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## **Principles and Guidelines for Engagement with Indigenous Peoples**

## Table of Contents

I. Introduction .....	1
II. Background .....	2
Indigenous Peoples & GEF Engagement.....	2
Existing Policies, Programs and Processes .....	3
III. Existing GEF Principles for Engagement of Indigenous Peoples.....	7
IV. GEF Guidelines for Engagement with Indigenous Peoples.....	9
Planning and Development .....	10
Participation, Rights and Governance.....	10
Resettlement.....	12
Traditional Knowledge and Benefit Sharing .....	12
Gender equality .....	13
Accountability, Grievances, and Conflict Resolution.....	13
V. Mechanisms .....	13
Reference I: GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards .....	14
Reference II: GEF Policy on Public Involvement in GEF Projects .....	14
 <b>List of Annexes</b>	
Annex A: Issues Paper: Final, submitted by the Indigenous Peoples Task Force .....	15

## I. Introduction

1. The GEF was established to provide resources to developing countries and countries with economies in transition to assist them in protecting and benefiting the global environment. The GEF is a financial mechanism for the United Nations Convention on Biological Diversity (CBD), the UN Framework Convention on Climate Change (UNFCCC), the UN Convention to Combat Desertification (UNCCD), the Stockholm Convention on Persistent Organic Pollutants (POPs), and related international agreements. The GEF also provides resources to assist countries to adapt to the negative impacts of climate change. GEF activities are incremental and build on baseline activities, often in areas related to the sustainable development of recipient countries.

2. Traditional indigenous lands and territories are very important to achieving GEF's goals for the global environment. Rich in natural resources, traditional indigenous lands and territories may contain up to 80 percent of the planet's biodiversity.<sup>1</sup> In addition, Indigenous Peoples are expected to be among the most threatened by the impacts of climate change and global development.<sup>2</sup>

3. Indigenous Peoples make valuable contributions to the world's heritage due to their in-depth, varied and locally rooted traditional knowledge and their understanding of ecosystem management. Further, the GEF recognizes that program results can be enhanced when Indigenous Peoples are appropriately integrated into projects that involve or have impacts on Indigenous Peoples. Hence, the GEF seeks to ensure continued appropriate inclusion of Indigenous Peoples.

4. It should be noted that it is the GEF's aim to provide financing only for activities that pose no negative environmental and social issues; however, the GEF understands that despite best efforts, adverse environmental and social impacts can arise from activities in pursuit of sustainable development. The GEF currently has policies and processes in place to help ensure that Indigenous Peoples are appropriately involved and incorporated into GEF-financed projects, including the *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*<sup>3</sup> and the *GEF Policy on Public Involvement in GEF Projects*.<sup>4</sup>

5. Indigenous Peoples have expressed a desire to enhance engagement with the GEF. In response to a request from Indigenous Peoples, the GEF has formulated this paper on Principles and Guidelines for Engagement with Indigenous Peoples to ensure that the GEF and its partner agencies make appropriate efforts to include and promote Indigenous Peoples in applicable processes and projects.

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<sup>1</sup> GEF project document on *Assessment and Recommendations on Improving Access of Indigenous Peoples to Conservation Funding*, 2007.

<sup>2</sup> Macchi, M. IUCN Issues Paper, *Indigenous and Traditional Peoples and Climate Change*, 2008.

<sup>3</sup> Council document, GEF/C.41.10/Rev.01.

<sup>4</sup> Council document, GEF/C.7/6.

6. The purpose of this paper is to reaffirm the existing GEF Principles related to Indigenous Peoples, including those articulated in the *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards* and the *GEF Policy on Public Involvement in GEF Projects*, and to further elaborate new guidelines that provide additional clarity and practical guidance on the application of these policies to GEF Partner Agencies and all stakeholders interested in GEF-financed projects. The paper also establishes mechanisms through which the GEF will strengthen its engagement with Indigenous Peoples.<sup>5</sup>

7. The paper briefly describes the main concerns and desires expressed by Indigenous Peoples and other experts with respect to Indigenous Peoples engagement in GEF-financed projects and processes. The paper also summarizes relevant policies and processes of the GEF and GEF Partner Agencies as they relate to engagement with Indigenous Peoples.

8. This paper has been prepared by the GEF Secretariat drawing on input from Indigenous Peoples representatives and through a consultative process with a variety of experts and stakeholders.<sup>6</sup>

## **II. Background**

### **Indigenous Peoples & GEF Engagement**

9. For several years, Indigenous Peoples have requested the GEF to develop a formal policy and guidance related to engagement with Indigenous Peoples. Indigenous Peoples base these requests on a desire to ensure that their contributions to sustainable development and environmental protection continue to be recognized and promoted.

10. Indigenous Peoples have also expressed a desire for relevant intergovernmental organizations, such as the GEF, to continually update their operations and policies to align with evolving best practices with respect to the rights of Indigenous Peoples. Of particular importance to Indigenous Peoples is the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>7</sup>

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<sup>5</sup> Note: A GEF Policy is a statement of principles that mandates or constrains activities undertaken to achieve the institutional goals of the GEF. GEF Procedures are a set of instructions or process that must be followed to adhere to GEF Policy. A GEF Guideline provides additional information to explain or help implement GEF Policy. The importance of GEF guidelines and their role in ensuring participation of major groups and local communities, including Indigenous Peoples, is highlighted in the GEF Instrument. See the GEF's Instrument for the Establishment of the Restructured Global Environmental Facility (or GEF Instrument), October 2011

<sup>6</sup> Valuable inputs have been provided by: the Indigenous Peoples Task Force to the GEF, GEF Partner Agencies, CBD, the GEF NGO Network, CSO (e.g. Indian Law Resource Center, TEBTEBBA, World Wildlife Fund, The Nature Conservancy, Conservation International, Forest Peoples Program) and other experts.

<sup>7</sup> United Nations Resolution adopted by the General Assembly, 61/295. Declaration on the Rights of Indigenous People, 2007.

11. In response to these requests, the GEF began a process of engagement with Indigenous Peoples to learn more and to respond effectively to their requests for the development of a framework for engagement between the GEF and Indigenous Peoples. As part of this consultative process, an Indigenous Peoples' Task Force (IPTF)<sup>8</sup> to the GEF was established in July 2011 to provide feedback to the GEF Secretariat, including on options for enhancing the engagement and participation of Indigenous Peoples with the GEF and its operations. Several consultation workshops took place to gather this input.<sup>9</sup>

12. In November 2011, the IPTF produced an issues paper from which the GEF Secretariat has drawn to develop this paper. The IPTF prepared their issues paper in a participatory manner with consultations in various regions.<sup>10</sup>

13. The main areas highlighted by the IPTF in their issues paper include a desire to see the GEF establish a rights-based policy recognizing and promoting respect for the rights of Indigenous Peoples. This includes the GEF adopting a rights-based approach and contributing to the realization of the UNDRIP, the African Charter, and the International Labour Organization (ILO) Convention 169 for those states that support or have ratified these instruments. Indigenous Peoples requested the GEF to articulate additional guidance on their definition of Indigenous Peoples and their human rights, particularly as they related to declarations by the United Nations, as well as their positions on land rights, free, prior and informed consent (FPIC), traditional knowledge, access and benefit sharing of resources, as well as full and effective participation in GEF processes and operations. The IPTF also highlights mechanisms whereby the GEF can support the effective implementation of its guidance.<sup>11</sup>

### **Existing Policies, Programs and Processes**

14. The GEF, from its early days, has acknowledged the important role that Indigenous Peoples play in GEF policy, program and process development, both as valuable contributors in the project development stages, and as potential partners and stakeholders in the identification, development, implementation, monitoring, and evaluation stages. The GEF reaffirmed this commitment in its November 2010 Council decision GEF/C.39/10/Rev.1, *Enhancing the Engagement of Civil Society in the Operations of the GEF*.<sup>12</sup>

15. Currently, policies related to Indigenous Peoples are incorporated into many areas of GEF strategy and operations. This interwoven characteristic makes it difficult to capture the

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<sup>8</sup> IPTF's Indigenous Peoples representatives were designated through a process of self-selection by Indigenous Peoples.

<sup>9</sup> The Swiss Government generously provided the financial support for the engagement process, as well as the development of this paper and the IPTF issues paper.

<sup>10</sup> See Indigenous Peoples Task Force, Issues Paper: Final, November 30, 2011, pages 2-3.

<sup>11</sup> Indigenous Peoples Task Force, Issues Paper: Final, November 30, 2011.

<sup>12</sup> Council Document GEF/C.39/10, *Enhancing the Engagement of Civil Society Organizations in the Operation of the GEF*.

depth of Indigenous Peoples guidance currently within the GEF; and also highlights the need to provide clarity to ensure that the GEF's current support and guidance is relevant and sufficient.

16. There are several GEF policies that relate to Indigenous Peoples or offer protections for them, including the *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, the *GEF Policy on Public Involvement in GEF Projects*, *Recommended Minimum Fiduciary Standards for GEF Implementing and Executing Agencies*, and GEF policies and guidelines relating to the GEF project cycle and project review by the GEF Secretariat.

17. The *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards* includes, as one of its eight core criteria, a criterion and minimum standards related to Indigenous Peoples. GEF Partner Agencies wishing to implement projects that engage with or affect Indigenous Peoples must meet this criterion in order to implement GEF Projects. This policy provides clarity on the GEF's recommended use of FPIC. The standards further stipulate criteria and minimum requirements for projects where Indigenous Peoples are involved, as well as specific criteria relevant to Indigenous Peoples, including resettlement, physical cultural resources and accountability and grievance.<sup>13</sup>

18. The *GEF Policy on Public Involvement in GEF Projects* also mandates the involvement of Indigenous Peoples throughout the identification, development, implementation, monitoring and evaluation of GEF-financed projects that involve or have impacts on indigenous Peoples. Public involvement, including indigenous and local communities, encompasses information dissemination, consultation and stakeholder participation throughout the project cycle. This policy takes into account the need to include Indigenous Peoples and local communities at the earliest phase of project work, which helps accommodate their ways of organization, cultural values, language and other factors.<sup>14</sup> The need for public involvement was reiterated in the November 2010 Council decision C.30/10, that provides future options for enhancing the GEF's engagement with civil society organizations (CSO), including Indigenous Peoples, through its operations.<sup>15</sup>

19. In GEF's project cycle, the development of the Project Identification Form (PIF) represents an important first step. In the PIF, project developers must comment on the roles and inclusion of Indigenous Peoples in the project. The GEF's formal PIF Preparation Guidelines further clarifies that applicants are expected to indicate how they will follow relevant GEF policies.<sup>16</sup> A brief stakeholder engagement plan should also be incorporated into the document.<sup>17</sup>

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<sup>13</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, pages 17, 22-29.

<sup>14</sup> See Council Documents GEF/C.7/6, *Public Involvement in GEF Projects* and C.6/Inf.5, *Draft Outline of Policy Paper on Public Involvement in GEF-Financed Projects*.

<sup>15</sup> See Council Document GEF/C.39/10, *Enhancing the Engagement of Civil Society Organizations in the Operation of the GEF*.

<sup>16</sup> The PIF Preparation Guidelines provide clarifications aimed at facilitating the preparation of the PIF proposal using the PIF template. Specifically related to Indigenous Peoples, these Guidelines request the following related to Section B.5.: "Relevant documents on *Enhancing Civil Society Engagement and Partnership with the GEF* and *Public Involvement in GEF Projects* provide information about the GEF policies and initiatives in this area. Please

The formal project review conducted by the GEF Secretariat requires staff to ascertain whether Indigenous Peoples are affected by, and have appropriately participated in project preparation.<sup>18</sup>

20. The GEF's *Recommended Minimum Fiduciary Standards for GEF Implementing and Executing Agencies* outlines appraisal processes required of GEF Partner Agencies to ensure that proposed projects and/or activities meet appropriate technical, economic, financial, fiduciary, environmental, social, institutional and/or other relevant criteria, including GEF-mandated criteria, and whether they are reasonably likely to meet stated objectives and outcomes.<sup>19</sup>

21. Recognizing the important role that Indigenous Peoples play in protecting the global environment, the GEF has also directly considered Indigenous Peoples in its various focal area Strategic Objectives. For example, responding to CBD guidance, the GEF Biodiversity focal area highlights Indigenous Peoples as key partners in achieving its strategic objectives. Under the GEF-5 Biodiversity Focal Area Strategy, the GEF acknowledges the importance of the participation and capacity building of Indigenous Peoples for the identification, development, implementation, monitoring and evaluation of projects, including through supporting established frameworks such as Indigenous and Community Conserved Areas (ICCAs) and co-management regimes where appropriate. The GEF-5 Biodiversity Focal Area Strategy also establishes project support for capacity building among Indigenous Peoples for access to genetic resources and benefit sharing, as well as support for measures that promote concrete access and benefit-sharing agreements.<sup>20</sup> The GEF-5 International Waters Focal Areas Strategy also supports projects that incorporate Indigenous Peoples in the areas of freshwater basins, aquifers, marine systems and "blue forests."<sup>21</sup>

22. Many GEF Partner Agencies and the executing agencies with which they work have adopted policies and standards for their respective operations. Seven of 10 current GEF Partner Agencies have adopted policies, safeguards or guidance with respect to the engagement of Indigenous Peoples.<sup>22</sup> In addition, most of the GEF Partner Agencies have an assigned

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provide information how those policies will be followed in the proposed project." See PIF Preparation Guidelines, November 2011.

<sup>17</sup> See Council Document GEF/C.39/10, *Enhancing the Engagement of Civil Society Organizations in the Operation of the GEF*, page 5.

<sup>18</sup> See the GEF's Program Manager's Review Checklist for Project Proposal Documentation page 5: "For questions on GEF policy on involvement with Indigenous Peoples, [Program Manager] refer to *Indigenous Communities and Biodiversity*."

<sup>19</sup> See Council Document, GEF/C.31/6, *Recommended Minimum Fiduciary Standards for GEF Implementing and Executing Agencies*.

<sup>20</sup> These measures include agreements that recognize the core ABS principles of Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT). See *Compilation of GEF-5 Focal Area Strategies*, 2011.

<sup>21</sup> See *Compilation of GEF-5 Focal Area Strategies*, 2011.

<sup>22</sup> The seven institutions with policies and safeguards in place for Indigenous Peoples include: the World Bank, the United Nations Development Program, the Inter-American Development Bank, the European Bank for Reconstruction and Development, the Asia Development Bank, the International Fund for Agricultural Development, and the Food and Agriculture Organization. The three institutions with no guidance are: the United Nations Industrial Development Organization, the United Nations Environmental Programme (draft policy in process) and the African Development Bank.

Indigenous Peoples focal point. Of note, GEF Partner Agencies are required to adhere to any higher standards that exist within their own institutions, over and above GEF policies and standards. GEF Partner Agencies and executing agencies are also required to adhere to domestic legislation and/or applicable international obligations.

23. Indigenous Peoples are also specifically engaged through a designated GEF Secretariat Indigenous Peoples focal point, as well as individual Secretariat staff working on relevant GEF-financed projects, including the GEF Small Grants Programme. These individuals serve as a reference to other GEF Secretariat staff as well as Council members.

24. The GEF has so far supported 160 full and medium sized projects involving Indigenous Peoples.<sup>23</sup> Two-thirds of these projects were either designed exclusively to benefit Indigenous Peoples (many of them executed by indigenous organizations) or had distinct components and/or sub-projects benefiting and targeting Indigenous Peoples.

25. The GEF Small Grants Programme (SGP) is another very important GEF funding modality that enables the GEF to partner with and support the sustainable development efforts of Indigenous Peoples globally. Approximately 15 percent of the GEF SGP projects target and involve Indigenous Peoples.<sup>24</sup> The GEF SGP has also established principles for working with Indigenous Peoples, which include a flexible and streamlined project cycle, and flexible disbursement terms to accommodate culture, customs and seasonal movements. The GEF SGP also accepts proposals in national languages and in non-traditional formats, including video and community theater.

26. Indigenous Peoples have also been involved in the dialogue on GEF policies and processes through their participation as official representatives to the GEF NGO Network. There are three Indigenous Peoples representatives to the Coordination Committee of the GEF NGO Network. The GEF NGO Consultation Meeting, which is held before each GEF Council meeting, has served as a key official forum open to Indigenous Peoples to discuss policy matters that concern them. In addition, five representatives from the GEF NGO Network, including the Indigenous Peoples representative, have been participating and sharing their views in GEF Council meetings. Indigenous Peoples have also participated in various other GEF processes, including the Extended Constituency Workshops, representing the GEF NGO Network.

