. Photo: Dorothy Jackson

should comply with the International Convention on the Elimination of Racial Discrimination. In August CERD's Urgent Action decision urged Suriname to legally acknowledge the rights of indigenous and tribal peoples to possess, develop, control and use their communal lands and to participate in the exploitation, management and conservation of the associated natural resources. Suriname should also strive to reach agreements with the peoples concerned before awarding concessions and to ensure that the peoples can appeal to appropriate bodies to uphold their traditional rights and their rights to be consulted and to be fairly compensated for any damage.

In collaboration with VIDS, FPP circulated these recommendations to members of parliament and Ministers and called for formal hearings with indigenous peoples and maroons on the draft Mining Act prior to adoption in the National Assembly. These hearings are due to take place in 2006. VIDS also met with MPs to seek their support for changes to the law prior to adoption and FPP produced a briefing for VIDS on the arguments for challenging the law should it be adopted in its present form. We have also been in regular contact with UN bodies and agencies to seek their support in relation to the CERD recommendations.

In Guyana FPP worked with APA to submit a formal complaint to CERD seeking urgent action measures to address the shortfalls of the Amerindian Bill. Although the Bill has some positive provisions (see

above) it falls far short of international standards of recognition and regularisation of indigenous peoples' land rights. Indeed, it deliberately avoids mention of indigenous peoples' rights to lands, territories or resources and does not adequately address self-determination – the government maintains the ability to arbitrarily interfere in internal affairs. The Bill also retains the term 'Amerindian', which has been rejected by indigenous peoples, who insist that they be referred to in law as 'indigenous peoples'. The Amerindian Bill consolidates many of the provisions relating to indigenous peoples and forestry and mining. The complaint submitted by FPP therefore also highlighted the negative environmental impact on indigenous communities of mining by river dredging (see above) The CERD decision is expected in March 2006. Should these efforts fail, we will support the APA to seek judicial review of the law in light of Guyana's Constitutional and international obligations.

CRC ► In collaboration with UOBDU, FPP submitted a supplementary NGO report to the UN Committee on the Rights of the Child (CRC) highlighting the discrimination, landlessness, marginalisation and exclusion faced by indigenous Twa children in Uganda. The CRC's concluding observations registered its concern at Twa children's limited access to basic social services and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination. The Committee recommended that the Ugandan government develop a plan of action involving leaders of the Batwa community to protect Twa children's rights and ensure their access to social services.

ACHPR ► FPP helped CAURWA draft a briefing memo to the President of the African Commission on Human and Peoples' Rights, reiterating the facts of the Rwandan government's refusal to grant legal personality unless CAURWA stopped being a Twa organisation, backed by a dossier of supporting documents, and requesting the Commission to investigate the matter. The dossier of information was also given to the UN Special Rapporteur on the Situation of the Human Rights and the Fundamental Freedoms of Indigenous Peoples who attended the ACHPR meeting.

International Finance

FPP's International Financial Institutions (IFIs) programme works to make IFIs more accountable to affected communities and the public. It aims to stop the World Bank Group, the regional development banks and the private sector from funding projects promoting economic growth but which violate peoples' rights, damage forests and undermine the livelihoods of forest peoples, making them poorer, not better off. The IFI Programme focuses on getting IFIs to adopt binding standards ('safeguard policies') that incorporate international human rights, ensure that projects do not go ahead on forest communities' lands unless they agree with them, and provide means of redress when things go wrong. The programme also works to get the private sector to adopt standards respecting forest peoples' rights and collaborates with indigenous and tribal organisations to monitor the impact of IFI and private sector funding on their communities.

This work is funded by the Ford Foundation, Charles Stewart Mott Foundation, the Moriah Fund, Novib, Stichting Doen and Swedish Society for Nature Conservation.

Safeguard Issues

UK Government ► During 2005 FPP stepped up efforts to persuade the UK government to press the World Bank to incorporate human rights issues in its safeguard policies and to improve its safeguard procedures. FPP's intensive series of reports, briefings and meetings with UK officials has had some effect, with some DFID officials now publicly affirming that the World Bank Group does have obligations to uphold international human rights law. But officially the government has avoided stating its position and, regrettably, it continues to dismiss independent critical reports by communities and NGOs on the damaging effects of Bank-funded projects that fail to address human rights issues.

World Bank Indigenous Policy ► During 2005 FPP and our partners achieved important gains in the revised World Bank's Indigenous Peoples Policy (OP/BP4.10) that was finally adopted in May by the IBRD and IDA sections of the Bank.

Advocacy by FPP and our partners involved detailed submissions and meetings with top World Bank policy makers, backed by FPP's widely-disseminated policy analyses, including publications in legal journals. The new policy now requires *all* Bank investment projects that may affect indigenous people to obtain their 'Broad Community Support' before the project can be approved. A participatory social assessment must be conducted for all projects that may adversely affect indigenous peoples and vulnerable ethnic groups. Involuntary resettlement is prohibited. The new policy is untested, and contains several loopholes, but it will be easier for communities to hold the Bank accountable and

challenge top-down projects based on pseudo-consultations or manipulated agreements. The policy's remaining shortcomings include its lack of independent verification that the borrower government has indeed obtained Broad Community Support, its failure to recognise indigenous peoples' rights established under international law and its weak 'check-list' of requirements on land tenure and customary rights. FPP will track how the Broad Community Support safeguard is applied in practice and contribute our findings to the World Bank's 2008 review of the policy's implementation.

World Bank Forest Policy ► The World Bank's 2002 Forest Policy promoting 'forest development' is still poorly adapted to the needs and rights of forest peoples. During 2005 FPP kept abreast of the Bank's forestry programme through discussions with World Bank staff in Washington, Nairobi, Jakarta, Geneva, Hong Kong, Cambridge and St Petersburg. We continued to inform local communities and NGOs about the forest policy and how they can use Bank procedures to try to reduce adverse impacts of the policy.

Coinciding with the April 2005 meetings of the World Bank, FPP issued *Broken Promises*, a joint NGO publication in English, French, Spanish and Portuguese, exposing the failure of the World Bank to uphold its own commitments towards forests and forest peoples. The report was widely distributed to government officials and World Bank staff and got excellent press coverage.

FPP alerted NGOs in northern Papua New

“*The revised policy now requires all Bank investment projects that may affect indigenous peoples to obtain their Broad Community Support.*”

Guinea to the threats from Bank-funded projects to expand palm oil estates. FPP wrote three times to the World Bank querying the way social safeguards were being applied and stressing the need to first secure Broad Community Support' (see above) for the project. The Bank has now agreed that its policy on Indigenous Peoples applies to the project.

IFC ► The International Finance Corporation (IFC) is the World Bank's private lending arm. During 2005, community complaints about IFC investments in soya in Brazil and extractive industries in Guatemala added to growing evidence that the IFC is not properly addressing the social and environmental impacts of its projects. The IFC's decision to replace its safeguard framework with a set of eight brief 'Performance Standards' accompanied by non-mandatory implementation guides has raised concerns among community and civil society organisations. During 2005 FPP, working closely with indigenous leaders and NGO partners, stepped up efforts to ensure that the IFC's Performance Standards adequately protect indigenous and local community rights. This work involved producing six technical submissions and holding several meetings with the staff of IFC and other influential institutions to explain in detail the problems with the IFC proposals.