27. Finally, with respect to accountability and conflict resolution for GEF-financed projects, in 2007 the GEF CEO put into place a Conflict Resolution Commissioner to respond to complaints brought forward to the Secretariat. The *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards* also stipulates a minimum standard for accountability and grievance systems. In this policy, GEF Partner Agencies are required to have systems in place to ensure accountability and implementation of policies, as well as complaint and conflict

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<sup>23</sup> See also GEF document on *Indigenous Communities and Biodiversity 2008*.

<sup>24</sup> See GEF document on *Indigenous Communities and Biodiversity*, 2008.



resolution systems.<sup>25</sup> These existing measures, along with the GEF Indigenous Peoples focal point, provide important means for Indigenous Peoples to present concerns with GEF-financed projects.

### III. Existing GEF Principles for Engagement of Indigenous Peoples

28. There are two existing GEF Policies that contain fundamental principles that inform engagement with Indigenous Peoples: 1) the *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*; and 2) the *GEF Policy on Public Involvement in GEF Projects*.

29. A GEF Policy is a statement of principles that mandates or constrains activities undertaken to achieve the institutional goals of the GEF. GEF Procedures are a set of instructions or process that must be followed to adhere to GEF Policy. A GEF Guideline provides additional information to explain or help implement GEF Policy. The importance of GEF guidelines and their role in ensuring participation of local communities and Indigenous Peoples is highlighted in the GEF Instrument.<sup>26</sup>

30. The following relevant Principles are extracted in original form directly from these two existing GEF Policies:

(a) GEF Partner Agencies are required to ensure that GEF-financed projects are designed and implemented in such a way that fosters full respect for Indigenous Peoples' and their members' identity, dignity, human rights, and cultural uniqueness so that they 1) receive culturally appropriate social and economic benefits; and 2) do not suffer adverse effects during the development process.<sup>27</sup>

(b) The full and effective participation of Indigenous Peoples should be sought in the identification, development, implementation, monitoring and evaluation of all relevant project activities. Responsibility for assuring public involvement rests within the country, normally with the government, project executing agency or agencies, with the support of GEF Partner Agencies. GEF-financed projects should, as appropriate, address the social, cultural and economic needs of Indigenous Peoples affected by GEF-financed projects.<sup>28</sup>

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<sup>25</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, page 6.

<sup>26</sup> See the GEF's Instrument for the Establishment of the Restructured Global Environmental Facility (or GEF Instrument), October 2011.

<sup>27</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, page 24.

<sup>28</sup> See Council Documents GEF/C.7/6, *Public Involvement in GEF Projects* and GEF/C.6/Inf.5, Draft Outline of *Policy Paper on Public Involvement in GEF-Financed Projects*.

(c) To be effective, public involvement activities should be broad-based and sustainable. GEF Partner Agencies will include in project budgets, as needed, the necessary financial and technical assistance to recipient governments and project executing agencies to ensure effective involvement of indigenous peoples. GEF Partner Agencies will work with governments and project executing agencies to ensure that activities to support involvement of indigenous peoples are effectively carried out over the long-term. GEF Partner Agencies will support executing agencies in: (i) providing relevant, timely, and accessible information to as many stakeholders as possible; (ii) facilitating broad-based and project-specific consultations, especially at the local or sub-national levels; and (iii) promoting the active participation of Indigenous Peoples throughout the project cycle, including through awareness raising and capacity strengthening activities.<sup>29</sup>

(d) Public involvement activities, including those with Indigenous Peoples, are to be carried out in a transparent and open manner. Further, all GEF-financed projects should have full documentation and disclosure of non-confidential information, including full documentation of public involvement.<sup>30</sup>

(e) The GEF adopts a standard of free, prior and informed consent for GEF-financed projects for which FPIC is required by virtue of the relevant state's ratification of ILO Convention 169.<sup>31</sup> While there is no universally accepted definition of FPIC, for the purposes of this paragraph, GEF Partner Agencies will ensure that project executors document: (i) the mutually accepted consultation process between the project proponent and affected indigenous communities and (ii) evidence of agreement between the parties as the outcome of the consultations. FPIC does not necessarily require unanimity and may be achieved even when individuals or groups within the community explicitly disagree. For other projects,<sup>32</sup> GEF Partner Agencies are required to rely on their systems for consultation with Indigenous Peoples and will ensure that such consultations result in broad community support for the GEF-financed operations being proposed.<sup>33</sup>

31. Furthermore, the GEF shall make available the GEF Indigenous Peoples focal point to address concerns and, as stipulated in the GEF *Policy on Agency Minimum Standards on*

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<sup>29</sup> See Council Documents GEF/C.7/6, Public Involvement in GEF Projects and C.6/Inf.5, Draft Outline of *Policy Paper on Public Involvement in GEF-Financed Projects*.

<sup>30</sup> See Council Documents GEF/C.7/6, Public Involvement in GEF Projects and C.6/Inf.5, Draft Outline of *Policy Paper on Public Involvement in GEF-Financed Projects*.

<sup>31</sup> Both ILO Convention 169 and UNDRIP are significant in that, among other things, they address the participation of Indigenous Peoples in matters that affect them. ILO 169 refers to "free and informed consent". UNDRIP refers, among other things, to "free, prior and informed consent (FPIC). FPIC is not only applicable in state signatories to ILO 169, but also where it is required by domestic legislation or other applicable international obligations. See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, pages 6 and 17.

<sup>32</sup> For the purposes of this paragraph, "Other projects" refer to GEF-financed projects for which the relevant state has not ratified ILO Convention 169. See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, page 17-18.

<sup>33</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, page 18.

*Environmental and Social Safeguards*, where relevant, also the GEF Conflict Resolution Commissioner to work with Indigenous Peoples, the GEF Partner Agencies and the GEF participant country to help address complaints, resolve disputes, and address other issues of importance to GEF operations.<sup>34</sup>

#### **IV. GEF Guidelines for Engagement with Indigenous Peoples**

32. The GEF has developed the following guidelines, with the aim of operationalizing existing GEF policies and enhancing the GEF's effectiveness and ensuring protection of rights and long-term benefits for Indigenous Peoples and the global environment.

33. These guidelines provide additional information to explain or help implement the *GEF Policy on Agency Minimum Standards on Environmental and Social Standards*, the *GEF Policy on Public Involvement on GEF Projects*, as well as GEF's other operational policies, principles and strategies related to Indigenous Peoples participation.<sup>35</sup>

34. In applying the following Guidelines to operationalize existing policies related to Indigenous Peoples, the GEF:

- i. acknowledges that Indigenous Peoples play an important role in coordinating efforts with the GEF in fulfilling its mandate to protect the global environment;
- ii. recognizes that Indigenous Peoples are valuable stakeholders, partners and rights-holders with an important role in the sustainable use, management and conservation of the global environment;
- iii. is committed to maximizing the benefits of its projects in an equitable manner as well as avoiding, minimizing, and/or mitigating any potential adverse impacts;
- iv. affirms the full and effective participation of Indigenous Peoples in support of the GEF's mission, including involvement in the development and enhancement of policies and processes to ensure the environmental, social and financial sustainability of its work;

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<sup>34</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, page 18.

<sup>35</sup> For GEF Partner Agencies working to establish and or strengthen safeguard requirements to meet the GEF's *Policy on Agency Minimum Standards on Environmental and Social Safeguards* and the *GEF Policy on Public Involvement on GEF Projects*, among others, the safeguard systems of the multilateral development banks (MDBs) provide an example of policies and associated guidance. Elements of these safeguard systems specific to Indigenous Peoples include IFAD's *Policy on Engagement with Indigenous Peoples*, FAO's *Policy on Indigenous and Tribal Peoples*, the AsDB's *Principles and Appendix 3 on Indigenous Peoples*, EBRD's *Performance Requirement 7 on Indigenous Peoples*, the IDB's *Operational Policy on Indigenous Peoples*, the IFC's *Performance Standard 7 on Indigenous Peoples* and the corresponding *Guidance Note 7*, and the World Bank's *Operational Policy 4.10 on Indigenous Peoples*.

- v. recognizes that Indigenous Peoples continue to face challenges in their pursuit to protect their rights, identities, cultures, and knowledge systems;
- vi. acknowledges the important roles that indigenous women, elders, and youth play in conservation, traditional knowledge, and natural resource management;
- vii. acknowledges the United Nations Declaration on the Rights of Indigenous Peoples, supports the realization of the provisions articulated in the Declaration, and believes that GEF-financed projects can positively contribute to the realization of the principles of the Declaration, consistent with domestic legislation and/or applicable international obligations.

## **Planning and Development**

35. For any GEF-financed project that is anticipated to adversely affect Indigenous Peoples, the GEF require that its Partner Agencies prepare an appropriate plan.<sup>36</sup> This plan should ideally be prepared at the earliest stages of project development and incorporate the elements set forth in the GEF Guidelines for Engagement with Indigenous Peoples articulated in paragraphs 36 and 39 to 44 below. The plan should be culturally appropriate and include information on the legal context and Indigenous Peoples screening, a baseline assessment, FPIC procedures, evaluation of land tenure, local participation mechanisms, capacity building, traditional knowledge, and monitoring and evaluation reporting.

## **Participation, Rights and Governance**

36. The GEF and its agencies will ensure, consistent with domestic legislation or applicable international obligations:

- (a) the full and effective participation<sup>37</sup> of Indigenous Peoples in GEF policies, processes, programs and projects that may positively or negatively impact them, or infringe upon their rights and ability to sustain their way of life. This should include timely

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<sup>36</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, page 25.

<sup>37</sup> There is no universally accepted meaning of ‘full and effective participation.’ For purposes of applying the GEF’s Minimum Standard 4, full and effective participation should normally include the following elements: (i) begins early in the project cycle and is carried out on an ongoing basis throughout the project cycle; (ii) provides prior and timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is inclusive of those directly affected, with particular attention to the needs of women and vulnerable and/or disadvantaged groups; (iv) is free of external manipulation, interference, coercion or intimidation; (v) allows the client to consider and respond to the views expressed, thereby enabling the incorporation of relevant views of affected people and other stakeholders into decision-making as appropriate; and (vi) is commensurate with the potential impacts and risks. ‘Full and effective participation’ does not require consent but emphasizes strong participation. For additional information, see the Asian Development Bank’s *Safeguard Policy Statement*, paragraph 54 and the International Financial Corporation’s *Performance Standard 1*, paragraph 30, and the Convention on Biological Diversity’s publication, *Contribution from the Secretariat of the Convention on Biological Diversity to the Study on “Indigenous Peoples and the Right to Participate in Decision-making,”* undertaken by the Expert Mechanism on the Rights of Indigenous Peoples, Submitted December 2009.

identification of Indigenous Peoples and their participation in the screening, environmental, cultural and social impact assessments. Indigenous Peoples representatives should also participate in project identification, development, implementation, monitoring and evaluation in relevant projects. The representation and participation of Indigenous Peoples in relevant GEF policies, processes, programs and projects is to be chosen by Indigenous Peoples themselves in accordance with their own procedures, as far as possible and practical. Participation of Indigenous Peoples in GEF policies, processes, programs and projects may include, but not be limited to, Focal Area Strategy Development, Constituency Workshops, National Portfolio Formulation Exercises, SGP National Steering Committee, GEF project cycle (including project identification, development, implementation, and monitoring and evaluation).

- (b) the use of self-identification, among other factors, as an important criterion for determining indigenous status, as appropriate, for GEF-financed projects. Other factors or criteria would include identification by others as Indigenous Peoples, collective attachment to land, presence of customary institutions, indigenous language, and primarily subsistence-oriented production are other social and cultural criterion that may be relevant to identify Indigenous Peoples.<sup>38</sup>
- (c) that Indigenous Peoples, in their efforts to maintain ownership and access to their lands, territories, and resources are not undermined by GEF-financed projects. The GEF will support and promote efforts to build on Indigenous Peoples' capacity to manage their lands, territories and resources sustainably for the global environmental good and to benefit from GEF-financed projects that utilize such lands, territories, or resources.<sup>39</sup>
- (d) the avoidance of projects that can negatively impact Indigenous Peoples' traditional ownership and user rights on lands, territories, resources, livelihoods or cultures, and where avoidance is not possible, adequate mitigation measures should be taken. This will include the preparation of appropriate land tenure evaluations, as needed, protective measures, and social impact assessments, among others.
- (e) the application of a standard of free, prior and informed consent (FPIC) for GEF-financed projects in those countries that have ratified ILO Convention 169, as noted in paragraph 30 e) above.<sup>40</sup>

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<sup>38</sup> See, for example, UNDRIP, UNDG Guidelines on Indigenous Peoples' Issues, Martinez Cobo Report's working definition, the African Charter, ILO Convention no. 169, Mme. Erica-Irene Daes' identification, as well as GEF Partner Agency definitions included in their safeguards and policy documents relevant to Indigenous Peoples.

<sup>39</sup> For instance, Minimum Standard 4 of the GEF's *Agency Minimum Standards on Environmental and Social Safeguards* requires that GEF Partner Agencies "...ensure that affected Indigenous Peoples share equitably in benefits" from parks and protected areas in cases where access of Indigenous Peoples is restricted from such parks and protected areas.

<sup>40</sup> The GEF's Safeguard Policy notes that FPIC does not necessarily require unanimity and may be achieved even when individuals or groups within the community explicitly disagree. See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, page 18.

37. Council Document GEF/C.41/10/Rev.1 also notes that FPIC is also applicable in countries where it is required by domestic legislation or other applicable international obligations.<sup>41</sup>

38. The GEF also recognizes the recommendation from Indigenous Peoples that FPIC be applied to GEF-financed activities on, or significantly impacting, their traditional and user rights on their land, territories and resources, consistent with the UN Declaration on the Rights of Indigenous Peoples, and that securing FPIC should rely on widely accepted consultation processes.<sup>42</sup>

## **Resettlement**

39. The GEF does not finance involuntary resettlement of Indigenous Peoples.<sup>43</sup>

## **Traditional Knowledge and Benefit Sharing**

40. The GEF recognizes and respects:

- (a) the importance of traditional knowledge, innovations and practices to the long-term well-being of Indigenous Peoples, and the domestic legislation or applicable international obligations designed to support the maintenance of this traditional knowledge, innovations and practices.<sup>44</sup>
- (b) that traditional knowledge can enhance GEF-financed projects and encourages the availability of facilitated and flexible processes to allow for the incorporation of traditional knowledge, innovations and practices into relevant GEF-financed projects.
- (c) the important role of indigenous women, elders and youth in the maintenance, enhancement, and transfer of traditional knowledge, innovations and practices and supports the inclusion of these groups and other traditional experts in GEF project activities, as necessary.
- (d) the importance of appropriate access to, and equitable sharing of, benefits related to the utilization of genetic resources and associated traditional knowledge of Indigenous Peoples.

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<sup>41</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, page 6, paragraph 23.

<sup>42</sup> See, for example, UNDG Guidelines and, REDD+ FPIC Guidelines *Free, Prior, and Informed Consent in REDD+*, published by RECROFTC, February 2011 ([http://www.recoftc.org/site/uploads/content/pdf/FPICinREDDManual\\_127.pdf](http://www.recoftc.org/site/uploads/content/pdf/FPICinREDDManual_127.pdf)). Also see IFC Performance Standard 7 and Guidance Note 7, which describe how the IFC implements FPIC.

<sup>43</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards* for additional information.

<sup>44</sup> See, for example, Article 8j of the Convention on Biological Diversity

- (e) existing guidance on traditional knowledge and access and benefit sharing of genetic resources, including the Tkarihwaie:ri Code, the Akwe: Kon Guidelines, the Bonn guidelines and the Nagoya Protocol. The GEF encourages the use of the guidance contained in these documents to GEF-financed projects, as appropriate.

## **Gender equality**

41. The GEF supports the empowerment, participation and leadership of indigenous women and men in GEF-financed projects through the implementation of the provisions under the GEF Policies on *Agency Minimum Standards on Environmental and Social Safeguards* and *Gender Mainstreaming*.

## **Accountability, Grievances, and Conflict Resolution**

42. The GEF and its agencies will facilitate access by Indigenous Peoples to local or country level grievance and dispute resolution systems as a first step in addressing project concerns. GEF Partner Agencies are required to have accountability and grievance systems in place, at the project and/or institution level, to respond to and address complaints brought forward by Indigenous Peoples.<sup>45</sup>

43. The GEF Conflict Resolution Commissioner and the GEF Indigenous Peoples focal point will be available and actively involved in complaints brought forward by Indigenous Peoples to the GEF that fail to be adequately addressed at the local, country, or GEF Partner Agency level.

44. Decisions and complaints brought forward by Indigenous Peoples will be documented by the GEF Indigenous Peoples focal point.

## **V. Mechanisms**

45. The development of mechanisms and practices in support of the effective implementation of the GEF's Guidelines for Engagement with Indigenous Peoples is very important for the long-term institutionalization of the Guidelines. As such, the GEF will establish the following internal mechanisms to facilitate implementation:

- (a) Designation of an Indigenous Peoples focal point for effective and timely engagement with Indigenous Peoples. This individual will provide support to GEF Secretariat, Indigenous Peoples and GEF Partner Agencies on issues related to the GEF's *Principles and Guidelines for Engagement with Indigenous Peoples* and will facilitate the work of

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<sup>45</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*. Further, use of the terms grievance, accountability, compliance and dispute resolutions may vary based on the GEF Partner Agency or institution.

the Indigenous Peoples Advisory Group described in paragraph b) below. The Indigenous Peoples focal point will also lead the review and updating of these Guidelines.

- (b) Enhanced coordination between GEF Partner Agencies, GEF Secretariat staff, and Indigenous Peoples through the creation of an Indigenous Peoples Advisory Group. The key function of the group would be to provide advice to the Indigenous Peoples focal point on the operationalization and reviewing of this Principles and Guidelines paper, particularly on the appropriate modality to enhance dialogue among Indigenous Peoples, GEF Partner Agencies, the GEF Secretariat representatives and other experts.<sup>46</sup>
- (c) Reviewing and enhancing GEF monitoring systems to track the effectiveness of the implementation of GEF Policies, Procedures, and Guidelines related to Indigenous Peoples, and the level of engagement of Indigenous Peoples in GEF projects and processes, in the context of the GEF Results Based Management Framework and the GEF Annual Monitoring Report.
- (d) Knowledge and capacity development for Indigenous Peoples to support their active and effective participation in GEF planning, project cycle and other relevant processes, such as Focal Area Strategy Development, Constituency Workshops, National Portfolio Formulation Exercises, and GEF SGP National Steering Committees.
- (e) Capacity building among the GEF Secretariat staff, as well as knowledge development and transfer mechanisms to foster information exchange amongst the GEF and relevant external bodies with expertise in Indigenous Peoples.
- (f) Identification and strengthening of financial arrangements to support Indigenous Peoples and their efforts to protect their rights and effectively manage their resources through existing and new projects and programs, including GEF SGP and Critical Ecosystem Partnership Fund.

## **Reference I: GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards<sup>47</sup>**

## **Reference II: GEF Policy on Public Involvement in GEF Projects<sup>48</sup>**

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<sup>46</sup> An important factor in Indigenous Peoples participation will be self-selected representation by the indigenous constituencies at the regional and national level, where practical. See also UNDG Guidelines.

<sup>47</sup> See Council Document GEF/C.41/Rev.1, *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards*, pages 17, 22-29

<sup>48</sup> See Council Documents GEF/C.7/6, *Public Involvement in GEF Projects* and C.6/Inf.5, *Draft Outline of Policy Paper on Public Involvement in GEF-Financed Projects*.



**Annex A: Issues Paper: Final, submitted by the Indigenous Peoples Task  
Force**



# ISSUES PAPER: FINAL

NOVEMBER 30, 2011

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*Drafted by the Indigenous Peoples Task Force on the Global Environment Facility Indigenous Peoples' Policy (IPTF). The task force is composed of the following: Joenia Batista de Carvalho, Brazil; Johnson Cerda, Ecuador; Herminia Degawan, Philippines; Famarck Hlawching, Burma; Edna Kaptoyo, Kenya; Jadder Mendoza Lewis, Nicaragua; Hindou Oumarou Ibrahim, Chad; Saro Pyagbara, Nigeria, and Jennifer Rubis, Malaysia. The Task Force is supported by the GEF Secretariat, the GEF NGO Network and Helen Tugendhat.*

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## OUTLINE

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OUTLINE .....	1
INTRODUCTION:.....	2
MANDATE .....	4
IDENTIFYING INDIGENOUS PEOPLES .....	6
POLICY PRINCIPLES.....	7
KEY POLICY AREAS.....	8
INDIVIDUAL AND COLLECTIVE RIGHTS TO LAND, TERRITORIES AND RESOURCES	8
FREE, PRIOR AND INFORMED CONSENT (FPIC) .....	9
FULL AND EFFECTIVE PARTICIPATION .....	11
TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES .....	14
ACCESS AND BENEFIT SHARING.....	15
MECHANISMS FOR IMPLEMENTATION OF THIS POLICY .....	16
 ANNEX ONE: COMPARATIVE REVIEW OF EXISTING POLICIES ON INDIGENOUS PEOPLES IN GEF AGENCIES .....	 20
ANNEX TWO: DEFINITION OF FREE, PRIOR AND INFORMED CONSENT .....	40
ANNEX THREE: KARI-OCA DECLARATION OF INDIGENOUS PEOPLES .....	41

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## INTRODUCTION:

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Twenty years ago, the GEF was established to provide grants to developing countries and countries with economies in transition for projects aimed at the protection of the global environment and to promote environmental sustainable development. Following the successful United Nations Conference on Environment and Development, often referred to as the 'Earth Summit' held in 1992 at Rio De Janeiro, Brazil, the GEF was restructured and made the funding mechanism for the different conventions arising from the Rio Conference. The Rio Conventions are agreements related to the environment and the sustainable use of the earth's resources. Today, GEF is involved with the provision of grants for projects related to biodiversity, climate change, international waters, land degradation, the ozone layer, and persistent organic pollutants all of which have impacts on indigenous peoples. Simultaneous with the Earth Summit, indigenous peoples from all parts of the world gathered at Kari Oca to draft their own platform for advocacy on issues related to the environment. The Kari Oca Declaration forms the basis for many of the positions taken by indigenous peoples in various international negotiations and is appended here.

It is fitting that as the GEF and indigenous peoples prepare for the Rio+20 meetings, the GEF is now developing a policy paper on indigenous peoples. Such a policy is crucial in ensuring the fulfillment of GEF's mandate which arises from the Rio Conventions. Indigenous peoples are likewise keen on developing such a policy to ensure that their contributions to sustainable development and environmental protection continue to be recognized and promoted. It is also important to note that the GEF is developing this policy on indigenous peoples 4 years after the passage of the UN Declaration on the Rights of Indigenous Peoples, a document which clarified the roles of intergovernmental organizations, States and the United Nations in proactively recognizing, protecting and promoting the rights of indigenous peoples.

The history of GEF-financed projects and program, implemented by States and by GEF agencies, has had mixed and disproportionate impacts on the lives and livelihoods of indigenous peoples. It is to address these disproportionate impacts and to ensure that the contributions of indigenous peoples to the mandate of the GEF are recognized that a policy on indigenous peoples became necessary - to provide a framework for engagement between the GEF and indigenous peoples. This message was carried by indigenous peoples to a number of consultation meetings organized during several GEF meetings, including the GEF Assembly in 2010 and Council meetings later in the same year. In May 2011 the GEF CEO made a formal commitment to develop the policy, and work among indigenous representatives began in earnest.

As part of the process of developing such a policy paper, an Indigenous Peoples' Task Force on the GEF Indigenous Peoples' Policy was established to develop this issues paper to inform the GEF Secretariat and the GEF Council in their deliberations on a policy paper and to provide key recommendations for the content and approach of such a paper. In internal discussions within the task force in August 2011 a comprehensive draft was finalized and translated for regional discussions. From August to October 2011 regional meetings were held alongside other planned meetings, although dedicated consultation sessions could not be held due to a lack of available resources to support direct meetings. In Latin America, meetings were held in Manaus, Brazil and in Kuna Yala, Panama. In Asia, a regional meeting was held in Chiang Mai, Thailand, with a further meeting in the Philippines. In Africa, following an extensive electronic discussions amongst the different Indigenous peoples groups and networks across the continent, a regional meeting was

held in Nairobi, Kenya, with attendees from Tanzania, Kenya, Uganda, Nigeria and Sudan. Further electronic discussions and feedback were sought and received within each of the three regions, and specific outreach was conducted to members of the UN Permanent Forum on Indigenous Issues to benefit from their expertise. Finally input was sought and received from individuals from the Pacific and from the Arctic to gain their perspectives and to highlight their concerns, including representation from the Russian Association of Indigenous Peoples of the North (RAIPON). All inputs from the task force have been collated and facilitated by Helen Tugendhat.

This issues paper presents for the GEFSEC and the GEF Council both (a) the principles on which such an indigenous peoples' policy could rest, including the key protections and aspirations proposed to be contained in the policy document and; (b) the required mechanisms to ensure its effective and smooth implementation across the wide diversity of GEF projects and agencies. This paper also provides references to additional guidance documents that exist and which should be provided as references to GEF Agencies in their promotion of indigenous rights and interests, and is based partly on a comprehensive review of the existing policies in GEF Agencies regarding indigenous peoples (see Annex I). Finally this issues paper contains recommendations for the next steps in the development of the policy itself. The policy sits alongside the mandatory safeguard requirements for indigenous peoples already contained within the GEF Environmental and Social Safeguard Standards (GEF Council, November 2011).

The generous support of the Swiss government has been crucial to the development of this issues paper and the task force would like to express their gratitude for this support.

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## MANDATE

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The mandate of the GEF is to providing financing for activities that protect the global environment by providing incremental financing to “achieve agreed environmental benefits in the following focal areas: (a) biological diversity; (b) climate change; (c) international waters; (d) land degradation, primarily desertification and deforestation; (e) ozone layer depletion; and (f) persistent organic pollutants.”<sup>49</sup> In all these areas the rights and interests of indigenous peoples are affected, and the GEF can and has a role in ensuring that such impacts are positive and carried out in partnership with the affected indigenous peoples wherever possible, and at a minimum, that any possible negative impact is mitigated to the extent possible.

In fulfilling its mandate, the GEF supports the realization of the international obligations of GEF member states through its financing of projects in those countries, particularly those obligations established by the UN Convention on Biological Diversity, the UN Convention to Combat Desertification and the UN Framework Convention on Climate Change. The GEF should also play a constructive role in proactively supporting the realization of other international obligations of its member states related to indigenous peoples, including but not restricted to the obligations under the UN Declaration on the Rights of Indigenous Peoples, the African Charter and ILO Convention 169 for those States that support or have ratified these instruments.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly during September 2007. The UN General Assembly approved the text, which had been negotiated over three decades with indigenous representatives, and which contains the minimum standards necessary for fully realizing the rights of indigenous peoples. The General Assembly approved the specific requirements in the Declaration that:

The organs and specialized agencies of the United Nations system *and other intergovernmental organizations* shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established (Article 41, emphasis added)

For the GEF, the requirement to support the implementation of the UN Declaration on the Rights of Indigenous Peoples is drawn in part from this requirement in Article 41 for all intergovernmental organizations to provide financial cooperation and technical assistance. Further, the GEF draws an additional mandate to support UNDRIP from the fact that the three implementing agencies of the GEF are also specialized agencies of the UN system and are therefore further obligated under Article 42:

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for

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<sup>49</sup> Instrument for the Establishment of the Restructured Global Environment Facility, October 2011: page 12. Available at:

[http://www.thegef.org/gef/sites/thegef.org/files/publication/GEF\\_Instrument\\_2011.pdf](http://www.thegef.org/gef/sites/thegef.org/files/publication/GEF_Instrument_2011.pdf)

and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration (Article 42)

The international obligations of GEF member countries also include those established by the Conventions for which the GEF provides financing assistance. See, for instance, the decision of the 7<sup>th</sup> COP to the CBD that: “the establishment, management and monitoring of protected areas should take place with the full and effective participation, and the full respect for the rights of, indigenous and local communities consistent with domestic law and applicable international obligations.”<sup>50</sup> Such obligations placed on GEF member states by these conventions provide an avenue for GEF to tailor support to achieving and supporting such outcomes.

Therefore we see the basis for the GEF to both (a) proactively provide effective support to indigenous peoples in partnerships to achieve the GEF mandate, and (b) support and promote the realization of the UNDRIP in member states. This not only fulfills the requirement that intergovernmental organizations support the operationalization of UNDRIP but further supports member states in meeting their own defined obligations under the environmental treaties to which they are parties, and supports UN specialized agencies affiliated with the GEF to address their obligations also.

It is proposed that the GEF recognize the source of its mandate to promote partnerships with indigenous peoples in the preambular text of the proposed policy. In particular it is proposed that:

The GEF recognizes the critical roles that indigenous peoples play in the management, sustainable use and conservation of the global environment. The GEF seeks to engage indigenous peoples as equal partners in the sustainable use and conservation of the global environment.

The GEF further notes the adoption of the UN Declaration on the Rights of Indigenous Peoples by the UN General Assembly and the request in the Declaration that intergovernmental organizations contribute to the full realization of the provisions of the Declaration through the mobilization, inter alia, of financial cooperation and technical assistance.

The GEF commits to promoting and supporting the provisions of the Declaration, including by establishing mechanisms to ensure the full and effective participation of indigenous peoples on issues affecting them.

## References

UN Declaration on the Rights of Indigenous Peoples, September 2007  
Instrument for the Establishment of the Restructured Global Environment Facility, October 2011

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<sup>50</sup> Decision VII/28 Protected Areas, at para. 22. See, also, Decision VII/28, Annex, Programme of Work on Protected Areas, Goal 2.2 . In: *Decisions Adopted by the Conference of Parties to the Convention on Biological Diversity at its Seventh Meeting*. UNEP/BDP/COP/7/21, pps. 343-64. Available at: <http://www.cbd.int/decisions/?dec=VII/28>

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## IDENTIFYING INDIGENOUS PEOPLES

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Self-identified indigenous peoples are estimated to number over 370 million, or about five per cent of the world's overall population. Many concerns have been expressed by indigenous peoples that States should not provide a definition for who are, and who are not, to be considered indigenous. The UN system has, in response, declined to develop such a definition and relies for practical purposes on an approach to identifying indigenous peoples that was proposed by Jose R. Martinez Cobo, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in his Study on the Problem of Discrimination against Indigenous Populations.<sup>51</sup> This approach emphasizes a number of characteristics which may be present when identifying indigenous peoples, including historical continuity with pre-invasion societies, a non-dominant position, occupation of ancestral lands (or part of them), distinct languages and distinct cultures (means of livelihood and other manifestations of culture). Crucially the approach provided by Martinez-Cobo emphasizes that self-identification – who they say they are – is an essential part of the identification of indigenous peoples and approaches to identifying indigenous peoples should preserve “the sovereign right and power to decide who belongs to them, without external interference”. This working definition on the term *indigenous peoples* has been endorsed by indigenous experts, UN agencies, and heavily influenced the development of similar approaches by international financial institutions, regional human rights institutions.

Indigenous peoples may be referred to in different countries by such terms as, “hill tribes”, “aboriginal or native”, “minority nationalities”, “schedule tribes”, “ethnic minorities”, tribal group”, marginalized group”, vulnerable group”, “primitive” or backward”, such terms, while not fully acceptable to indigenous peoples are what States use. In many parts of Asia and Africa, governments do not fully recognize the existence of indigenous peoples. Such inadequate recognition has led to the further marginalization of indigenous peoples and has prevented them from being participants and recipients of projects meant to alleviate their conditions. It is important that indigenous peoples are not excluded from such because of the lack of recognition.