FPP persuaded IFC to attend a meeting with 12 indigenous leaders at the UN Permanent Forum on Indigenous Issues in New York. IFC invited them to submit revisions of draft Performance Standard 7 on indigenous peoples (PS7), but then largely ignored the indigenous proposals. FPP sent a further analysis of draft standards on involuntary resettlement (PS5), cultural heritage (PS8) and PS7 to the IFC, governments on the Bank's Board and the 'Equator Banks' (see below). Towards the end of 2005, FPP raised these concerns again with DFID advisors to the UK government, the IFC policy team and the UK Executive Director to the World Bank Group. In partnership with the International Accountability Project, FPP followed this with a hard-hitting open letter endorsed by 224 civil society and indigenous organisations worldwide calling on IFC to delay approval of PS5 and PS7 pending resolution of their substantive and procedural problems. FPP also advocated this action to the UK delegation at the World Bank.

FPP's advocacy was successful in that IFC policy

now requires resettlement of indigenous peoples to be based on successfully concluded negotiations, and projects that may have adverse impacts on indigenous livelihoods and traditional lands may only proceed subsequent to successfully concluded negotiations. The IFI has also adopted a mandatory requirement for social assessment of all proposed IFC loans.

Despite the improvements, there are still at least five instances where the new Performance Standards constitute a weakening of existing World Bank Group safeguards. For example, the new policies no longer require IFC investments to comply with international environmental agreements and PS5 on resettlement has lost the stronger provision under the IBRD/IDA resettlement policy of land-for-land compensation for displaced persons who hold no legal title to land.

FPP's work on IFC safeguard policies has also involved detailed briefings and meetings with the so-called Equator Banks. These are 41 banks which subscribe to the IFC's Equator Principles committing them to lending only to environmentally-minded projects. They include HSBC, Citigroup, ABN, Barclays, WestLB, HVB, Calyon, Standard Chartered, ING, Dexia, Credit Suisse and Royal Bank of Scotland. After discussions with FPP, the Equator Banks formally informed the IFC that its proposed standards on environmental and social assessment, indigenous peoples, resettlement and cultural heritage were a step backwards from existing policies.

Working with Rainforest Action Network, our campaign to get private banks to respect human rights made significant progress, by persuading JP Morgan/ Chase Manhattan to adopt a new lending policy that contains protections for indigenous peoples.

IDB ► Since 2004, FPP has advocated for the Inter-American Development Bank (IDB) to incorporate standards consistent with inter-American human rights law in its proposed Indigenous Peoples Policy. Several borrower government members of the IDB Board appear to see social and environmental standards as a hindrance to the processing of IDB loans and are pushing for a weakened policy to be adopted as quickly as possible, for example, through a country systems approach which would rely on only on country policies and national law to provide safeguards.

The 'Equator Banks' include high street banks like HSBC and Barclays, which have committed to lend only to environmentally-minded projects. Based on FPP's briefings, the Equator Banks have pressed the IFC to strengthen its standards for environmentally and socially responsible lending. Photo: Dorothy Jackson



Faced with these challenges, FPP sent IDB a critical analysis of the IDB's policy process written by the Kuna indigenous rights lawyer Hector Huertas, endorsed by 14 indigenous organisations from Central and South America. We also documented how IDB had eviscerated its original 2004 Profile paper by removing statements on international standards, human rights and customary resource rights.

In collaboration with the Indian Law Resource Center, we organised an orientation workshop in Washington for indigenous leaders from Guyana, Panama and Colombia and supported them to meet IDB Executive Directors for Guyana, Panama & Venezuela, Colombia & Ecuador, Brazil, Argentina and the United States. The leaders called for more-consultation with indigenous peoples on the final draft of the policy, and this point was reinforced by FPP during a separate meeting with the UK Executive Director.

The indigenous leaders were well received, and the Executive Directors for Venezuela, Guyana and Brazil in particular expressed concern about the deficient public consultation process. These encouraging responses will be followed up in 2006 with further advocacy interventions, including a meeting between indigenous leaders and the new President of the IDB.

The Private Sector

Timber certification ► During 2004 FPP showed how the phased certification promoted by the World Bank/WWF Forests Alliance (intended to provide market access while companies have not yet met all the performance standards) could result in the social criteria being addressed last, enabling timber companies to entrench their hold over community lands.

FPP raised these concerns (some of which were incorporated in the International Tropical Timber Organisation's 2005 report on Phased Certification) with WWF International and WWF Indonesia. This triggered a series of meetings between civil society organisations and WWF Indonesia to explore the contradictions between WWF policies on phased certification and timber legality, and indigenous peoples' rights. The success of these meetings enabled FPP to help the national indigenous organisation AMAN secure funds from DFID and WWF for a



participatory resolution of Indonesian concession arrangements in 2006.

FPP supported an appeal by Malaysian and other NGOs for European buyers to reject timber certified by the Malaysian Timber Certification Council (MTCC). The standard outwardly conforms to Forest Stewardship Council (FSC) standards but in practice denies the rights of indigenous peoples. We also backed a specific appeal against MTCC's certification of the Samling Timbers concession on Penan lands in Sarawak, which the Penan have rejected as harming their forest-based livelihoods.

With other NGOs, FPP voiced concerns that the High Conservation Value Forests (HCVF) process – initiated within the framework of the FSC and intended to zone out HCVF from timber concessions and plantation development – was being implemented in Indonesia without adequate recognition of local peoples' rights or incorporating legal protections. FPP was invited to join an expert committee in 2006, to review the HCVF tool kit and strengthen its application.

For nearly 15 years FPP has advocated for consistent timber standards that uphold customary rights and forest peoples' free, prior and informed consent (FPIC) throughout the supply chain from logging to house construction. Our experience in participatory mapping, land tenure, negotiation and Free, Prior and Informed Consent has led to industry contacting us for advice on how to apply human rights principles in their operations. We believe this is an important step in our long-term work to move 'from principles to practice'. To avoid conflicts of interest FPP does not accept funding from industry, promotes indigenous organisations and local communities as the key decision-makers in such work and discusses possible pitfalls with other NGOs.

The Malaysian Timber Certification Council's standard denies the rights of indigenous peoples, and has been rejected by the Penan in the Lower Baram State of Sarawak.
Photo: Rengah Sarawak

After years of criticism by NGOs, the German logging company CIB, based in northern Republic of Congo, approached Greenpeace, the Tropical Forests Trust and FPP to help its operations reach FSC certification standard. Field work in 2004 showed that CIB was failing to meet FSC's social criteria in its dealings with local Mbendjele hunter-gatherers. Collaborative follow-up work during 2005 established that CIB is prepared to accommodate hunter-gatherers' rights through participatory mapping and negotiated agreements to secure their livelihoods and benefits. FPP will assist Mbendjele communities to engage in these processes during 2006.

In the UK, FPP advised on the social aspects of the existing timber certification standards for the Building Research Establishment (BRE) standard to be used in BRE-approved 'Eco-homes'. FPP's inputs resulted in the BRE standard including a provision for respect for the customary rights of forest peoples. This will increase pressure on the UK Government's Department for Environment, Forestry and Rural Affairs, which has so far excluded social considerations from its own minimum criteria for sustainable timber.

Illegal logging ► FPP continued to advocate, at several seminars and meetings with government officials, for the rights of forest peoples to be safeguarded in the Forest Law Enforcement and Governance (FLEG) processes set up to reduce illegal logging. 'Legal' logging, if based on unjust laws, can sanction timber taken from forest communities' customary lands.