The GEF acknowledges the principle of self-identification as the fundamental criteria in the identification of indigenous peoples. For the purposes of implementing this policy, the GEF will also assess the presence of the following additional characteristics which may be present to varying degrees:

- Collective attachment to customary and traditional territories, lands and resources, including groups for whom such attachments have been forcibly severed (ADB, EBRD, UNDP, WB)
- Priority in time in the lands and territories they occupy (FAO, IDB, IFAD)
- Distinct cultural, social, economic institutions, potentially including distinctive languages, customary laws, and other distinct forms of social organization (ADB, IDB, EBRD, WB, UNDP, IFAD, FAO)
- An experience of subjugation or marginalization in relation to dominant society (FAO, IFAD)

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<sup>51</sup> The Concept of Indigenous Peoples: Background Paper prepared by the Secretariat of the UN Permanent Forum on Indigenous Issues, WORKSHOP ON DATA COLLECTION AND DISAGGREGATION FOR INDIGENOUS PEOPLES, New York, 19-21 January 2004



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## POLICY PRINCIPLES

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The following policy principles are the proposed basis on which a partnership could be established between indigenous peoples and the GEF, using the proposed policy as a basis:

- The GEF recognizes indigenous peoples as equal partners in the sustainable use, management and conservation of the global environment
- The GEF will promote the principles articulated in the UNDRIP and will contribute to the realization of the UNDRIP including through the provision of financial cooperation and technical assistance
- The GEF will support the realization of obligations under ILO Convention 169 and other applicable international obligations
- GEF-financed activities with impacts on indigenous peoples will be aligned with, and assist in the implementation of, decisions related to indigenous peoples taken by the relevant conventions (CBD, UNFCCC, UNCCD, etc.)
- The GEF recognizes that indigenous peoples have the right to self-determination, including their right to decide the kind of development that takes place among their people and on their lands and territories, in accordance with their own priorities and conceptions of well-being. The right to self-determination refers to the right of all peoples to freely pursue their economic, social and cultural development
- The GEF will ensure projects financed with GEF funds proceed only with the free, prior and informed consent of the affected indigenous peoples
- The GEF will promote and support the development of free, prior and informed consent methodologies and mechanisms by indigenous peoples and their organizations, institutions and communities where they implement programmes for managing biodiversity, land degradation and climate change actions
- The GEF recognizes that indigenous peoples have the right to full and effective participation, on an equal basis and through representatives chosen by themselves in accordance with their own procedures, in determining priorities and strategies for projects and programs affecting them directly or indirectly
- The GEF will establish mechanisms to ensure that indigenous peoples have opportunity to participate fully in the development of policies or programs of the GEF that impact on them
- The GEF recognizes the distinctive spiritual relationship that indigenous peoples have with their traditionally owned or otherwise occupied and used lands, territories, waters, including Arctic sea-ice and coastal seas, and other resources, including biodiversity
- The GEF will prioritize projects that promote and strengthen traditional systems of land use plans and territorial management
- The GEF will avoid financing projects which can negatively impact indigenous lands, territories and resources, including activities which restrict access to such lands, territories and resources
- The GEF recognizes the importance of traditional and cultural knowledge, innovations and practices and will promote, respect and support the role of indigenous women, elders and youth, in particular their roles in the intergenerational transfer of traditional knowledge
- The GEF recognizes the importance of traditional and customary forms of economic organization and the balance with nature represented therein

- GEF shall provide effective mechanisms for the prevention of, and redress for any such action which will have adverse impacts on indigenous peoples.

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## KEY POLICY AREAS

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There are a number of areas identified by indigenous peoples as key policy issues that a GEF policy on indigenous peoples must address. These are the issues that are most closely tied to the survival of indigenous peoples and the continuation of their distinct cultures, ways of life and land and resource management practices.

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## INDIVIDUAL AND COLLECTIVE RIGHTS TO LAND, TERRITORIES AND RESOURCES

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Indigenous peoples derive their identities from their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas, including Arctic sea-ice, and other resources. Such relationships must be recognized, respected, protected and upheld.

However too often indigenous peoples do not receive recognition of their rights to lands and resources, or such rights are recognized in minimal or unsuitable ways. Similarly, indigenous peoples' rights to their lands and resources can be restricted or denied by governments, for reasons of resource access or for reasons of conservation. Particularly relevant for the GEF is the fact that the establishment of protected areas has, in the past, been used to alienate indigenous peoples from their lands and resources, a historic injustice recognized by the Conference of the Parties to the Convention on Biological Diversity when it decided that "the establishment, management and monitoring of protected areas should take place with the full and effective participation, and the full respect for the rights of, indigenous and local communities consistent with domestic law and applicable international obligations."<sup>[1]</sup>

The CBD also creates obligations to respect, preserve and maintain knowledge, innovations and practices of indigenous peoples and local communities (see page 14 for more details) and goes on to address the need to protect and to promote the traditional or customary use of biological resources in Article 10c, here in full:

(c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements

To ensure that indigenous peoples' rights to their lands, territories and resources are fully protected and promoted in the work programme of the GEF it is proposed that:

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<sup>[1]</sup> Decision VII/28 Protected Areas, at para. 22. See, also, Decision VII/28, Annex, Programme of Work on Protected Areas, Goal 2.2 . In: *Decisions Adopted by the Conference of Parties to the Convention on Biological Diversity at its Seventh Meeting*. UNEP/BDP/COP/7/21, pps. 343-64. Available at: <http://www.cbd.int/decisions/?dec=VII/28>

- GEF shall respect the intrinsic relationship between indigenous peoples and their lands and territories as important strategies in conservation and sustainable use of biodiversity and will support the strengthening and maintenance of such relationships through support for strengthening legal tenure where possible
- GEF shall guarantee facilitated and flexible processes which recognize and strengthen the tenure rights of indigenous peoples over their lands, territories and resources especially considering their right to self-determination and for full and effective participation and decision-making in all activities affect their lands and resources
- Where requested by indigenous peoples, the GEF will support the demarcation of lands and territories of indigenous peoples, with the full and effective participation of affected indigenous peoples
- GEF will recognize and promote the land use and resource management plans of indigenous peoples and the role that such plans have in conservation
- GEF will respect and promote collective methods of resource management and promote development with identity
- GEF shall dedicate special attention to projects that aim to recover degraded land, and strengthen traditional customary uses of indigenous peoples
- GEF shall encourage the development of programs recognizing indigenous governance and economic systems in the management and use of biodiversity and natural resources
- The GEF will ensure that projects in indigenous territories recognize and promote the exercise of traditional authorities, which maintains the management of good living and promote the complementary goals of conservation, sustainable use of biodiversity and management of mitigation and adaptation of climate change impacts
- The processes of management of biodiversity and climate change in indigenous territories will incorporate participation in the design, negotiation and implementation adding to the plan of life of the communities
- The GEF shall recognize and protect the customary use of biological resources and related traditional practices in all projects and programs affecting indigenous peoples in accordance with Article 10c of the CBD and related instruments and international obligations

### FREE, PRIOR AND INFORMED CONSENT (FPIC)

The principle of free, prior and informed consent stems from the right of all peoples to self-determination, and by the international legal norm of non-discrimination. The right to free, prior and informed consent is specifically referenced and protected by six separate articles in the UN Declaration on the Rights of Indigenous Peoples, including for projects impacting on lands (Article 32), relocation or reduction of access to resources (Article 10), use of traditional knowledge (Article 11), and for administrative measures affecting them (Article 19).<sup>52</sup> It is also an integral part of the human rights-based approach to development, which is necessary for the full and effective

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<sup>52</sup> The remaining Articles deal with restitution for lands taken without FPIC (Article 28) and a requirement for FPIC prior to any hazardous wastes being stored on the lands of indigenous peoples (Article 29). UN Declaration on the Rights of Indigenous Peoples, September 2007

participation of Indigenous peoples in projects and programs. This assures the ownership of projects by indigenous peoples.

It has also been adopted as minimum requirement under the GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards (ESSS) under certain circumstances, namely for projects that involve relocation of indigenous peoples from their traditional and customary lands and territories where the relevant government has ratified ILO Convention 169. While this application of free, prior and informed consent is far too tightly restricted and limited in impact, it is nonetheless recognition by the GEF of the increasing international acceptance of FPIC as a minimal requirement when working with indigenous peoples. There is significant room for the GEF to support and promote FPIC in the projects that it finances, even within the tight parameters set by the ESSS.

Free, prior and informed consent is a process of engaging and partnering with indigenous peoples to ensure that any development initiative proposed only takes place with the full involvement, and freely given consent of the peoples concerned. This necessarily involves the option of non-financing where consent is not freely given. The goal of a process of FPIC is, however, to ensure that a partnership of equals is possible, facilitated and realized in development processes. It involves the establishment of a dialogue and a relationship of trust as early as possible in a project development cycle and requires a good faith effort from all involved parties to discussing options available. A guideline for FPIC is provided in Annex 2, drawn from the UN Development Group Guidelines (UNDG).

For the purpose of the development of a GEF policy on indigenous peoples, it is also relevant to note that of the eight GEF Agencies with policies on indigenous peoples, four have been either developed or updated since the adoption of UNDRIP. All four of these policies contain protections for free, prior and informed consent to varying degrees. In addition, the World Bank Group has also developed a Performance Standard on Indigenous Peoples which is applicable to its private-sector arm, the International Finance Corporation, and this Performance Standard also requires free, prior and informed consent from indigenous peoples for certain project types.

It is proposed that the policy on indigenous peoples ensures that GEF members and agencies shall seek the free, prior and informed consent of Indigenous Peoples on every project and programs proposed in Indigenous peoples' territories and for Indigenous peoples. In support of this objective, the GEF shall promote and support the development of methodologies of free, prior and informed consent by indigenous peoples involved in or impacted by GEF-financed projects.

In supporting the development of FPIC methodologies, the GEF will encourage Partner Agencies to adopt the following principles of engagement:

- In order to facilitate the involvement and participation of the affected indigenous and local communities, local experts should be identified and their expertise recognized and engaged at the earliest opportunity in project conception, design and implementation
- GEF grant recipients shall ensure capacity building for indigenous people's communities and organizations to facilitate and support their effective participation in program conception, planning and implementation

- The grant recipient shall ensure adequate time is provided to enable indigenous peoples' own decision making arrangements to function, especially in dealing with indigenous peoples in remote or neglected areas where little previous experience is available
- GEF grant recipients shall establish mechanisms to ensure that the decisions of IPs concerning projects and programs are incorporated into the structure of the respective projects/programs and made available to relevant indigenous peoples and their authorities
- The GEF will facilitate training processes and programs for project managers and leaders in the management of FPIC processes and in project implementation affecting indigenous peoples and their territories

## FULL AND EFFECTIVE PARTICIPATION

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*"In keeping with the evolution of the Indigenous Peoples movement for recognition and fundamental human rights, now recognized in the UNDRIP, it is no longer appropriate or acceptable for States to make decisions that affect Indigenous Peoples without their "full and effective participation"<sup>53</sup>*

The foundation of a partnership between indigenous peoples and the GEF must be formed in a trusted relationship of full and effective participation, communication and involvement. The full and effective participation of indigenous peoples in the decisions and actions that impact on their lives, livelihoods and territories is a well established principle of good practice in development, as well as a firmly established tenet of international law. The UNDRIP, ILO Convention 169 and other international and regional human rights instruments provide protection of this key principle and it is recognized in the policies on indigenous peoples in numerous GEF Agencies (UNDP, FAO, IFAD, IDB, see Annex I).

Understanding what is meant by the principle of 'full and effective participation' is part of the challenge of mainstreaming this into the work of the GEF. The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) recently released its *Final study on indigenous peoples and the right to participate in decision-making*, and provided a list of characteristics that are found in an effective opportunity for full and effective participation:

- Allows and enhances indigenous peoples' participation in decision-making
- Allows indigenous peoples to influence the outcome of decisions that affect them
- Realizes indigenous peoples' right to self-determination
- Includes, as appropriate, robust consultation procedures and/or processes to seek indigenous peoples' free, prior and informed consent

These characteristics should guide the introduction of mechanisms to promote the full and effective participation of indigenous peoples in various aspects of GEF-related work.

## PARTICIPATION IN THE PROJECT CYCLE

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<sup>53</sup> Opening Statement, International Indigenous Peoples Forum on Biodiversity (IIFB), Seventh meeting of the Working Group on Article 8(j) and related provisions (WG8j-7), Montreal, Canada, October 31, 2011. Available at:

[http://ccmin.aippnet.org/index.php?option=com\\_content&view=article&id=739:international-indigenous-forum-on-biodiversity-opening-statement&catid=1:news](http://ccmin.aippnet.org/index.php?option=com_content&view=article&id=739:international-indigenous-forum-on-biodiversity-opening-statement&catid=1:news)

The revisions of the PIF format in 2010 included a new section specifically to require information on engagement of indigenous peoples' in each project. In addition the Council decision of November 2010 required the inclusion of a stakeholder engagement plan as part of the full Project Document prior to CEO approval.

Indigenous peoples' targeted or affected by a GEF-supported project shall be present at all stages of the project cycle. In this regard, GEF will invite representatives of these communities to participate in the project preparation. These representatives should be self-selected by the communities, according to their own processes. Direct participation by community representatives will help define the most appropriate channels and methods for consultation and participation at the community level. Access to information should be made available by members of the community in their own languages. Project design, implementation and evaluation will take into account the socioeconomic and cultural specificities of the indigenous peoples' communities targeted or affected by the project. Project implementation arrangements should facilitate a direct role by indigenous communities in managing resources. Where needed, projects should include capacity building measures to enable indigenous peoples' organizations to assume effective control over the resources to be invested in their communities. Projects should contribute to the consolidation of indigenous peoples' organizations at local and territorial levels.

#### **PARTICIPATION IN MONITORING AND EVALUATION (M&E)**

Many current projects lack appropriate indicators to measure success in the livelihoods of targeted indigenous peoples. In future projects, M&E systems should include such indicators wherever they are appropriate. Indicators on how to measure well-being, poverty and sustainability in a way that is relevant to indigenous peoples can be identified based on ongoing work in other organizations to complement conventional project outcome and impact indicators.

M&E mechanisms should be participatory and adapted to capture indigenous peoples' perceptions and perspectives. This can be achieved through independent M&E studies among indigenous peoples on their opinions and perceptions on the progress of plans and programs. Participatory M&E should be part of normal project operations and should serve as a steering mechanism to identify problems and appropriate adaptive measures. Special care must be taken to facilitate easy and timely access to M&E results by communities themselves. Successes will be documented, applying rigorous and appropriate evaluation methods, including participatory methods, and will be disseminated in-country and to GEF's partners.

#### **SUPPORT THE ENGAGEMENT OF INDIGENOUS PEOPLES IN CONVENTION PROCESSES**

Within the Convention on Biodiversity, support is provided currently through a CBD voluntary fund for the engagement of Indigenous Peoples in the work of the convention. However, this is dependent on continuing and voluntary contributions.

With the recognition of traditional knowledge within the frameworks of the UNFCCC and UNCCD and the need to support local communities (UNCCD Article 16c, 17d and UNFCCC's Cancun Adaptation Framework and evolving REDD discussions), the need to further promote the participation of indigenous peoples within this processes is necessary.

GEF should work with the secretariats of the CBD, FCCC and CCD to establish more robust longer term mechanisms for financing the engagement of indigenous peoples in the work of the conventions.

## **FACILITATING DIALOGUES WITH GEF FOCAL POINTS, CONVENTION FOCAL POINTS AND INDIGENOUS PEOPLES**

Since the 2007 adoption of the UN Declaration on the Rights of Indigenous Peoples, multilateral and international organizations have begun processes of reviewing and aligning their policies. The policy landscape with regards to recognition of indigenous peoples' issues is constantly evolving.

In view of these constant changes and in order to enhance the positive engagement of indigenous peoples in GEF projects and programs, it is recommended that regular dialogues be organized between the national GEF Focal points, respective Convention focal points and representatives of indigenous peoples at a national level. Such meetings will be critical at the early stage of the GEF four year funding cycle.

The results of such meetings would depend partly on the concerns, interests and needs of the indigenous peoples in the given country. It is expected that such participation would enable review of previous funding cycles and would set targets for participation of indigenous peoples in GEF projects, in Convention implementation arrangements and would support the mainstreaming of indigenous concerns into all areas of Convention financing and implementation.

### **Proposals for the GEF Indigenous Peoples' Policy**

The GEF policy on indigenous peoples should acknowledge that indigenous peoples have the right to full and effective participation in all decisions affecting their lives, lands, resources and livelihoods, including decision-making roles in projects or programs impacting on them. In the context of GEF-financed projects, this is particularly important in the establishment of social and cultural baselines, the conduct of social and environmental impact assessment, in all stages of project design and implementation, and in monitoring and evaluation, including the establishment of indicators for such monitoring.

In support of this, the GEF should support the promotion of the full and effective participation of indigenous peoples in the following manner:

#### **GEF Programming**

- Facilitating the direct and effective participation of indigenous peoples in current and future GEF programmes and activities that affect indigenous peoples. It will support enabling environments to foster inclusion of indigenous peoples in the design, execution and evaluation of policies and programmes that concern and/or affect them.
- Support the full and effective participation of indigenous peoples in national and regional planning processes for the use and allocation of GEF financing
- By supporting the establishment of indigenous advisory panels for projects and programs with impacts on indigenous peoples

#### **Project-level participation**

- Supporting their full and effective participation in the establishment of social and cultural baselines in project level social and environmental impact assessments
- Supporting their full and effective participation in monitoring and evaluation processes, including in the establishment of measurable indicators

#### Convention participation

- By facilitating their effective participation in key policy areas of relevance to the GEF mandate, including the UN Convention on Biological Diversity and the UN Framework Convention on Climate Change

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### TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES

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The development of the GEF policy must recognize that traditional knowledge is developed over centuries and indigenous families and communities are the holders of such knowledge for generations; this knowledge needs to be highlighted as a special contribution of indigenous peoples. Indigenous communities have been victims of bio-piracy. Researchers have taken knowledge away from holders of knowledge without providing for benefit sharing arrangements.

The use of traditional and indigenous knowledge can greatly strengthen project design, subject of course to the free, prior and informed consent of knowledge holders, and should be recognized as a valuable contribution to realizing the mandate of the GEF. For instance, in forest restoration projects the use of indigenous biodiversity knowledge to restore ecosystems rather than planting plantations or stands of non-native trees. Such knowledge can include the restoration of critical medicinal plants and plants of direct household use in the forest. The importance of ensuring the transmission of such knowledge to future generations is part of any move to promote such knowledge and should be facilitated and enhanced in projects, where possible and subject to free, prior and informed consent. Such an understanding of the role of traditional knowledge and innovations contributes to a new paradigm of environmental conservation for Rio +20.

The Convention on Biological Diversity recognizes the importance of indigenous knowledge and innovations for 'in situ conservation' in Article 8(j), worth citing here in full:

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices<sup>54</sup>

Notably the CBD addresses both the need to respect and preserve knowledge innovations and practices and also to protect against inequitable use (or theft) of such knowledge.

It is proposed that GEF give special attention to projects that aim to promote traditional knowledge while ensuring that the knowledge holders, including indigenous women, are respected and their rights over their intellectual and cultural knowledge, innovations and practices are protected.

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<sup>54</sup> UN Convention on Biological Diversity, Article 8(j)



Projects that assist in passing such knowledge to the younger generation should also be strengthened.

- GEF recognizes and respects the traditional knowledge held by indigenous peoples and the indigenous ways of ownership and knowledge transmission
- GEF projects shall promote the use of traditional experts, medicine men and traditional healers in relation to carrying out activities affecting traditional knowledge
- GEF shall ensure the mainstreaming of the role of indigenous women as keepers of traditional knowledge in all TK related projects
- GEF will encourage GEF financed projects to adhere to international best practice in the utilization of traditional knowledge and the equitable sharing of benefits arising from such use
- Any sustainable livelihood or income replacement or generation projects should be based on existing indigenous knowledge rather than attempt to introduce new agricultural or horticultural systems
- GEF will promote and support projects and programs which support the retention and development of traditional knowledge and innovations that benefit conservation, sustainable use of biodiversity, mitigation of climate change and protection of soils in accordance with Article 8j of the CBD and related instruments and international obligations

#### References and Guidance for GEF financed projects

The Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities.<sup>55</sup>

Akwé: Kon guidelines for the conduct of cultural, environmental and social impact assessment regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities.<sup>56</sup>

### ACCESS AND BENEFIT SHARING

Protection for the resources of indigenous peoples should not be restricted to protection of cultural, intellectual and genetic resources. Instead, the understanding used in the proposed policy regarding access to, and benefiting from, the use of resources should include all resources that are located on indigenous peoples' lands and territories. The GEF should support at all times the equitable sharing of benefits, under mutually agreed conditions, for the utilization of all resources found within the territories and lands of indigenous peoples.

Towards this end:

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<sup>55</sup> <http://www.cbd.int/decision/cop/?id=12308>

<sup>56</sup> <http://www.cbd.int/doc/publications/akwe-brochure-en.pdf>

- GEF financed programs shall ensure equitable arrangements for the sharing of benefits derived from the use of all forms of resources found on indigenous lands and territories and will only proceed with such arrangements with the free, prior and informed consent of the indigenous peoples concerned
- GEF-financed activities will recognize that Indigenous peoples have inalienable rights to access, use, exchange or share their genetic resources in sustaining their livelihood systems as regulated by their customary practices and laws acquired through generations, and to collectively benefit from the use of their genetic resources
- GEF-financed activities will ensure that access to any genetic resources, traditional knowledge or technologies of Indigenous peoples will only take place with the free prior and informed consent of the indigenous peoples concerned, with particular focus on the involvement of women in the decision making process
- GEF-financed activities will not apply for any form of intellectual property rights protection over the genetic resources, traditional knowledge, innovation, practice or technology without the free prior informed consent of the indigenous peoples concerned
- GEF-financed activities will only be given access based on benefit-sharing commitments to contribute economically to the concerned indigenous people in the regeneration and conservation of the biological resource, and the maintenance of the innovation, practice, knowledge or technology to which access is sought
- GEF-financed activities will recognize that indigenous peoples have the right to refuse access to their genetic resources, traditional knowledge, innovations, practices and technologies, including where such access will be injurious to the integrity of their natural or cultural heritage
- GEF-financed activities will ensure the use genetic resources for purposes consistent with the terms and conditions under which they were acquired
- GEF will ensure that any access gained and use made by projects financed by GEF to use such traditional, genetic and cultural resources without free, prior and informed consent of the owners of such resources shall be deemed invalid and appropriate recourse will be provided (see also Mechanisms for Implementation pg 17)
- The GEF will further ensure that any transfer of genetic resources (including derivatives thereof) or the traditional knowledge, innovations, practices, or technology of indigenous peoples to third parties will only occur with the consent of the peoples concerned

## References

Bonn guidelines on access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization

Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) to the Convention on Biological Diversity

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## MECHANISMS FOR IMPLEMENTATION OF THIS POLICY

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The experience of GEF Agencies clearly shows that specific, well financed, and mutually acceptable mechanisms and institutional arrangements are needed for effective promotion and protection of the rights and interests of indigenous peoples. There is a large array of approaches adopted by GEF

Agencies, partly determined by the principle objectives of the agencies themselves. Primarily financing institutions like the World Bank focus on mainstreaming all of the policy requirements into normal project management cycles and therefore do not have separated budgets and historically have not had institutional arrangements for consultations with indigenous peoples.<sup>57</sup> UN agencies on the other hand have established policies largely to promote or guide their work with indigenous peoples and have been quicker to establish advisory or consultative mechanisms with indigenous peoples' representatives and organizations.

For both types of agencies though, engagement with indigenous peoples has deepened and become more institutionalized over the past decade. This includes the development of experts on indigenous issues in headquarter staff (WB, UNDP, IDB, ADB) and the development of pro-active policies or strategies to support indigenous peoples specifically (IDB, IFAD, ADB, UNDP, FAO).

Engagement of this type has resulted in more effective decision-making processes and greater involvement of indigenous peoples in the projects and programmes designed in this way. To foster such engagement, the GEF policy should include the development of appropriate mechanisms for the implementation of the policy. Based on prior experience and reviews of the efficiency of existing mechanisms, it is proposed that the GEF:

- A. Establish an Indigenous Peoples Advisory Committee to provide advice to the Secretariat and to the Council on issues related to the implementation of this policy.
- B. Recruit and develop expertise on indigenous issues in the GEF Secretariat, including a direct communication and access point for indigenous peoples into the Secretariat
- C. Establish and administer, through a GEF Agency, a direct access financing avenue for indigenous peoples' organizations
- D. Establish a recourse mechanism comprising of indigenous representatives, GEF agencies at the local, national and international levels

## **ESTABLISHMENT OF AN INDIGENOUS PEOPLES ADVISORY COMMITTEE**

It is proposed that the GEF establish an Indigenous Peoples' Advisory Committee at the international level. The mandate of this proposed Advisory Committee is to (a) provide advice to the Secretariat on technical, project or policy related matters as requested, (b) provide advice to the Council on the implementation of this policy; and (c) enable a channel of consistent dialogue between indigenous peoples and the Global Environment Facility. Secretarial support should be provided from a GEF implementing agency.

The selection process for this Advisory Committee will be led by indigenous peoples, and will include representatives drawn from the following regions: Africa; Asia; Central and South America and the Caribbean; the Arctic; Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific (these are the regions used in the selection of membership for the UN Permanent Forum on Indigenous Issues and is considered more

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<sup>57</sup> This is changing currently with the recent establishment of a 'High-Level Dialogue between the World Bank and Indigenous Peoples' which may develop into an advisory function. It is too young as for assessments on its efficacy.

represented of global diversity than the currently used focal points of Asia, Latin America and the Caribbean, and Africa).

Additionally, indigenous people's participation in GEF Council meetings should be strengthened and systematized through the establishment of an indigenous advisory board composed of indigenous representatives selected by themselves and independent from NGO involvement.

### **ESTABLISHMENT OF A FUND FOR INDIGENOUS PEOPLES**

To support and promote the implementation of this policy, the GEF will establish a direct-access funding mechanism for indigenous peoples to support local, national and regional projects designed by indigenous peoples. The fund could be administrated by a GEF implementing agency, and the Indigenous Peoples' Advisory Committee can assist in the establishment of such a Fund.

The Fund would be governed by a Board with representation by indigenous peoples.

If such a fund is not possible in the short-term, due to difficult administrative arrangements or lack of financial support from donor countries, alternative funding arrangements should be explored that would allow sufficient support to be provided to the project types identified in this policy. This could include a specific channel for indigenous peoples within the GEF-UNDP Small Grants Programme tied to the implementation of this policy paper, or other arrangements as suited.

### **BUILDING UP EXPERTISE ON INDIGENOUS ISSUES WITHIN THE GEF SECRETARIAT**

There is a need to build the capacity of the GEFSEC to effectively address indigenous peoples' concerns at the different levels of project design, implementation, monitoring and evaluation. Guidance and assistance in the application of such a policy needs to be vested in a new post at GEFSEC for program specialist with expertise in indigenous peoples' issues who can strengthen internal capacity building processes and ensure implementation. The program specialist should also provide advice and guidance on indigenous issues referred to GEF ombudsman. The program specialist should come from indigenous peoples and have a proven track record supporting participation of indigenous peoples.

An internal capacity building program on indigenous peoples' issues should be initiated and implemented at the earliest stage. This capacity building should be extended to all members of the secretariat and should result in the understanding of indigenous peoples' rights and issues and how individual staff can mainstream these in their responsibilities. Adequate human and financial resources for internal capacity building should be incorporated.

### **RECOURSE MECHANISMS & INVOLVEMENT OF IP-RELEVANT UN EXPERT BODIES**

To address violations of, or non-compliance with, vital aspects of the policy dealing with rights of indigenous peoples, a recourse mechanism should be put in place, to address the matter and provide remedies. This process should be clearly defined and accessible by stakeholders.

It is important that indigenous peoples' representatives have role in such a process of recourse, including but not restricted to input from the three specialized mechanisms of the United Nations, the UN Permanent Forum on Indigenous Issues (UNPFII), the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the UN Special Rapporteur on the Rights of Indigenous Peoples

(SRIP). This may be facilitated by inducting self-selected representatives of the aforesaid bodies into the process or by providing a consultative role to them.

The mandate of such a recourse mechanism will be to receive and respond to complaints that critical policy principles contained within the GEF indigenous peoples' policy have been violated, with an emphasis on providing mediated and mutually acceptable solutions to issues raised. There may be a relationship between such a mechanism and the Conflict Resolution Commissioner in the GEF Secretariat.

#### **INCLUSION OF IP ISSUES IN THE FORMULATION OF GEF FOCAL AREA STRATEGIES**

GEF Focal area strategies are normally prepared by Technical Advisory groups (TAG). This Focal Areas Strategies provide the main framework to guide the expenditure of GEF resources. Currently Indigenous peoples issues are not adequately incorporated into the strategies and there is no representative of IPs in the TAGs.

The GEF shall ensure the inclusion of Indigenous peoples experts in the Technical Advisory Groups.

### Annex One: Comparative review of existing policies on indigenous peoples in GEF Agencies

Ten agencies were reviewed in light of their status as either GEF Implementing Agencies (WB, UNDP and UNEP) or as GEF Partner Agencies. Three agencies were not analyzed in detail owing to a lack of distinct policies towards indigenous peoples. These agencies were the African Development Bank (AfDB), the UN Industrial Development Organisation (UNIDO) and the UN Environment Programme (UNEP). Of these, UNEP is currently in the process of developing a distinct policy on indigenous peoples but this has yet to be brought to completion.

Agency	Mandatory	Safeguard	Promoting	Adopted	FPIC
United Nations Environment Programme (UNEP)	-	-	-	-	None
United Nations Industrial Development Organization (UNIDO)	-	-	-	-	None
African Development Bank	-	-	-	-	None
United Nations Development Programme (UNDP)	no	no	yes	2001	Yes
The World Bank* International Bank for Reconstruction and Development / International Development Agency	yes	yes	yes	2005	No
Inter-American Development Bank	yes	yes	yes	2006	Prior agreement and consent
<i>Adoption of the UN Declaration on the Rights of Indigenous Peoples</i>					
European Bank for Reconstruction and Development	yes	yes	no	2008	Yes
Asian Development Bank	yes	yes	yes	2009	Yes, somewhat
International Fund for Agricultural Development (IFAD)	no	no	yes	2009	Yes
Food and Agriculture Organization (FAO)	no	no	yes	2010	Yes
The World Bank International Finance Corporation (IFC)	yes	yes	no	2011 (enforced from 2012)	Yes

\* The World Bank has two separate sets of safeguards, one set (Operational Policies) which apply to projects funded through the public sector financing bodies of the bank, IBRD and IDA. The second set, Performance Standards and the associated Sustainability Policy and Access to Information Policy, which apply to the private sector arms of the bank, the International Finance Corporation and the Multilateral Investment Guarantee Agency. The standards differ significantly

when concerned with the rights and interests of indigenous peoples and so are assessed separately here.