Guarani communities taking direct action to protest against the imposition of commercial tree plantations on their lands in Brazil.
Photo: Campaña Contra el Desierto Verde



At a meeting of timber and paper-pulp industries in Hong Kong organised by The Forests Dialogue, FPP argued for a more principled approach by the private sector through recognition of indigenous peoples' rights and the principle of FPIC. FPP reiterated these points at a follow-up meeting in St Petersburg to define a joint position paper between NGOs and the private sector on controlling illegal logging. NGOs and the private sector were receptive to FPP's inputs, some of which made it into the final meeting statement. However, this had little impact on the subsequent government statement issued by the Europe and North Asia Ministerial Meeting on FLEG organised by the World Bank. Although most FLEG agreements now mention rights of indigenous and other communities, in practice FLEG approaches are ignoring the issue of reforming unjust laws and policies which violate forest peoples' rights.

Plantations ► Concessions for plantations are often granted without respect for indigenous interests. The removal of the original ecosystem leads to loss of livelihoods and culture. Local communities' rights are extinguished, and replacement 'benefits' are often limited, resulting in impoverishment. FPP argues that plantations must take human rights, land tenure and other social considerations into account to avoid human rights abuses.

FPP's analysis was highly influential in the development of business best practices on plantations. Our presentation on Forest Peoples, Plantations and Intensively Managed Forests at The Forests Dialogue meeting with major plantations corporations and academic specialists led to FPP being invited to join an international 'multi-stakeholder' review of the plantation sector in China in 2006. FPP also participated in a CIFOR meeting to explore further the social and economic implications of rising Chinese pulp and paper demands.

FPP's Director was invited to join the FAO Expert Group to develop a Code of Best Practices on Planted Forests. He attended its first meeting and recommended changes to the draft Code in line with FPP's main advocacy objectives. The Code applies to all types of 'planted forests', and although voluntary, it will apply to governments as well as corporations and communities. The Code also invokes international laws and agreements, and, if

FPP's advice is taken, would adopt an ecosystem and landscape approach to land use planning. Its focus on overarching principles, rather than management or certification programmes, makes it a potentially a useful vehicle for shaping the broader context for tree planting. FPP will continue to insist on a strong emphasis on community rights as a condition for our remaining in the process.

Palm Oil and Soya ► Palm oil plantations are the main cause of deforestation in Indonesia, often violate local community rights and damage livelihoods and have notoriously bad employment practices. In response to criticisms by NGOs and local communities, WWF and Malaysian, Indonesian and European businesses involved in the production, processing and retail of palm oil set up the Roundtable on Sustainable Palm Oil (RSPO) to establish a standard for palm oil production.

During 2005, FPP carried out a highly successful project jointly with Sawitwatch (the influential Indonesia NGO consortium, which sits on the RSPOs Criteria Working Group and the RSPO board), HuMA (the Indonesian indigenous rights organisation), Aidenvironment and the World Agroforestry Centre, to ensure that the RSPO standard upholds social justice, human rights and equity.

The standard adopted by RSPO in November 2005 includes provisions on customary rights to land, Free Prior and Informed Consent, respect for ratified international law, workers' rights, non-discrimination, minimised and safe use of pesticides and fair pricing for small holder products. RSPO has also agreed a process to develop procedures for compliance verification, chain of custody, and dealing with grievances.

The project strengthened Sawitwatch's research, advocacy and strategic planning capacity. Information sharing – through workshops, email networks and postings on the members-only English-Bahasa website 'NGO Relay' – ensured a high level of informed participation by national and international 'stakeholders' in RSPO processes. FPP led participatory community field research on the legal and customary land tenure options for local communities, and tested the draft RSPO criteria in six plantations in three Indonesian provinces. The results (to be disseminated in 2006) informed the advocacy work and revealed the significance of the RSPO standard



Minangkabau people in West Sumatra discuss land disputes caused by oil palm plantations on their lands. New standards adopted in 2005 by the Round Table on Sustainable Palm Oil now require oil palm companies to obtain local communities' Free, Prior and Informed Consent to activities on their lands. Photo: Marcus Colchester

for tenure reforms in Indonesia. The project will continue during 2006, including development of standards suited to small holders.

FPP also tracked the parallel Roundtable on Sustainable Soy in South America. This has made much less progress because the main producers are unwilling to modify their approach, and NGOs, farmers and indigenous peoples are consequently unwilling to engage with the Roundtable.

Extractive industries ► FPP worked with APA on the North-South Institute of Canada's project to help indigenous peoples in Guyana advocate for tougher standards in the mining industry. The first meeting of the project's National Indigenous Advisory Committee in Georgetown, Guyana resulted in a summary of globally agreed 'best practice' standards on mining and indigenous peoples. In October FPP, APA and VIDS attended a one-day dialogue with the Canadian mining industry in Ottawa, and shared plans with other project partners, including indigenous groups in Canada who have negotiated acceptable outcomes with the mining industry.

FPP attended a meeting of the IUCN-International Council on Metals and Mining 'dialogue' - a direct outcome of the resolution secured by FPP at the 2004 World Conservation Congress which called on IUCN to be more principled in its dialogues with the private sector. The meeting was the first FPP has attended where the mining industry seemed to accept Free, Prior and Informed Consent as desirable 'best practice'. Indigenous peoples are still concerned that IUCN partnerships will 'greenwash' industry rather than requiring it to reduce harmful social and environmental impacts. FPP's follow-up work will include developing tool kits both for industry and indigenous peoples for putting FPIC in practice.

Members of the International Council on Mining and Minerals are showing encouraging signs that they could consider respecting indigenous peoples' right of Free, Prior and Informed Consent as desirable 'best practice' in their operations. Photo: WRM



Biodiversity & Peoples

It is no coincidence that most of the planet's high biodiversity areas lie in the territories of indigenous peoples, where they have carried out their traditional livelihoods for generations. Yet conservation areas have evicted indigenous peoples from their lands and treated them as poachers, causing impoverishment and collapse of indigenous cultures. FPP's Biodiversity and Peoples Programme advocates an alternative model of biodiversity conservation that respects the rights of forest peoples to manage their lands and resources, or co-manage them through negotiated agreements with conservation agencies.

During 2005 we completed the field work for our '10c' project showing how forest peoples' customary use of biological resources contributes to sustainability, and stepped up our advocacy for indigenous peoples' rights to be respected in intergovernmental conservation policy, the Global Environment Facility, and by conservation agencies. Our Biodiversity and Peoples work is funded by DGIS, Ford Foundation, Hivos, Novib, Stichting Doen and SwedBio.

Customary use & biodiversity

Article 10c of the Convention on Biological Diversity (CBD) requires States to: *Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.* 'Customary use' and 'traditional cultural practices' include indigenous legal systems for control, use and management of land and natural resources.

Since 2002 FPP has supported indigenous and tribal peoples in Suriname, Guyana, Cameroon, Venezuela and Thailand to carry out research on customary use of biological resources, triggered in part by a call from the CBD secretariat for case studies to inform the application of Article 10c. The case studies were completed in 2005. They documented systems of customary use and traditional cultural practices, assessed their contribution to sustainable use and biodiversity conservation and evaluated whether national laws and government policies and actions are protecting and encouraging such activities.