### United Nations Development Programme

<b>Name of policy:</b> UNDP and Indigenous Peoples: A Policy of Engagement, 2001		<b>Type:</b> Guidance note	<b>Complaint system</b> None	<b>Compliance system</b> N	<b>Status</b> Standalone
<b>Staff resources</b> The CSO Team at UNDP headquarters is committed to coordinating the production and dissemination of relevant information; strengthening indigenous networks and capacity; increasing indigenous participation at global dialogues; and encouraging the incorporation of indigenous perspectives in UNDP policy-making. Moreover, UNDP has a significant role to play in mobilizing resources and promoting new modes of direct support to indigenous peoples through financial assistance and technical cooperation, most notably through its Thematic Trust Fund for Poverty Reduction.				<b>Budget resources</b> Unclear. Part of usual project management fees and costs.	<b>Links with other agencies</b> Linked to UN Development Group guidelines
<b>Treatment of key policy areas</b>					
Definition of 'indigenous peoples'	<p>The terms "indigenous peoples," "indigenous ethnic minorities," and "tribal groups" are used to describe social groups that share similar characteristics, namely a social and cultural identity that is distinct from dominant groups in society. United Nations human rights bodies, ILO, the World Bank and international law apply four criteria to distinguish indigenous peoples: (a) indigenous peoples usually live within (or maintain attachments to) geographically distinct ancestral territories; (b) they tend to maintain distinct social, economic, and political institutions within their territories; (c) they typically aspire to remain distinct culturally, geographically and institutionally rather than assimilate fully into national society; and (d) they self-identify as indigenous or tribal.</p> <p>Despite common characteristics, there does not exist any single accepted definition of indigenous peoples that captures their diversity as peoples. Self-identification as indigenous or tribal is usually regarded as a fundamental criterion for determining whether groups are indigenous or tribal, sometimes in combination with other variables such as "language spoken," and "geographic location or concentration."</p>				
Land and resource rights	<p><i>Recognition of relationships but no policy response to non-recognition of land rights</i></p> <p>43. In the spirit of General Assembly resolutions, UNDP recognizes the profound relationship indigenous peoples have to their environment, land and resources. Indigenous lands are increasingly under threat by development and the introduction of new policies and laws that do not acknowledge indigenous customary rights. UNDP also respects livelihoods based on pastoralism, hunting and gathering, and shifting cultivation lifestyles.</p>				
Traditional knowledge	<p><i>A significant emphasis is placed on risks to rights over traditional knowledge</i></p> <p>10. Indigenous peoples are often unable to take advantage of their most distinctive asset, their local knowledge, at the same time that it is increasingly being commercialized by international enterprises under the protection of a global patent regime - the Trade Related Aspects of Intellectual Property Rights Agreement, otherwise known as the TRIPS Agreement.</p> <p>11. Indigenous knowledge. ... Indigenous cultures comprise a heritage of diverse knowledge and ideas that is a resource for the whole world. As UNDP pursues sustainable development, attention has been placed on indigenous peoples largely owing to their sustainable development practices. This has led to an interest in indigenous peoples' ways of life, their cultures, sciences, land and resource management, governance, political and justice systems, knowledge and healing practices. Recognition of indigenous peoples' assets and traditional</p>				

	<p>knowledge (such as terrestrial and marine ecosystems, naturally occurring medicines from plants and insects, cultivated plant varieties, and animal husbandry) can be helpful to national and international development. Furthermore, indigenous peoples' continued existence is a testimony to the sustainability and viability of indigenous economic production systems, and social and governance practices that should be supported and enhanced, and most importantly, incorporated into mainstream development practices.</p> <p>18. Some findings indicate that projects based on a development strategy formulated by indigenous peoples and true to the traditional indigenous customs and values tend to be successful ... Not only is indigenous knowledge conserved and developed, it also lays the basis for the sustainable livelihood of the community.</p> <p>19. Evaluations have pointed out that programmes and projects should focus on building regional, national and local networks for exchange of experiences and information as well as for policy lobbying on issues affecting indigenous peoples such as the patenting of indigenous cultural knowledge. This often leads to increased awareness, interest and understanding of the communities in a number of areas, such as the protection of culture and indigenous knowledge systems; potential for further projects and activities; establishment of relationships with government and other organizations; and greater flows of information exchange and awareness about information sources.</p> <p>33. There is growing recognition of the need to protect indigenous knowledge systems. The 1992 CBD recognizes the need to protect property rights as well as the need for companies to obtain prior informed consent before doing research. But the Convention cannot be legally binding unless translated into national law – and indigenous communities seldom receive priority attention or protection under national law.</p> <p>32. Existing rules regulating intellectual property rights at the global level are not conducive to the participation of indigenous peoples in the national or global economy. Current patent laws, for example, do not recognize traditional knowledge and systems of ownership....</p> <p>34. UNDP has an important role to play in fostering open debate ... Such debate should consider collective rights to knowledge and resources, the need for prior informed consent for their use – consent not just of Governments, but indigenous communities – and the need for transparency in research outcomes. Guidelines for legal recognition of intellectual property sought by indigenous peoples and their organizations are needed. 63. Projects that gather and use indigenous customary knowledge should include measures that promote the recognition of this knowledge as intellectual and cultural property, as well as measures that prevent the dissemination of this knowledge without prior informed consent of the proprietors. Indigenous women must be involved in such activities as they are predominantly the custodians of that knowledge and often the most unlikely to benefit from the project and/or any potential benefit-sharing.</p>
Free, prior and informed consent	<p>41. Special attention is needed on issues of resettlement, especially those that involve any form of population transfer that has the aim or effect of undermining indigenous peoples' rights; and any form of assimilation or integration by other cultures or ways of life imposed on them without free, prior informed consent.</p> <p>28. Consistent with United Nations conventions such as ILO Convention 169, UNDP promotes and supports the right of indigenous peoples to free, prior informed consent with regard to development planning and programming that may affect them.</p>
Benefit-sharing agreements	<p>60. For projects involving indigenous peoples and any project that may affect indigenous peoples, consultation should include representatives from local and regional IPOs, ensure gender and generational balance (elders and youth), and use culturally appropriate methods that allow indigenous peoples to express their views and preferences. Consideration to indigenous peoples' concepts of time is recommended, in addition to the utilization of indigenous expertise in policy, research, and training to the extent possible. It is suggested that indigenous peoples and their organizations, UNDP and other stakeholders establish in</p>



	<p>partnership the methodology of the implementation of the project. Indigenous peoples' development perspectives should also be respected and integrated in project planning.</p> <p>63. Projects that gather and use indigenous customary knowledge should include measures that promote the recognition of this knowledge as intellectual and cultural property, as well as measures that prevent the dissemination of this knowledge without prior informed consent of the proprietors. Indigenous women must be involved in such activities as they are predominantly the custodians of that knowledge and often the most unlikely to benefit from the project and/or any potential benefit-sharing.</p>
Social impact assessment	<p><i>No reference to a need to engage indigenous peoples in such assessments:</i></p> <p>62. Social and environmental impact assessments prior to programme and project implementation are recommended to safeguard against potential negative effects on indigenous peoples, their communities and livelihoods.</p>
Participation rights	<p>27. By incorporating the "right to development" in its work, UNDP fosters the full participation of indigenous peoples in its development processes and the incorporation of indigenous perspectives in development planning and decision-making. This right is of particular significance to indigenous peoples because in their experience, development has tended to be imposed upon their communities from outside, often resulting in violations of their "right to development," by damaging ancestral lands, water and natural resources.</p> <p>59. UNDP country offices will continue to document lessons learned from interventions involving indigenous peoples and are encouraged to undertake a mapping of indigenous peoples and organizations in their country, including priority issues, rights, needs and desires. National databases on indigenous peoples</p> <p>For projects involving indigenous peoples and any project that may affect indigenous peoples, consultation should include representatives from local and regional IPOs, ensure gender and generational balance (elders and youth), and use culturally appropriate methods that allow indigenous peoples to express their views and preferences. Consideration to indigenous peoples' concepts of time is recommended, in addition to the utilization of indigenous expertise in policy, research, and training to the extent possible. It is suggested that indigenous peoples and their organizations, UNDP and other stakeholders establish in partnership the methodology of the implementation of the project. Indigenous peoples' development perspectives should also be respected and integrated in project planning.</p>
Support for self-governance, autonomy in decision making	<p><i>Recognition of self-determination</i></p> <p><b>Self-determination.</b> Indigenous peoples look for assistance in the recognition of the right to self-determination as defined in the United Nations International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights. By virtue of that right, they freely "determine their political status and freely pursue their economic, social and cultural development." ... self-determination shall not be construed as authorizing or encouraging any action that would impair the territorial integrity or political unity of sovereign and independent states. (paragraph 2)</p>
Others	<p>NHDRs for example, can be used as an important tool for developing disaggregated data on indigenous peoples, including gender-disaggregated data.</p> <p>Actual monitoring of disaggregated CCA and MDG data will help Governments, development partners and indigenous peoples and their organizations to monitor the human poverty situation of indigenous peoples.</p>
Gender	<p>As indigenous women tend to experience triple discrimination (poor, female, and indigenous), it is critical that they play a central role in decision-making processes as well as in the design, planning, implementation and evaluation of relevant programmes and projects. UNDP stresses the importance of empowering indigenous women, and promoting gender equity within indigenous communities. (paragraph 61)</p>
Reference to international	<p>ILO Convention 169</p> <p>CBD "But the Convention cannot be legally binding unless translated into national law – and</p>

human rights frameworks	indigenous communities seldom receive priority attention or protection under national law” (paragraph 33)
Mechanisms for implementation	<i>Primarily through normal UNDP planning processes like the Poverty Reduction Strategy papers (PRSP) and other national level processes run through country offices. Also involvement of the Civil Society Advisory</i> UNDP has a role to play in studying how PRSP recommendations affect indigenous peoples, particularly indigenous women, differently from other segments of the population.

## World Bank

<b>Name of policy:</b> Operational Policy 4.10 Indigenous Peoples, 2005	<b>Type:</b> Mandatory Safeguard with possible pro-active support	<b>Complaint system</b> Agency: Y  Project: Y	<b>Compliance system</b> Y	<b>Status</b> Currently stand-alone policy requirement. Under review.
<b>Staff resources</b> Unstated. There is a specialist on indigenous peoples at the Headquarters.		<b>Budget resources</b> Budgeted in project preparation costs, not separated out.		
<b>Treatment of key policy areas</b>				
Definition of ‘indigenous peoples’	The term “Indigenous Peoples” is used in a generic sense to refer to a distinct, vulnerable, social and cultural group <sup>6</sup> possessing the following characteristics in varying degrees: (a) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (b) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories <sup>7</sup> (c) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (d) an indigenous language, often different from the official language of the country or region. A group that has lost "collective attachment to geographically distinct habitats or ancestral territories in the project area"; (paragraph 4 (b)) because of forced severance remains eligible for coverage under this policy. <sup>8</sup> Ascertaining whether a particular group is considered as “Indigenous Peoples” for the purpose of this policy may require a technical judgment (see paragraph 8).			
Land and resource rights	Indigenous Peoples are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. In this situation, when carrying out the social assessment and preparing the IPP/IPPF, the borrower pays particular attention to: (a) the customary rights <sup>17</sup> of the Indigenous Peoples, both individual and collective, pertaining to lands or territories that they traditionally owned, or customarily used or occupied, and where access to natural resources is vital to the sustainability of their cultures and livelihoods; (b) the need to protect such lands and resources against illegal intrusion or encroachment; (c) the cultural and spiritual values that the Indigenous Peoples attribute to such lands and resources; and (d) Indigenous Peoples’ natural resources management practices and the long-term sustainability of such practices. (paragraph 16) <i>Countries may apply for support to:</i> strengthen local legislation, as needed, to establish legal recognition of the customary or traditional land tenure systems of Indigenous Peoples; (paragraph 22(a))			
Traditional knowledge	<i>To protect commercial use of knowledge only</i> If the project involves the commercial development of Indigenous Peoples’ cultural resources and knowledge (for example, pharmacological or artistic), the borrower ensures that as part of the free, prior, and informed consultation process, the affected communities are informed of (a)			

	<p>their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on Indigenous Peoples' livelihoods, environments, and use of such resources. Commercial development of the cultural resources and knowledge of these Indigenous Peoples is conditional upon their prior agreement to such development. The IPP reflects the nature and content of such agreements and includes arrangements to enable Indigenous Peoples to receive benefits in a culturally appropriate way and share equitably in the benefits to be derived from such commercial development.</p> <p><i>Countries may apply for support to:</i> protect indigenous knowledge, including by strengthening intellectual property rights (paragraph 22 (h))</p>
Free, prior and informed consent	<p><i>None, although a requirement for broad community support exists</i></p> <p>In deciding whether to proceed with the project, the borrower ascertains, on the basis of the social assessment (see paragraph 9) and the free, prior, and informed consultation (see paragraph 10), whether the affected Indigenous Peoples' communities provide their broad support to the project. Where there is such support, the borrower prepares a detailed report that documents: (a) the findings of the social assessment; (b) the process of free, prior, and informed consultation with the affected Indigenous Peoples' communities; (c) additional measures, including project design modification, that may be required to address adverse effects on the Indigenous Peoples and to provide them with culturally appropriate project benefits; (d) recommendations for free, prior, and informed consultation with and participation by Indigenous Peoples' communities during project implementation, monitoring, and evaluation; and (e) any formal agreements reached with Indigenous Peoples' communities and/or the IPOs. The Bank reviews the process and the outcome of the consultation carried out by the borrower to satisfy itself that the affected Indigenous Peoples' communities have provided their broad support to the project. The Bank pays particular attention to the social assessment and to the record and outcome of the free, prior, and informed consultation with the affected Indigenous Peoples' communities as a basis for ascertaining whether there is such support. The Bank does not proceed further with project processing if it is unable to ascertain that such support exists.</p>
Benefit-sharing agreements	<p><i>Benefit-sharing is the primary purpose of the planning instruments (IPP/IPF)</i></p> <p>On the basis of the social assessment and in consultation with the affected Indigenous Peoples' communities, the borrower prepares an Indigenous Peoples Plan (IPP) that sets out the measures through which the borrower will ensure that (a) Indigenous Peoples affected by the project receive culturally appropriate social and economic benefits; and (b) when potential adverse effects on Indigenous Peoples are identified, those adverse effects are avoided, minimized, mitigated, or compensated for</p>
Social impact assessment	<p><i>No requirement to involve indigenous peoples</i></p> <p>If, based on the screening, the Bank concludes that Indigenous Peoples are present in, or have collective attachment to, the project area, the borrower undertakes a social assessment to evaluate the project's potential positive and adverse effects on the Indigenous Peoples, and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis in the social assessment are proportional to the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether such effects are positive or adverse. To carry out the social assessment, the borrower engages social scientists whose qualifications, experience, and terms of reference are acceptable to the Bank. (paragraph 9)</p>
Participation rights	<p>Where the project affects Indigenous Peoples, the borrower engages in free, prior, and informed consultation with them. To ensure such consultation, the borrower: (a) establishes an appropriate gender and intergenerationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the borrower, the</p>

	affected Indigenous Peoples' communities, the Indigenous Peoples Organizations (IPOs) if any, and other local civil society organizations (CSOs) identified by the affected Indigenous Peoples' communities; (b) uses consultation methods <sup>11</sup> appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits; and (c) provides the affected Indigenous Peoples' communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous Peoples' communities) in a culturally appropriate manner at each stage of project preparation and implementation. (paragraph 10)
Reference to international human rights frameworks	None
Support for self-governance, autonomy in decision making	<i>No reference to indigenous authorities or traditional governance structures, nor traditional or customary forms of decision making, except in footnote 4:</i> "Free, prior, and informed consultation with the affected Indigenous Peoples' communities" refers to a culturally appropriate and collective decision-making process subsequent to meaningful and good faith consultation and informed participation regarding the preparation and implementation of the project. It does not constitute a veto right for individuals or groups.
Gender	Bank-financed projects are also designed to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive (paragraph 1) <i>Countries may apply for support to:</i> address the gender and intergenerational issues that exist among many Indigenous Peoples, including the special needs of indigenous women, youth, and children; (paragraph 22 (d))