All five case studies have shown the remarkable sophistication of customary resource use, much of which is invisible to the local administration, forestry and environment ministries, and conservation agencies. Peoples, who – according to national stereotypes – are considered backward, isolated and inferior, in fact practice long-established and subtle forms of environment use which are rooted in their cultures and long associations with particular ecosystems. The information gathered, and the maps produced during the case studies, are used by the

communities to back their land claims and record their traditional knowledge, which in many cases is fast disappearing. The case studies have also been presented at national and international meetings to inform governments and the CBD about the way indigenous peoples traditionally and sustainably use their natural resources and what should be done by States to implement Article 10c.

The process of carrying out the case studies has also strengthened community organisations and raised local awareness of indigenous peoples' rights in national and international law. The case studies have helped to reconnect younger people with the wisdom of community elders, enhanced respect for custom and stimulated interest in revitalising customary use and law in communities' daily lives. This in turn has increased their interest in designing community-based management and development plans and maintaining an informed dialogue with the authorities.

Northern Thailand ► In 2005, FPP, working with the Inter Mountain Peoples' Education and Culture in Thailand (IMPECT), followed up previous mapping work in 10 communities by completing mapping in another 28 villages and carrying out 10c case studies in four communities. We trained members of two Phak'nyau (Karen) and two Hmong communities in participatory action research to collect data on their natural resource management and traditional regulatory beliefs and customs. The communities reviewed and revised the findings through a participatory process. The final report will be completed in early 2006.

The studies showed that indigenous knowledge about customary resource use is expressed as

De Paw Thu: a spiritual ceremony carried out by the Karen of Northern Thailand where the umbilical cord and placenta of a new-born is placed into a bamboo box and tied to a tree in the village forest. The baby's soul will live in deep relationship with the tree, which will be protected forever. Photo: IMPECT



patterns of thought, belief, tradition, rituals and production, all of which result in a balance between the maintenance of life and dependence on nature as appropriate for each tribe. The process of transmitting this knowledge from one generation to another is incorporated into customs such as teachings, songs, legends, stories, rituals and practical daily activities, especially those related to their agricultural and forest-dependent work. Both tribes believe that the ultimate owners of natural resources are supernatural entities or guardian spirits. People ask for permission to use these resources and are required to use them carefully and sensibly. Traditional leaders still play the main role in building and maintaining a relationship between people and biodiversity, by guiding their customary use of forest, soil, water, animal and plant resources.

The research process also had important capacity building results: the village youth got interested in data collection, the communities became more aware of traditional knowledge and more confident in their advocacy for land rights. IMPECT has had several requests to expand the project to other communities.

IMPECT presented the interim project results at several indigenous and tribal forums and networks and the 11th meeting of SBSTTA (CBD's scientific and technical advisory body) in Montreal, where participants were very interested in how the community maps can help indigenous communities secure their rights to land and resources and develop sustainable use plans.

The project results were also presented at a national workshop in November which was very well attended, including by the national Human Rights Commission which wants to work on 10c issues, and by government officials involved in the implementation of the CBD, which Thailand only ratified in 2004. So far national CBD planning has not addressed Articles 8j (on maintaining knowledge, innovations and practices of indigenous and local communities) or 10c. The final workshop statement to the Minister of Natural Resources and Environment urged the government to set up an independent task force to oversee implementation of the CBD, accelerate public awareness efforts about the CBD including through school curricula and develop policies and a legal framework to allow for people's participation and the right of local



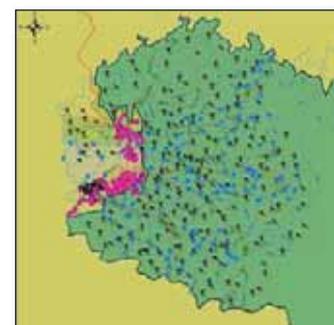
Indigenous community members and IMPECT staff revise their report on customary use in northern Thai watersheds. Photo: Maurizio Ferrari

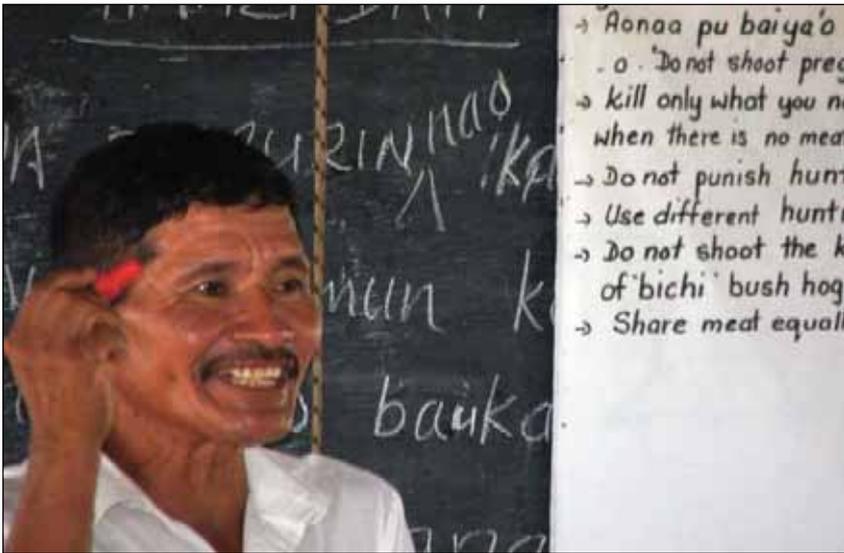
communities to protect their own cultures and natural resources as specified in the Constitution. The government should also pass the Community Forestry Bill (the people's version of the Bill) that was passed by the House of Representatives in 2002 but which failed to pass the Senate.

Cameroon ► In collaboration with the Centre for Environment and Development, FPP's 10c case-study trained indigenous Baka hunter-gatherers and local communities from 15 hamlets to produce maps of their land use in the Bengbis District west of the 526,000 hectare Dja Wildlife Reserve, a World Heritage Site. The maps show that the communities' customary forest use, including sophisticated techniques for hunting, trapping, fishing, gathering and farming, extends deep into the Dja Wildlife Reserve. While conservation and wildlife laws provide for local communities to exercise traditional livelihoods, in practice Baka subsistence hunting and gathering is treated as illegal. Through intimidation and violence outsiders are gaining control over the forests that the Baka depend on, resulting in increased insecurity and poverty.

The study found that Baka customary use is sustainable and compatible with conservation, and that the main threat to biodiversity is the erosion of traditional practices, top-down planning and commercial bushmeat exploitation by outsiders. The Baka's access to forest resources is being restricted by the Reserve, jeopardising the sustainability of their livelihoods. The study recommends that the Dja Reserve's management plan should be revised in line with Article 10c through dialogue with the Baka, an end to their harassment by eco-guards and legal reforms to recognise indigenous rights.

Part of the map produced by Baka hunter-gatherers and local communities of their customary forest use within the western part of the Dja Reserve, Cameroon. Photo: John Nelson





Community-based research by the indigenous research team in Wapichan territory in Guyana involved site visits to resource areas, interviews with the holders of traditional knowledge and analysis of customary laws and practices. Photos: Tom Griffiths

Guyana ► The 10c study carried out by the Wapichan people of the Rupununi savannahs, in the south of Guyana, was supported by the APA and FPP. The research involved four month's field work by a team of eight Wapichan researchers in 17 settlements in the South Rupununi District. After community leaders had met and agreed a protocol and procedures for ethical research with holders of traditional knowledge, FPP trained the eight researchers in community-based field research methods. The research team then carried out 257 interviews, 17 public meetings and over 30 site visits. The results of the study and its recommendations were validated by the leaders and elders of all participating communities.