## Inter-American Development Bank

<b>Name of policy:</b> Operational Policy on Indigenous Peoples, 2006	<b>Type:</b> Mandatory Safeguard plus positive engagement	<b>Complaint system</b> Agency: Y  Project: Y	<b>Compliance system</b> Y	<b>Status</b> Stand alone mandatory safeguard
<b>Staff resources</b> Dedicated Indigenous Peoples and Community Development Unit in the Sustainable Development Department		<b>Budget resources</b> Unclear, included in bank operations budgeting		
<b>Notable features</b> The IDB policy has two distinct sections, a promotional role ‘fostering development with identity’ and a safeguard role like those policies in the other Banks.				
<b>Treatment of key policy areas</b>				
Definition of ‘indigenous peoples’	Indigenous peoples, for the purposes of this policy, is a term that refers to peoples who meet the following three criteria: (i) they are descendants from populations inhabiting Latin America and the Caribbean at the time of the conquest or colonization; (ii) irrespective of their legal status or current residence, they retain some or all of their own social, economic, political, linguistic and cultural institutions and practices; and (iii) they recognize themselves as belonging to indigenous or pre-colonial cultures or peoples.			
Land and resource rights	Territories, land, and natural resources. Operations that directly or indirectly affect the legal status, possession, or management of territories, lands, or natural resources traditionally occupied or used by indigenous peoples will include specific safeguards, consistent with the applicable legal framework regarding ecosystem and land protection. Such safeguards include: (i) respect for the rights recognized in accordance with the applicable legal norms; (ii) in projects for natural resource extraction and management and protected areas management, the inclusion of: (1) prior consultation mechanisms to safeguard the physical, cultural, and economic integrity of the affected peoples and the sustainability of the protected areas and natural resources; (2) mechanisms for the participation of indigenous peoples in the utilization, administration and conservation of these resources; (3) fair compensation for any damage these peoples might suffer as a result of the project; and, (4) whenever possible, participation in project benefits. Where legal or administrative protection is insufficient to ensure that the project will not directly or indirectly cause the deterioration of the physical integrity or legal status of the affected lands, territories or resources, the project will include the pertinent restrictions or corrective or compensatory measures. (B, 4.4 (b))			
Traditional knowledge	Indigenous culture, identity, language, and traditional knowledge. In recognition of the special socio-cultural and linguistic characteristics of indigenous peoples, Bank operations will include such measures as are necessary to protect these assets from potential adverse impacts. In relevant projects, a consultation and good faith negotiation process will be used to identify the potential risks and impacts and to design and implement socio-culturally appropriate measures. In case of commercial development of indigenous cultural and knowledge resources, the Bank will require prior agreement by the affected peoples that includes safeguards for intellectual property and traditional knowledge, as well as provisions for their equitable participation in the benefits derived from such commercial development			
Free, prior and informed consent	<i>The highest level of protection is triggered not by type of impact but by severity:</i> For cases of particularly significant potential adverse impacts that carry a high degree of risk to the physical, territorial or cultural integrity of the affected indigenous peoples or groups, the Bank will further require and verify that the project proponent demonstrate that it has, through a good faith negotiation process, obtained agreements regarding the operation and measures to address the adverse impacts as necessary to support, in the Bank’s judgment, the socio-			

	cultural viability of the operation. (B,4.4, (a), (iii))
Benefit-sharing agreements	<p>In natural resource management and extraction and protected area management projects, the promotion of mechanisms for appropriate consultation, participation in natural resources management, and benefit sharing by the indigenous peoples on whose lands and territories the projects are conducted. (A, 4.3, (f))</p> <p>In case of commercial development of indigenous cultural and knowledge resources, the Bank will require prior agreement by the affected peoples that includes safeguards for intellectual property and traditional knowledge, as well as provisions for their equitable participation in the benefits derived from such commercial development. (B, 4.4,(e))</p>
Social impact assessment	The Bank will require and verify that the project proponent conduct an evaluation to determine the seriousness of potential adverse impacts on physical and food security, lands, territories, resources, society, rights, traditional economy, way-of life and identity or cultural integrity of indigenous peoples, and to identify the indigenous peoples affected and their legitimate representatives and internal decision-making procedures. This evaluation will include preliminary consultations with potentially affected indigenous peoples.
Participation rights	The Bank will adopt supervision and evaluation measures designed to verify that the project proponent fulfill, to the Bank's satisfaction, the measures agreed to meet the requirements of this policy with respect to each project, including socio-culturally appropriate mechanisms for the participation of affected indigenous peoples in the monitoring and evaluation of those measures (5.3,(d))
Reference to international human rights frameworks	<p><i>The rights of indigenous peoples are defined in reference to the international system:</i></p> <p>Indigenous rights include the rights of indigenous peoples and individuals, whether originating in the indigenous legislation issued by States, in other relevant national legislation, in applicable international norms in force for each country, or in the indigenous juridical systems of each people, hereinafter collectively referred to as the "applicable legal norms". Indigenous juridical systems will be taken into account according to the rules for their recognition established in the legislation of each country. In the absence of such rules these systems will be recognized whenever they are consistent with national legislation and do not contradict fundamental rights established in national legislation and in international norms. (1.2)</p>
Support for self-governance, autonomy in decision making	<p><i>Preamble text emphasizes this:</i></p> <p>The Bank's experience has come to appreciate the needs, rights, demands, and aspirations of indigenous peoples according to their own worldview. Consequently, the Bank seeks to support socio-cultural development processes that are appropriate to the economy and governance of indigenous peoples, giving priority to territorial and cultural integrity, to a harmonious relationship with the environment, and to security in the face of vulnerability, while respecting the rights of indigenous peoples and individuals</p> <p><i>Further governance is defined in reference to indigenous systems:</i></p> <p>Indigenous governance is defined as the scope of governance by indigenous peoples that, within the structure of the applicable legal norms and of the nation-states of which these peoples are part, and in keeping with indigenous peoples' own organizational structures, contemplates control of their own economic, social and cultural development, internal management of their own lands and territories<sup>8</sup> in recognition of the special relationship that exists between the land and ethnic and cultural identity, and effective participation in local, provincial, and sub-national government.</p>
Gender	<i>As part of promoting 'development with identity' the IDB will:</i> Support for participation and leadership by, and protection of, women, the elderly, youth and children, and for the promotion of equal rights.
Mechanisms for implementation	For countries with indigenous populations of significant size, diversity, or vulnerability, the Bank will propose to the governments of the respective countries, as part of the country strategy and programming processes, as well as sector, national sub-regional and operational strategy processes, the inclusion of development with identity issues. (page 7)

	<i>In addition to this operational policy, the IDB also has an Indigenous Peoples Development Strategy</i>
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European Bank for Reconstruction and Development

Name of policy:	Type:	Complaint system	Compliance system	Status
Environmental and Social Policy: Performance Requirement 7 (PR7)	Mandatory	Agency: Y Project: Y (paras 26,27)	Y/N	Single E&S policy with a specific section on indigenous peoples
<b>Staff resources</b> The Bank will maintain adequate staff resources to oversee the environmental and social appraisal and monitoring processes and to initiate and develop environmentally and socially beneficial projects (para 48)		<b>Budget resources</b> In order to ensure that the strategic directions described above are properly addressed, the EBRD will allocate appropriate resources to ensure an effective implementation of this Policy (paragraph 48)		
<b>Treatment of key policy areas</b>				
Definition of 'indigenous peoples'	In the Policy and this PR, the term “Indigenous Peoples” is used in a technical sense to refer to a social and cultural minority group, distinct from dominant groups within national societies, possessing the following characteristics in varying degrees: self-identification as members of a distinct indigenous ethnic or cultural group and recognition of this identity by others collective attachment to geographically distinct habitats, traditional lands or ancestral territories in the project area and to the natural resources in these habitats and territories descent from populations who have traditionally pursued non-wage (and often nomadic/transhumant) subsistence strategies and whose status was regulated by their own customs or traditions or by special laws or regulations customary cultural, economic, social, or political institutions that are separate from those of the dominant society or culture a distinct language or dialect, often different from the official language or dialect of the country or region.			
Land and resource rights	Indigenous Peoples are often closely tied to their customary lands and its forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. While these lands may not be under legal ownership pursuant to national law, use of these lands, including seasonal or cyclical use, by communities of Indigenous Peoples for their livelihoods, or cultural, ceremonial, or spiritual purposes that define their identity and community, can often be substantiated and documented.(para32) <i>However land rights are to be determined with reference only to national law</i> The affected communities of Indigenous People will be informed of their rights with respect to these lands under national laws, including any national law recognising customary rights or use. (paragraph 33)			
Traditional knowledge	<i>An objective of the policy:</i> <ul style="list-style-type: none"><li>to respect and preserve the culture, knowledge and practices of Indigenous Peoples in accordance with their wishes. (paragraph 6)</li></ul> <i>Policy requirements are purely protective, FPIC required</i> Where a project proposes to use the cultural resources, knowledge, innovations, or practices of Indigenous Peoples for commercial purposes (paragraph 37)			
Free, prior and informed consent	Need for free, prior and informed consent. This PR recognises the principle, outlined in the UN Declaration on the Rights of Indigenous Peoples, that the prior informed consent of affected Indigenous Peoples is required for the project-related activities identified in paragraphs 31–37, given the specific vulnerability of Indigenous Peoples to the adverse impacts of such projects. (paragraph 4) <i>The special categories provided in paragraphs 31 – 27 are:</i> Impacts on traditional or customary lands under use (32, 33, 34) Relocation of Indigenous Peoples from traditional or customary lands (35, 36)			

	Cultural resources: “Where a project proposes to use the cultural resources, knowledge, innovations, or practices of Indigenous Peoples for commercial purposes” (37)
Benefit-sharing agreements	<p>This PR approaches Indigenous Peoples as partners, respecting them as people and peoples whose values can contribute greatly to not only their own, but also to national socio-economic development. (paragraph 2) ... issues related to Indigenous Peoples are frequently complex. Thus, special measures are required to ensure that indigenous men and women are not disadvantaged and that they are included in, and benefit from, Bank-supported projects as appropriate.(paragraph 3)</p> <p><i>Objectives, include:</i></p> <ul style="list-style-type: none"> <li>• to enable Indigenous Peoples to benefit from projects in a culturally appropriate manner (paragraph 6)</li> </ul> <p>Participatory approaches will be the foundation of determining mitigation, benefits-sharing and customary lifestyle-supporting measures. (PR7 paragraph 28)</p>
Social impact assessment	<p><i>No requirement for involvement of indigenous peoples</i></p> <p>In cases where the project has not yet commenced, the client will identify through a social assessment all communities of Indigenous Peoples who may be affected, both positively and negatively, by the project within the project’s area of influence, as well as the nature and degree of the expected social, cultural (including cultural heritage), and environmental impacts on them, and the measures planned to (i) avoid or mitigate adverse impacts and (ii) share any project-related benefits. (paragraph 17)</p>
Participation rights	The client will establish an ongoing relationship with the affected communities of Indigenous Peoples from as early as possible in the project planning process and throughout the life of the project. The engagement process will ensure their meaningful consultation in order to facilitate their informed participation on matters that affect them directly, proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues. (paragraph 22)
Reference to international human rights frameworks	<p><i>Reference to UNDRIP as outlining the principle of FPIC (see above)</i></p> <p>The EBRD will actively seek, through its investments, to contribute to the effective implementation of relevant principles and rules of international law related to environment, labour, corporate responsibility 9 and public access to environmental information. These principles and rules are set forth in instruments such as treaties, conventions and multilateral, regional or bilateral agreements, as well as in relevant non-binding instruments. The EBRD will not knowingly finance projects that would contravene country obligations under relevant international treaties and agreements related to environmental protection, human rights, and sustainable development, as identified during project appraisal. (E&amp;S Policy paragraph 4)</p>
Support for self-governance, autonomy in decision making	<p><i>Objectives include:</i></p> <ul style="list-style-type: none"> <li>• to recognise and respect the customary laws and customs of Indigenous Peoples and to take these into full consideration (paragraph 6)</li> </ul> <p><i>The process of engaging with indigenous peoples includes, among others, the following:</i></p> <p>involvement of Indigenous Peoples’ representative bodies (for example, councils of elders or village councils, among others), Indigenous Peoples’ organisations as well as individually affected indigenous persons understanding and respect for any relevant customary laws provision of sufficient time for Indigenous Peoples’ collective decision-making process facilitation of the Indigenous Peoples’ expression of their views, concerns, and proposals in the language of their choice, and without external manipulation, interference, or intimidation and in a culturally appropriate manner (paragraph 25)</p>
Gender	Indigenous communities are multi-vocal; consultations and participation must be inclusive of gender, generational, and excluded groups(PR7, paragraph 25)
Mechanisms for implementation	<p>Environmental and Social Advisory Council (ESAC) whose views will be sought on general policy-related issues and on all sector policies prior to their finalisation. (para 51)</p> <p>The EBRD will monitor and evaluate its environmental and social performance against the aims</p>



	of this Policy on a continuing basis. The Performance Requirements will be reviewed on an on-going basis and may be amended or updated, subject to approval of the Board of Directors. In addition, the Policy will be subject to review by the Board of Directors every five years (paragraph 52). The EBRD's new accountability mechanism, the Project Complaint Mechanism (PCM), operational since March 2010, has replaced the Independent Recourse Mechanism (IRM) that has been in place since July 2004 (EBRD website)
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### Asian Development Bank

<b>Name of policy:</b> Safeguard Policy Statement (section two on indigenous peoples)	<b>Type:</b> Mandatory Safeguard plus some proactive support to IPs	<b>Complaint system</b>  Project - YES  Agency - YES	<b>Compliance system</b> Y	<b>Status</b> Combined with other mandatory safeguards into a single system
<b>Staff resources</b> ADB has a total of 48 professional staff positions for safeguard review work, including 26 environmental specialist positions and 22 social development specialist positions.		<b>Budget resources</b> “ADB will allocate appropriate resources to ensure effective implementation of the SPS.... The SPS places major emphasis on the need to assist DMC’s to strengthen their own safeguard systems and develop capacity to implement these. Such capacity development will be pursued together with bilateral and multilateral partners, based on demand from DMCs. Targeted resources of \$80-100 million, through establishment of a trust fund to mobilize external resources, will be sought in the medium term”		
<b>Treatment of key policy areas</b>				
Definition of ‘indigenous peoples’	a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. (SPS page 56)			
Land and resource rights	Indigenous Peoples are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. In this situation, when carrying out the social impact assessment and preparing the IPP, the borrower/client will pay particular attention to the following: (i) the customary rights of the Indigenous Peoples, both individual and collective, pertaining to ancestral domains, lands, or territories that they traditionally own or customarily use or occupy, and where access to natural resources is vital to the sustainability of their cultures and livelihood systems; (ii) the need to protect such ancestral domains, lands, and resources against illegal intrusion or encroachment; (iii) the cultural and spiritual values that the Indigenous Peoples attribute to such lands and resources; (iv) the Indigenous Peoples’ natural resources management practices and the long-term sustainability of such practices; and (v) the need to rehabilitate the livelihood systems of Indigenous Peoples who have been evicted from their lands. <i>Also possible support for indigenous peoples in:</i> strengthen local legislation to establish legal recognition of the customary or traditional land tenure systems of Indigenous Peoples; (SPS para37 (i))			
Traditional knowledge	<i>Primarily protective, requiring consent for the commercial use of cultural resources and knowledge (see below). Also planning processes should incorporate indigenous knowledge:</i> Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples’ communities. (page18, principle 6) <i>Also possible proactive support:</i> preserve and respect indigenous knowledge, including strengthening intellectual property rights; (SPS para37 (viii))			

Free, prior and informed consent	... consent of affected Indigenous Peoples communities, through meaningful consultation, will be ascertained for the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical relocation from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities. (SPS para 55)
Benefit-sharing agreements	... Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and inter-generationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples. (page 18, principle 2)
Social impact assessment	When screening by ADB confirms likely impacts on Indigenous Peoples, the borrower/client will retain qualified and experienced experts to carry out a full social impact assessment (SIA), and if impacts on Indigenous Peoples are identified, the borrower/client will prepare an IPP in conjunction with the feasibility study. The project's potential social impacts and risks will be assessed against the requirements presented in this document and applicable laws and regulations of the jurisdictions in which the project operates that pertain to Indigenous Peoples matters, including host country obligations under international law. ... The SIA will, in a gender-sensitive manner, in consultation with Indigenous Peoples communities, identify the project-affected Indigenous Peoples and the potential impacts of the proposed project on them.
Participation rights	for projects with potential impacts on Indigenous Peoples, the borrower/client will ensure their meaningful consultation and facilitate their informed participation on matters affecting them directly, such as proposed mitigation measures, sharing of project benefits and opportunities, and implementation arrangements.
Reference to international human rights frameworks	The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly in September 2007. Many countries in Asia and the Pacific have voted in favor of this nonbinding declaration. The Asian Development Bank (ADB) recognizes the rights of Indigenous Peoples to direct the course of their own development. (SPS page 55) <i>Further:</i> The project's potential social impacts and risks will be assessed against the requirements presented in this document and applicable laws and regulations of the jurisdictions in which the project operates that pertain to Indigenous Peoples matters, including host country obligations under international law.
Support for self-governance, autonomy in decision making	<i>No effective recognition of this. The definition of consent does not reference autonomy in decision-making:</i> consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, (SPS paragraph 31)
Other	<i>The safeguard element of the policy sits next to an additional 'proactive' section of the policy intended to support indigenous peoples in a positive manner, whereby:</i> In furtherance of the objectives to benefit Indigenous Peoples, developing member countries can ask ADB to support them in their development planning and poverty reduction strategies by providing financial assistance for a variety of initiatives,
Gender	<i>Social impact assessment, grievance mechanisms and consultation and participation processes are all to be carried out in a 'gender inclusive' manner</i> (page18, principles 2 – 3)
Mechanisms for	Mandatory application of the policy wherever indigenous peoples are identified in project areas.

implementation	
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### International Fund for Agricultural Development (IFAD)