The study found that the sustainability of the customary Wapichan system of resource use stems from the low intensity of resource use, a dispersed settlement pattern and access to extensive farming grounds and other resource areas under the traditional system of land tenure, coupled with rotational resource use. The traditional land tenure system upholds the need to share within and between communities but limits the access of outsiders. Introduced community institutions, like Village Councils, are integrated with the traditional system of collective land holding and have begun to develop rules to address new resource issues arising from non-traditional activities, like sand extraction.

The Wapichan's rich body of widely-shared customary norms and beliefs promote 'sensible' (sustainable) use of natural resources, including rules

against over-harvesting and wasteful use. Respectful and measured resource use is underpinned by a strong belief that all life forms have their own spirit 'keeper' that must be respected by humans.

The study also pinpointed obstacles to effective implementation of article 10c in Guyana, including severe problems with the new Amerindian Act (see pages 6 and 18) that fails to recognise and protect the customary tenure regime that underpins and sustains Wapichan culture and traditional practices.

The communities presented the initial findings, with FPP's support, at the 11th meeting of CBD's scientific and technical body SBSTTA, where the work was very well received. The project has generated a huge wave of enthusiasm and interest among participating communities in the South Rupununi. Community leaders stress that the project will help future dialogues with government and international agencies, and underpin the communities' plans to develop a territory-wide management plan for their traditional lands and resources.

Venezuela ► During 2005 FPP continued our long-term partnership with Kuyujani – the inter-ethnic association of the Ye'kwana and Sanema peoples of the Upper Caura – in collaboration with our counterparts at the Centro de Investigaciones Antropologicas at the Universidad Nacional Experimental de la Guanana, Ciudad Bolivar.

The Venezuela 10c case study identified complex bodies of myth, ritual and shamanic belief which link the Ye'kwana and Sanema to their territories and their environment. Customary uses are regulated through an intricate web of customary laws and practices, which define gender roles, norms for sharing and exchange, and notions of property and territoriality. The pressure on resources is slight due to the low population density and the traditional practices of moving hunting grounds to allow fauna to recover (Ye'kwana) and moving villages frequently (Sanema). Decisions about siting of settlements and resource use are explicitly guided by environmental issues. The Ye'kwana and Sanema have organised themselves to protect their rights and the biological resources of their area through creating, and progressively strengthening, their representative association, setting up a radio network to communicate between the dispersed

settlements and mapping their customary land use system. They have trained community members as 'para-biologists', drawn up a draft management plan for 36,000 sq. km of their lands based on the land use map, and are calling for co-management of the existing protected areas that lie within their territory, and which they accept.

The Ye'kwana and Sanema were the first ethnic groups in Venezuela to apply for legal title under the progressive new laws and Constitution adopted by the Bolivarian Republic of Venezuela since 2000, which recognise indigenous peoples' rights and allow the collective titling of their territories. The 10c study concluded that the customary uses and traditional practices of the indigenous peoples of the Upper Caura are clearly compatible with conservation and sustainable use, and therefore all that is needed to implement Article 10c is for Venezuela to apply its existing laws. This is currently where the obstacles lie.

During 2005 FPP held workshops and meetings with Kuyujani and Sanema leaders to monitor progress on the land claim and management plan. The government has issued provisional land titles to small pieces of land to some 10 indigenous communities in the states of Anzoategui and Apure, but these titles contain significant legal anomalies and the process is widely seen by indigenous organisations as window-dressing. The government refused to recognise more extensive claims by less contacted indigenous peoples further south, on the grounds that this would undermine national sovereignty.

The government's lack of commitment to implement its own laws, and the looming pressure of the agricultural, mining and logging frontier makes Kuyujani's project for the conservation and sustainable use of the Upper Caura all the more vital. Kuyujani continues to push for legal recognition of Sanema and Ye'kuana territory while at the same time asserting *de facto* control over the Upper Caura. Kuyujani also wants to develop further dialogue with the government based on the rights enshrined in Article 10c. The regional office of the Ministry for the Environment and Natural Resources continues to work with Kuyujani and will take the multiple use zoning and management plan developed by the FPP-Kuyujani 10c project into account in the development of the official territorial management plan for the Caura river.

Suriname ► FPP's 10c project worked with the Association of Indigenous Village Leaders (VIDS) and the Indigenous Land Rights Commission of the Lower Marowijne (CLIM) in eight Kalina and Lokono communities on the Lower Marowijne river. Following on from previous mapping work, FPP funded an archival study by the Dutch historian, Caroline de Jong, to support the communities' land claim. This showed that Carib and Arowak speaking peoples have occupied the Surinamese side of the Lower Marowijne for millenia prior to the arrival of Europeans.

The project trained eight indigenous researchers in basic research skills and provided them with a guide to Article 10c and a manual for doing research in indigenous communities. After the training, community workshops in each village explained the project, which was very well received particularly the fact that their own people would carry out the research. The researchers interviewed over 50 persons in the eight villages about traditional use (which in this area is particularly focused on marine and riverine resources), decision making and land tenure. The draft report was validated by all eight villages, and two workshops held in August discussed the recommendations with village leaders, elders and the informants. The final report will be presented at a national workshop and to the CBD in 2006.

The study showed that the area still has high biodiversity, due to customary laws which prohibit hunting of species like river dolphins, giant otters, manatees and sea turtles, and prevents the killing or harvesting of immature trees and animals. However several species are declining from logging and mining activities, and also due to the communities' harvesting of these species to raise much-needed cash. The project has strengthened the communities' appreciation of the value of their own beliefs, culture and knowledge. The documentation of traditional knowledge and resource use, and the direct involvement of more community members, have reinforced the community land claim. The project has stimulated the communities to start thinking about how they will sustainably manage their lands and resources once the land has been secured, and they have asked FPP to help with this. The success of the project has encouraged VIDS to consider doing similar projects in other regions.



An 'awariston' tree, an important food source for monkeys, deer and rabbits hunted by the Kalina and Lokono peoples on the Lower Marowijne River. FPP's 10c project is helping the communities document traditional use of their biological resources and develop a management plan for their lands. Photo: Ellen-Rose Kambel

The Kalina and Lokono peoples use the milky latex of lianas to trap birds. Photo: Kirsten Neke



International Conservation Policy

Free Prior & Informed Consent ►

We began case studies with indigenous peoples in Indonesia, Peru, Philippines and Suriname to support our work to get the right to Free, Prior and Informed Consent (FPIC) taken up in CBD processes. Consent processes need to be iterative engagements, based on a clear acceptance that indigenous peoples have the right to say 'No' and not just 'Yes, but...' to activities on their lands. Our work in Indonesia has helped indigenous peoples' organisations take up this concept in the context

“*Consent processes need to be iterative engagements based on a clear acceptance of indigenous peoples' right to say 'No' and not just 'Yes, but...' to activities on their lands.*”

of customary law communities renegotiating their rights to their lands with companies and government planners.

The case studies look at how the FPIC concept fits with customary decision-making processes, what obstacles might hinder the articulation of consent in an inclusive manner through customary and newly adopted representative institutions and how the concept is being actually applied at the local and national level. The case studies are backed by a legal and literature review of existing experience with FPIC in the laws and policies of countries that have recognized this right in domestic legislation, i.e. Philippines, Australia (Northern Territory), Ecuador, Costa Rica and Aotearoa-New Zealand. The final project report is due in 2006.

CBD ► Since 1992 FPP has documented the frequently disastrous impacts of protected areas on indigenous people. Our detailed analyses have identified what policy makers and managers need to do to recognise indigenous peoples' right of FPIC to conservation activities imposed on their lands and ensure their full participation in conservation management. During 2005 we continued to promote a rights-based approach to conservation through dialogue, and numerous reports and meetings, as well as by supporting the well-organised indigenous caucus involved in standard-setting and monitoring of implementation of existing commitments under the CBD.

Following on from successful advocacy on the CBD's Programme of Work on Protected Areas during 2004, FPP and our indigenous partners continued to press for indigenous rights and issues to be addressed by the CBD's Working Group on Protected Areas (WGPA) in Montecatini, Italy in June 2005.

The International Indigenous Forum on Biodiversity (IIFB) and FPP organized a two-day preparatory meeting for the Indigenous Peoples Committee on Conservation to orientate participants about the WGPA agenda and procedures. Our advocacy was very successful in that the WGPA documents now include language on indigenous rights and participation, financial and capacity building support for indigenous peoples, the impacts of existing finance mechanisms, the need for the Global Environment Facility (GEF) to review its protected area policies in relation to indigenous and local communities (see page 17) and the need for international financial instruments to incorporate guidelines on the ecological and social sustainability of protected areas in their investment projects. Some potential problem areas remain such as recommendations that protected areas be funded via ecosystem services and debt-for-nature swaps.

The WGPA recommended that indigenous and local communities should contribute to the list of toolkits for designating, establishing and managing conservation areas, that they should receive capacity building to do so and that mechanisms, including financial resources, should be established to ensure their participation. The WGPA recommended indigenous peoples' inputs to various elements in the review of implementation of the Programme of Work and recognised the need to consult on national and thematic reports with indigenous and local communities. The CBD's 8th Conference of the Parties (COP-8) in March 2006 will consider the WGPA's recommendations.

FPP also participated in a meeting with CBD donor agencies to discuss the financing of the Programme of Work. Our inputs resulted in donors agreeing on the need to ensure full and effective participation of indigenous and local communities in national roundtables on financing for protected areas and the preparation of sustainable financial plans.

We continued advocacy on indigenous and local community rights at meetings of the CBD's technical advisory committee SBSTTA. With the IIFB and other indigenous partners, FPP helped counter efforts by Canada to remove language on the rights of indigenous and local communities from the CBD's draft Programme of Work on Island Biodiversity. FPP and IIFB also succeeded in getting SBSTTA to request the COP-8 to invite the Working Group on Article 8(j), which has a strong indigenous representation, to develop the CBD's indicators for monitoring governments' implementation of Article 10c. FPP's presentations at SBSTTA showed how results from the case studies in our 10c project can be used to refine the CBD's indicators on economic, social and cultural aspects of sustainable use, including qualitative measures which are hitherto lacking.

Global Environment Facility

Indigenous rights and the GEF ► FPP's intensive advocacy at the Global Environment Facility (GEF) during 2005 was very effective in helping to keep social and equity issues on the agenda in ongoing international environmental negotiations on protected areas in the GEF Council, as well as under the CBD and in IUCN initiatives.

In January, FPP published a detailed study of the treatment of indigenous peoples and related rights issues in GEF biodiversity projects and programmes, based on the actual experiences of indigenous peoples in 11 GEF biodiversity projects in Latin America, Africa and Asia. The study exposed the growing disconnect between GEF policies and emerging international standards on indigenous peoples and conservation. Its recommendations to GEF included the need for more attention to rights and land tenure issues, an update of GEF policies, and better oversight, monitoring and accountability mechanisms for GEF projects. GEF's own Local Benefits Study team recommended some reforms drawing on FPP's critique, such as the need for the GEF to deal more effectively with social issues, improve monitoring and to revise its main policy documents. FPP's study was also officially recognised by government experts as a useful source of

information for assessing progress implementing the Convention on Biological Diversity.

Two additional widely-disseminated reports by FPP and by the Indian NGO Samata, issued in May, underlined problems with the GEF in relation to present and past projects in Central Africa (a desk-based study of 14 GEF conservation projects) and the GEF Ecodevelopment Project in India.

FPP's critical studies on the GEF also proved instrumental in persuading the government delegates at the CBD Working Group on Protected Areas to invite the GEF to review and revise its protected area policies in relation to indigenous and local communities (see page 16).

To reinforce FPP's advocacy at the GEF, we are supporting indigenous and local community organizations in Bangladesh, Guyana and Mexico (work to start in 2006) to produce case studies of their actual experiences of GEF projects.

Bangladesh GEF case study ► FPP held a series of workshops with communities affected by the Sundarbans Biodiversity Conservation Project which was suspended in 2003 due to gross mismanagement. The workshops involved NGOs, fisherfolk, honey collectors, indigenous leaders and scholars. Meetings were also held in Dhaka. The workshops explained the GEF, its policies and why indigenous people are critical of GEF biodiversity projects, as well the safeguard policies and responsibilities of the implementing agency, the Asian Development Bank.

The GEF-funded Sundarbans Biodiversity Conservation Project largely ignored the impacts of shrimp farming on the ecology and people of the Sundarbans. Thousands of village houses near the Sundarbans forest are surrounded by shrimp farms established on farm land. Farm labourers have lost their jobs and now eke a living by collecting products from the forest. Photo: Maurizio Ferrari



Local NGOs Nijera Kori and Unnayan Onneshan carried out participatory research with affected fisherfolk and forest-dependent communities in 12 villages in the Khulna and Satkhira districts. The final case study is due in early 2006.

Guyana GEF case study ▶ Working with APA, FPP analysed the Guyana Protected Areas System (GPAS) Project, approved by GEF in April 2005, but still pending final approval by the World Bank. The first phase of the project seeks to lay the ground for a protected area system in Guyana and to implement two pilot protected areas: the Kanuku Mountains and Shell Beach, both of which are the traditional lands of indigenous peoples and subject to unresolved land rights issues. GEF documents indicate that the World Bank, the implementing agency, has responded to APA/FPP advocacy on the design of the project, which now includes important elements relating to indigenous peoples' rights which, if properly adhered to, will be critical for the long-term sustainability of protected areas in Guyana.

These conditions include support for resolution of conflicts about indigenous land and resource use and the demarcation of Amerindian land in project study areas. In addition, no activities can start until Guyana has adopted a new Amerindian Act that satisfactorily addresses land and resource rights. If the project goes ahead, steering committees involving affected communities are to be set up in the two pilot areas, and each pilot must have management plans, including indigenous peoples' action plans. The protected area boundaries will be delimited at the end of a transparent and participatory planning process, rather than at the beginning of the project, and no new concessions for natural resource exploitation will be permitted in the potential protected area during the project. Project documents claim that the resource rights of local communities will be respected and that protected areas will not be established on titled indigenous lands without the agreement of the affected communities involved. Indigenous leaders stress that they seek guarantees that protected areas will *also* not be imposed on

“*The World Bank has responded to our advocacy on the design of the project, which now includes important elements relating to indigenous peoples' rights.*”

those parts of their traditional territory that lie outside the existing, limited, land titles. They are also seeking clarification of the GEF's and World Bank's proposals for involuntary restrictions on resource use and application of the Bank's involuntary resettlement policy.

Unfortunately, at the close of 2005, these project conditions had still not been met, raising the possibility that the project may once more be put on hold by the World Bank. One major stumbling block is the Amerindian Bill (see page 6) which fails to properly recognise indigenous peoples' rights over territories that they have traditionally used and occupied, and enshrines an arbitrary and unjust process for the titling of Amerindian lands.

International Forest Policy

In December 2004 the International Alliance of Indigenous-Tribal People of the Tropical Forests organised a United Nations Forum on Forests (UNFF) inter-sessional expert meeting on Traditional Forest Related Knowledge (TFRK). FPP provided technical support, and the meeting was sponsored by Finland and hosted by Costa Rica. During 2005, FPP presented this work to the UK Tropical Forest Forum and participated at the UNFF5 meeting in New York where the International Alliance presented the expert meeting's key conclusion – that secure land and territorial rights are vital for the maintenance and protection of TFRK.

The poor government attendance at the International Alliance's presentation, including the absence of the Costa Rican representative, was disappointing as was the quality of government deliberations at UNFF5. Ministers failed to agree on a statement on the world's forests, and several governments, especially Cuba, tried to limit major group participation in any future deliberations on the International Arrangement on Forests (IAF), which comprises the UNFF and a consortium of forest-related agencies called the Collaborative Partnership on Forests (CPF). In November, governments again failed to agree options for a modified IAF, and the promised review of the IAF at UNFF5 – the first official self-evaluation by a UN forest body – has been postponed indefinitely.

NGOs generally concur that UNFF has turned

out to be a costly UN talk shop that has blocked progressive discussions on international and national forest policies and practice. Given UNFF's serious shortcomings, FPP has decided to withdraw from this Forum until the IAF addresses the criticisms expressed by NGOs like FPP, and by government delegations as well. FPP will continue to promote a rights-based approach in international and national forest policies through our work at the CBD (see p 18).

Despite the failures of the UNFF5, FPP's position paper on the UNFF, developed in mid-2005 with FERN, was used extensively by EU governments and informed the EU recommendations for a reformed IAF. In particular, the EU has adopted our recommendations for peer review of national reports on progress in implementation, improved involvement of major groups in forest policy making, providing more critical guidance to the members of the CPF on ways to promote implementation of international forest policy commitments, and forging closer links between the UNFF and national and regional forest-related processes.

Conservation NGOs

Over the course of the year, FPP worked closely with other NGOs in furthering conservation policies that respect the rights of indigenous peoples. Conservation NGOs are receptive to FPP's position on the need for conservation to respect indigenous rights. However, they continue to encounter great reluctance or difficulty in adjusting their actual practice to suit these norms; the tendency is to issue further policies, tool kits, handbook and guidelines on indigenous peoples and conservation without any real changes happening on the ground.

FPP reminded the IUCN and the heads of the World Commission on Protected Areas and Commission on Economy, Environment and Social Policy of their commitments made at the World Conservation Congress. These included the need to respect or restitute indigenous peoples' rights in new, and in existing, protected areas, and to condition dialogues with the private sector on respect for indigenous rights, especially FPIC.

We also participated actively in IUCN's two sub-groups: Theme on Indigenous and Local

Communities, Equity and Protected Areas, and the new Theme on Governance, Equity and Resources network. We highlighted the impacts of protected areas on indigenous peoples through presentations at an NGO/academic network on poverty and conservation, to WWF-USA, and at an IIED/Ford Foundation meeting to set up a high profile learning group on poverty and conservation. FPP's Director joined the advisory committee of a WWF-USA project on Communities and Large-Scale Conservation, designed to improve the way WWF works with indigenous peoples and other local communities. FPP also coordinated with the Dana Declaration Standing Committee to advise on how the concerns of mobile indigenous peoples can best be taken into account by conservation agencies.

We held a series of meetings, followed up by correspondence, with senior WWF-International staff, to discuss how WWF procedures, staffing and field projects could be reformed to respect indigenous peoples' rights. This led to a joint field investigation of the problems faced by Pygmy groups in Cameroon who are being denied access to their resources by WWF-funded eco-guards. Negotiations continue about how these problems will be corrected.

FPP also submitted a detailed document to the WWF about the social problems likely to result from the Shell Beach National Park in Guyana unless indigenous peoples' rights are respected.

In many parts of central Africa, eco-guards harass and punish hunter-gatherers for their subsistence use of forest resources. FPP has persuaded conservation agencies to investigate these abuses, and is waiting for their responses. Photo: John Nelson



Publications

A critical analysis of the official background documents for the first meeting of the CBD Ad Hoc Open-ended Working Group on Protected Areas, Montecatini, 13th-17th June 2005. A Briefing for the IPCC's Indigenous Peoples' Preparatory Meeting, Montecatini, 11th-12th June

A Simple Guide to Some Key Social Criteria to be considered by the RSPO Criteria Working Group, by FPP and Sawitwatch

Analisis de las politicas operativas sobre pueblos indigenas del banco interamericano de desarrollo (BID), by H Huertas. Centro de Asistencia Legal Popular

Analysis of IFC Draft Performance Standards 7 on Indigenous Peoples and Guidance Notes, February 2005

Analysis of IFC Draft Performance Standards 8 on Cultural Heritage and Guidance Notes, February 2005

Andhra Pradesh Community Forest Management Project: a preliminary independent evaluation of a World Bank forestry project, by FPP and Samata

Analysis of Second Draft of PS7 on Indigenous Peoples, October 2005

Assessment of International Arrangement on Forests (IAF): a position paper for UNFF5, by FPP and Fem, May 2005

Broken Promises: How World Bank Group policies fail to protect forests and forest peoples' rights, by FPP, Rainforest Foundation UK, Global Witness, CDMWatch, Sinks Watch, Environmental Defence, Down to Earth, Samata and World Rainforest Movement.

Comparison of Draft IFC Performance Standard 7 on Indigenous Peoples with Existing Safeguard Provisions in OD4.20, February 2005

Consentimiento Libre, Previo e Informado. Presentacion al Grupo de Trabajo Intercultural, 11th-13th January, Madrid

Conservation, poverty and indigenous peoples: are we learning from past mistakes? Presentation at Cambridge, 12th-13th December

Critique by the Forest Peoples Programme of the World Bank's December 2004 Draft Revised Policy on Indigenous Peoples (OP4.10), January 2005

Destructive and illegal logging continues to ravage forests and communities in the Peruvian Amazon, by Tom Griffiths. In: *Illegal Logging, World Rainforest Movement Bulletin 98*

Finalising the RSPO Principles and Criteria? FPP and Sawitwatch comments for CWGIII, Kuala Lumpur, September 2005

Forest peoples and the private sector. Presentation to The Forest Dialogue, Hong Kong, 9th March, by Marcus Colchester

Forest peoples, plantations and intensively managed forests. Presentation to The Forests Dialogue, Gland, 21st June, by Marcus Colchester

Illegal Timber in Indonesia: experiments with Legal Verification, by Marcus Colchester. In: *Illegal Logging, World Rainforest Movement Bulletin 98*

Implementation of international commitments on traditional forest-related knowledge – indigenous peoples' experiences in Central Africa, by Dorothy Jackson. In: H. Newing (ed) *Our knowledge for our survival*. International Alliance of the Indigenous and Tribal Peoples of the Tropical Forests, FPP and CIFOR

Indigenous and tribal communities, biodiversity conservation and the Global Environment Facility in India. General overview and a case study of people's perspectives of the Indian Eco-development Project, by Samata (2005)

Indigenous peoples and the decisions of the Convention on Biological Diversity: a guide. Produced to assist indigenous peoples in negotiations with the Conference of Parties of the Convention to Biological Diversity.

Indigenous Peoples and the Global Environment Facility (GEF). Indigenous Peoples' experiences of GEF-funded Biodiversity Conservation – A critical study, by Tom Griffiths, January 2005 (also in Spanish)

Indigenous Peoples and the World Bank: experiences with participation. Summary Review compiled by the FPP for JFC discussion paper on World Bank – Civil Society Engagement, March 2005, by Tom Griffiths, July 2005

Indigenous peoples and the United Nations Human Rights Treaty bodies: a compilation of Treaty Body jurisprudence 1993-2004, by Fergus MacKay

Indigenous peoples, collective rights and the British Crown: a response to Brennan, by Marcus Colchester. Amnesty International (forthcoming)

Indigenous peoples in the 21st century, by Marcus Colchester. *Multinational Monitor*

Integrating RSPO Social Criteria with the Business Social Compliance Initiatives (BSCI), by Marcus Colchester

Key Questions for IFC Policy-makers Regarding Draft PS7, April 2005

Live or let die? An evaluation of the fifth session of the United Nations Forum on Forests, by L Krul, with contributions from Tom Griffiths and Saskia Ozinga. FERN Special Report, July 2005

Making Molehills out of Mountains: Indigenous Peoples, the World Bank Group and the Extractive Industries Review, by Fergus MacKay. In *Balayi: Culture, Law and Colonialism. Special Issue: International Trade Law and Indigenous Peoples*

Note on Draft World Bank OP 4.10 on Indigenous Peoples (December 2004) and Free Prior Informed Consultation Resulting in Broad Community Support, January 2005

Palm Oil Companies Agree to Halt Deforestation, by Marcus Colchester. *Forest Watch 100*, December 2005

Presión para obtener una política fuerte y progresista del BID sobre Pueblos indígenas. FPP Briefing.

Second draft of RSPO P&C as circulated for comments and revised RSPO P&C agreed by CWG III in KL, 21st and 22nd September 2005, by Marcus Colchester

Summary of Findings and Recommendations of the International Expert Meeting on Traditional Forest-related knowledge (TFRK) and Implementation of Related Intergovernmental Commitments (San José, Costa Rica, December 2004). Briefing presented to the UK Tropical Forest Forum Policy Working Group, 24th February 2005, by Emily Caruso

Summary report of the 3rd Roundtable on Sustainable Palm Oil, by Marcus Colchester, November 2005

Summary results from the Sawitwatch/FPP investigation into local communities, land acquisition and oil palm in Indonesia. Presentation to the 3rd Roundtable of the RSPO, Singapore, 22nd-24th November, by Marcus Colchester and N. Jiwon

Supplemental report on the first periodical report of Uganda on the Convention of the Rights of the Child, by FPP and United Organisation for Batwa Development in Uganda, May 2005

The clean development mechanism: issues for Adivasi peoples in India, by Emily Caruso and VB Reddy

The direct and underlying causes of forest destruction: the response from forest peoples. FPP presentation to the Eden Project, 16th September, by Tom Griffiths

The Draft World Bank Operational Policy 4.10 on Indigenous Peoples: Progress or More of the Same? by Fergus MacKay. *Arizona Journal of International and Comparative Law 22(1): 65-98*

The Global Environment Facility in Central Africa: a desk-based review of the treatment of indigenous peoples' and social issues in a sample of 14 biodiversity projects, by Emily Caruso, March 2005

The great "community forest management" swindle in India – critical evaluation of an ongoing World Bank financed project in Andhra Pradesh, by Tom Griffiths, R Rebbapragada, B Kalluri. In: *Broken Promises: how the World Bank Group policies fail to protect forests and forest peoples' rights*. World Rainforest Movement, Montevideo.

The Roundtable on Sustainable Palm Oil: Analysis, Prospects and Progress. Briefing Paper following Second Meeting of RSPO Criteria Working Group, by Marcus Colchester and R Lumuru

The World Bank, forests and forest peoples: policies, impacts and implications, by Marcus Colchester. *World Rainforest Movement Bulletin*, June 2005

Wa wiizi-wa kaduzu, Our territory – our custom. An indigenous case study of customary use of biological resources and related traditional practices within Wapichan territory in Guyana. Presentation at SBSTTA side event, Montreal, 29th November, by TT James and G Winter (2005)

When trade is good it's very, very good but when it's bad, it's ugly: a response to Mills, by Marcus Colchester. *Oxford Papers*, 1, April 2005.

Board

| | |
|-------------------------------|--|
| Paul Wolvekamp (Chair) | Social institutions and natural resources |
| Joji Cariño | Indigenous rights and policies |
| Chad Dobson | Trade policy and social justice |
| Nicholas Hildyard (Secretary) | Environment and development policy |
| Carolyn Marr | Indonesian peoples and forests |
| Saskia Ozinga (Treasurer) | Aid, trade and environment |
| Nalúa Silva Monterrey | Anthropology and indigenous territoriality |
| Carol Yong | Indigenous peoples and forced resettlement |

Staff

| | |
|-------------------------|--|
| Marcus Colchester | Director |
| Albert Barume | Africa Legal Advisor |
| Emily Caruso | Campaigns Assistant |
| Mano Delea | Suriname Programme Officer |
| Maurizio Farhan Ferrari | Blodiversity Policy Advisor |
| Tom Griffiths | International Financial Institutions Programme Coordinator |
| Louise Henson | Senior Administrator |
| Isabelle Hérisson | Finance Officer |
| Lindsay Hossack | Administrator and Web Manager |
| Dorothy Jackson | Africa Programme Coordinator |
| Fergus MacKay | Legal and Human Rights Programme Coordinator |
| Julie Manning | Assistant Administrator |
| Lucy Mulvagh | Project Officer |
| John Nelson | Africa Policy Advisor |
| Julia Overton | Assistant Administrator |
| Belmond Tchoumba | Cameroon Project Coordinator |
| Penninah Zaninka | Uganda Field Worker |

Funders **with grateful thanks**

| | |
|---|---|
| Arbeitsgemeinschaft Regenwald und Artenschutz | Netherlands Committee for IUCN |
| Charles Stewart Mott Foundation | North South Institute |
| CORDAID | NOVIB |
| DGIS | Stichting Doen |
| Ford Foundation | SwedBio |
| HIVOS | Swedish Society for Nature Conservation |
| Moriah Fund | |

Finance

| Income | £766,966 | Expenditure | £741,231 |
|---------------|----------|----------------|----------|
| Grants | 97.0 % | Field projects | 49 % |
| Overheads | 2.7 % | Staff costs | 30 % |
| Bank Interest | 0.2 % | Travel/M&E | 12 % |
| Publications | 0.1 % | Administration | 6 % |
| | | Publications | 2 % |
| | | Computers/IT | 1 % |

Front cover : Wapichan women, Rupununi District, Guyana (Photo: Tom Griffiths)

Page 1: Marcus Colchester and Suntan Syarif discuss forest policy impacts on the Pesisir people's agroforestry systems in West Lampung, southern Sumatra, Indonesia. (Photo: Marcus Colchester)

Report edited, designed and produced by Dorothy Jackson

© Forest Peoples Programme, May 2006



Forest Peoples Programme

1c Fosseway Business Centre
Stratford Road, Moreton-in-Marsh, GL56 9NQ, UK
tel: +44 (0)1608 652893 fax: +44 (0)1608 652878

info@forestpeoples.org
www.forestpeoples.org