<b>Name of policy:</b> Engagement with Indigenous Peoples: Policy (2009)	<b>Type:</b> Guidelines	<b>Formal Complaint system</b> Project – N Agency – N	<b>Compliance system</b> N	<b>Status</b> Stand alone guidelines, with reference to IFAD operational guidelines (to be updated)
<b>Staff resources</b> The policy references the need for capacity building within IFAD staff. Policy Reference Group on Indigenous Peoples’ Issues is a cross-departmental group chaired by IFAD’s Coordinator for Indigenous and Tribal Issues.	<b>Budget resources</b> A breakdown of costs needed to implement the policy is given, however it is unclear whether a specific budget line will be/has been set aside to cover these costs. Costs detailed include for policy implementation (USD 200,000 /year + 50,000 one-time cost), analysis and consultation at COSOP stage (USD 20-25,000), preparation of country technical notes on indigenous peoples (USD 50,000), IP Forum (USD 100,000 /yr) ( <i>COSOP – Country Strategic Opportunities Programme</i> )			<b>Interagency Linkages</b>  IASG, ILO, UNDP & UNDG  Also CGIAR & ILC
<b>Treatment of key policy areas</b>				
Definition of ‘indigenous peoples’	<i>The policy sets out a working definition of indigenous peoples based on the following criteria:</i> <ul style="list-style-type: none"><li>• Priority in time, with respect to occupation and use of a specific territory;</li><li>• The voluntary perpetuation of cultural distinctiveness, which may include aspects of language, social organization, religion and spiritual values, modes of production, laws and institutions;</li><li>• Self-identification, as well as recognition by other groups, or by state authorities, as a distinct collectivity; and</li><li>• An experience of subjugation, marginalization, dispossession, exclusion or discrimination.</li></ul>			
Land and resource rights	<i>Land, territories and resources is recognized as a principle of engagement. The agency will promote equitable access to land and territories by indigenous peoples and enhance their tenure security and sets this within the legal frameworks and policies of its borrowing countries and in a manner consistent with its Policy on Improving Access to Land and Tenure Security. The agency proposes to achieve promotion of access to land and territories and enhancing of tenure security of indigenous peoples through strengthening their own capacity to manage their territories and resources in a sustainable way.</i> <i>The policy references the relationship of indigenous peoples to ancestral territories and resources as central to the identity of indigenous peoples and that this forms the basis of their livelihoods. Additionally, the policy acknowledges that access to and management of these resources are often regulated by complex customary laws and systems, of which IFAD must have an adequate understanding. (4. Principles of Engagement)</i>			
Traditional knowledge	<i>The policy references indigenous peoples’ knowledge as a principle in Section 4. The policy states that the agency will:</i> value indigenous peoples’ knowledge and practices in investment projects. build on these assets by supporting pro-poor research that blends traditional knowledge and practices with modern scientific approaches. <i>Toward improving livelihoods, the agency will:</i> promote partnerships between indigenous peoples’ communities and national agricultural research centres and the Consultative Group on			

	International Agricultural Research (CGIAR) <i>The policy acknowledges that indigenous peoples' knowledge may also advance scientific understanding. (4. Principles of Engagement)</i>
Culture	<i>Cultural heritage and identity as assets.</i> IFAD will acknowledge and build upon the asset of their cultural distinctiveness. It will assist communities in taking full advantage of their traditional knowledge, culture, governance systems and natural resources, all of which form part of their tangible and intangible heritage. (4. Principles of Engagement)
Participation rights	<u><i>In promoting the participation of indigenous peoples in thematic areas within IFAD's mandate</i></u> IFAD will support the participation of indigenous peoples in defining and implementing policies related to climate change issues. (4. Principles of Engagement) <u><i>In promoting participation in strategic decision-making within IFAD</i></u> International engagement: Establishment of a biennial indigenous peoples' forum at IFAD, in conjunction with the IFAD Governing Council (alternating with the Farmers' Forum global meeting). The forum will be a process of dialogue and consultation between representatives of indigenous peoples, IFAD staff and Member States. It will bring together between 20 and 30 indigenous peoples' representatives, including members of the IPAF board, UNPFII and selected representatives of indigenous peoples' communities involved in IFAD-supported programmes. National engagement: In selected countries, IFAD will <ul style="list-style-type: none"> <li>• <i>invite one or more indigenous peoples' representatives to be part of the in-country component of the country programme management team (CPMT);</i></li> <li>• <i>propose that its government counterpart invite indigenous peoples' representatives to the COSOP design workshop. (5. Instruments, Procedures and Resources)</i></li> </ul> <u><i>In promoting participation within the project cycle</i></u> <i>The policy calls for communities' targeted or affected by an IFAD-supported project shall be present at all stages of the project cycle. In this regard, IFAD will normally invite representatives of these communities to participate in the CPMT or in project preparation. Direct participation by community representatives will help define the most appropriate channels and methods for consultation and participation at the community level. It will also facilitate access to information by members of the community who do not speak the mainstream language. (5. Instruments, Procedures and Resources)</i>
Free, prior and informed consent	The policy considers free, prior and informed consent (FPIC) as a principle in Section 4. Towards supporting FPIC, the Fund <i>shall examine whether the borrower or grant recipient consulted with the indigenous peoples to obtain their free, prior and informed consent.</i> FPIC is considered as a criterion for project approval. (4. Principles of Engagement)
Support for self-governance, autonomy in decision making	Towards consideration of the principle of FPIC, the policy states that <i>In working with Member States on projects targeting or affecting indigenous peoples, IFAD shall support the participation of indigenous peoples' communities in determining priorities and strategies for their own development.</i> (4. Principles of Engagement)
Benefit-sharing agreements	No explicit reference to benefit sharing. The Fund considers "access to markets" as a principle of engagement. The agency's commitment in this regard is <i>to explore these opportunities and enable indigenous peoples' communities to value their products and engage in markets on more profitable terms.</i> (4. Principles of Engagement)
Social impact assessment	<i>The use of SIAs are not explicitly mentioned in the policy however as part of the FPIC process, verification of two impact measures are undertaken, namely whether the project proposed by Member States can:</i> (a) avoid potentially adverse effects on the indigenous peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate or compensate for such effects. (4. Principles of Engagement)
Reference to international human rights frameworks	Within the section that focuses on implementation, the policy references cooperation with ILO on issues related to Conventions 107 & 169. Additionally the agency will contribute to the implementation of the UNDG Guidelines designed to assist United Nations country teams to mainstream and integrate indigenous peoples' issues. (5. Instruments, Procedures, Resources)

	<p>The following frameworks are referenced in the policy's introduction: ILO 169, UNDRIP, CBD Article 8 (j) (1988) and ABS, FAO International Treaty on Plant Genetic Resources, WIPO Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions (2001), UNESCO's Convention on the Promotion and Protection of the Diversity of Cultural Expressions (20 October 2005) and the Convention for the Safeguarding of Intangible Cultural Heritage (October 2003). (1. Introduction)</p>
Gender	<p><i>The policy recognizes 'triple discrimination: as women in their countries, as members of an indigenous peoples' community, and as women within an indigenous peoples' community.'</i> IFAD will continue to incorporate a gender focus in its programmes, with a special commitment to improve the well-being of indigenous women by: (a) expanding their access to and control over fundamental resources such as land, capital, traditional knowledge and technologies; (b) strengthening their agency, decision-making role in community affairs, and representation in local institutions; and (c) building on their untapped potential for sustainable development, by recognizing their role as stewards of natural resources and biodiversity, and as bearers of rich varied traditional knowledge systems. (4. Principles of Engagement)</p>
Mechanisms of implementation	<p><i>Mechanism for development of the policy was the Policy Reference Group on Indigenous Peoples' Issues.</i> "IFAD will implement these principles in the formulation of country strategies, in policy dialogue and throughout the project cycle, and will update its operational guidelines accordingly. In addition, IFAD will strengthen the Indigenous Peoples Assistance Facility, will establish new learning and knowledge sharing instruments, and will further develop dialogue with indigenous peoples through the creation of an indigenous peoples' forum" (Instruments, Procedures and Resources, paragraph 37). Extensive further description of national, regional and international mechanisms for promoting the involvement of indigenous peoples in IFAD programming and projects (paragraph 27 – 43)</p>

## Food and Agriculture Organization

<b>Name of policy:</b> FAO Policy on Indigenous and Tribal Peoples (2010)	<b>Type:</b> Guidance, with alignment to FAO's Policy and Strategy for Cooperation with Non-Governmental and Civil Society Organizations	<b>Complaint system</b>  Project y/n  Agency y/n	<b>Compliance system</b> N	<b>Status</b> Standalone corporate policy
<b>Staff resources</b> FAO focal point on Indigenous people under Gender, Equity and Rural Employment	<b>Budget resources</b> No specific mention of resources however the policy states that the agency <i>will seek to make due efforts to allocate more resources to indigenous peoples' issues in the future and will consider the possibility of establishing a more coherent programme that can strengthen activities on indigenous peoples' issues and serve as a platform for advocating greater engagement.</i>			Inter UN Linkages: IASG, UNDAF, reference to PFII developed tools for capacity building
<b>Treatment of key policy areas</b>				
Definition of 'indigenous peoples'	<p><i>In accordance with international consensus, FAO will abide by the following criteria when considering indigenous peoples:</i></p> <ul style="list-style-type: none"> <li>• <i>Priority in time, with respect to occupation and use of a specific territory;</i></li> <li>• <i>The voluntary perpetuation of cultural distinctiveness, which may include aspects of language, social organization, religion and spiritual values, modes of production, laws and institutions;</i></li> <li>• <i>Self-identification, as well as recognition by other groups, or by State authorities, as a distinct collectivity; an</i></li> <li>• <i>An experience of subjugation, marginalization, dispossession, exclusion or discrimination, whether or not these conditions persist.</i></li> </ul> <p>(II. Indigenous Peoples and Development)</p>			
Land and resource rights	<p>Rights over land and other natural resources is considered a core principle under the policy. It states that <i>indigenous peoples are entitled to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those that they have otherwise acquired</i> (II. Indigenous Peoples and Development). The policy sees <i>formal recognition of rights over land, territories and other natural resources</i> as a priority area of work and incorporates collective rights to land, territories and resources as a core principle of the policy (III. Rationale for the Policy).</p>			
Traditional knowledge	<p>The policy recognizes the role of livelihood systems and specialized knowledge and that protecting these will not only <i>reverse the steady erosion of indigenous cultures but may also bring novel solutions to the fight against food insecurity and malnutrition, poverty and environmental degradation</i> (I. Introduction). It recognizes that agricultural practices demonstrate adaptiveness and resilience and play a key role <i>in domestication, conservation and adaptation of genetic resources and agricultural biodiversity at all scales (gene, species, ecosystem and landscape)</i>. Indigenous livelihoods <i>often integrate economic, environmental, social and cultural considerations</i> and have developed <i>knowledge systems, technologies and institutions for the sustainable management of local biodiversity</i> (III. Rationale for the Policy). The policy recognizes the collective right to traditional knowledge as a core principle of the policy. (II. Indigenous Peoples and Development).</p> <p>Preservation of traditional skills and knowledge systems is recognized, under access to information, as a priority area of work. (III. Rationale for the Policy. Priority areas of work)</p> <p>The agency commits to undertaking studies of indigenous food systems and <i>livelihoods among indigenous peoples living in the countries in which it has ongoing activities</i>. It suggests that the</p>			

	<p>active engagement of indigenous communities themselves in producing such knowledge can generate a sense of ownership, ensuring better tailored development programmes. (V. Mechanisms for implementing the FAO policy on indigenous peoples. A.3. Research with indigenous communities)</p> <p>The 2001 International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty) recognizes the contributions made by indigenous peoples and mandates national governments to promote the rights of farmers, including protection of their traditional knowledge. (V. Mechanisms for implementing the FAO policy on indigenous peoples. B3.Standard Setting).</p>
Free, prior and informed consent	<p>The policy considers ‘free, prior and informed consent’ as a core principle and right, stating <i>that that states and organizations of all kinds and at all levels obtain indigenous peoples’ authorization before adopting and implementing projects, programmes or legislative and administrative measures that may affect them.</i> The principle further <i>emphasizes that indigenous peoples must be included in consultative processes, that the time requirements for these processes be respected and that information on the likely impact of activities be disclosed in advance.</i> (III. Rationale for the Policy. Priority areas of work)</p> <p>The agency objectives on engagement with indigenous peoples state where <i>there is a direct impact or relation to indigenous peoples’ issues, it will follow the provisions of the UN Declaration on the Rights of Indigenous Peoples that relate to free, prior and informed consent</i> (IV. Objectives for engagement with indigenous peoples).</p> <p>Consultation and free, prior and informed consent will be sought when FAO projects involve and affect indigenous peoples. (V. Mechanisms for implementing the FAO policy on indigenous peoples. B.2. Participation/Inclusion)</p>
Benefit-sharing agreements	<p>The 2001 International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty) recognizes the contributions made by indigenous peoples and mandates national governments to promote the rights of farmers, including equitable sharing of benefits. (V. Mechanisms for implementing the FAO policy on indigenous peoples. B3.Standard Setting).</p>
Social impact assessment	<p>No specific provisions for social impact assessment, however within section IV. Objectives for engagement with indigenous peoples, the policy states that the agency will discourage ventures that have an adverse impact on their communities.</p>
Participation rights	<p><u>Promoting participation of indigenous peoples within programmes</u></p> <p>The policy states the benefits of the active engagement of indigenous communities (V. Mechanisms for implementing the FAO policy on indigenous peoples. A.3. Research with indigenous communities) .</p> <p>Participation of indigenous peoples on the Committee on World Food Security, FAO committees, conferences and regional conferences. The participation in the FAO’s internal civil society liaison and internal private sector cooperation group are also mentioned as avenues for participation. (V. Mechanisms for implementing the FAO policy on indigenous peoples. B2. Participation/Inclusion).</p> <p>The 2001 International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty) recognizes the contributions made by indigenous peoples and mandates national governments to promote the rights of farmers, including participation in the relevant decision-making processes. (V. Mechanisms for implementing the FAO policy on indigenous peoples. B3.Standard Setting).</p>
Reference to international human rights frameworks	<p><i>Core principles are defined by:</i> Indigenous peoples around the world are culturally distinct, yet they share a number of common values and a shared sense of purpose in their demand for internationally recognized rights and autonomy. These commonalities are expressed in the following core principles and rights, which have been articulated by indigenous representatives and are at the heart of the UN Declaration as well as other international legal and standard-setting instruments. As such, they provide an international framework by which UN agencies are guided. In this respect, they must be addressed when working with indigenous peoples and must consequently also form the basis of FAO’s work in this area.</p>

	FAO's objectives for engagement with indigenous peoples are formulated in light of its expertise and in recognition of the rights to which indigenous peoples are entitled under international law. (page 15) UNDRIP, ILO 169
Support for self-governance, autonomy in decision making	Self determination and development with identity are recognized as core principles of the policy. It refers to the diversity of understanding of what <i>constitutes 'poverty' and 'well-being.'</i> According to many of them, <i>well-being is a multidimensional condition defined by a range of human experiences, including social, mental, spiritual and cultural welfare. Relatedly, poverty cannot be defined only in terms of material standards; one is poor not only when resources are low, but also when one is unable to live a desired lifestyle. For this reason, indigenous peoples advocate a holistic view of development and livelihood security that transcends models based solely on conventional economic criteria.</i> Under the principle of free, prior, informed consent, the policy recognizes that <i>legitimate consultation measures</i> are conducive to allowing a <i>self-determined development process.</i> (II. Indigenous peoples and development).
Culture	Cultural rights are a core principle of the policy and state that <i>indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their cultures, but are entitled to live in accordance with the traditions and the customs that underlie their integrity and way of life and are in compliance with universal principles of human rights.</i> It asks that development efforts ensure <i>contextual idiosyncrasies and diverse socio-cultural expressions are taken into account</i> (II. Indigenous peoples and development).
Gender	Gender equality is a core principle of the policy, which recognizes that indigenous women <i>face several levels of discrimination on account of their gender as well as their ethnicity.</i> The agency recognizes <i>the substantial contributions to agriculture and household food security and that promoting the economic and social empowerment of indigenous women is thus fundamental to poverty reduction and development</i> (II. Indigenous peoples and development). The policy calls for specific attention to the inclusion and participation of indigenous women within FAO programmes. (V. Mechanisms for implementing the FAO policy on indigenous peoples.B2. Participation/Inclusion).
Mechanisms for implementation	Different mechanisms have been designed for various programmes.



## **MECHANISMS FOR IMPLEMENTATION: ADVISORY COMMITTEES / FORUMS / PANELS AND FUNDS**

### **International Fund for Agricultural Development (IFAD)**

On finalizing their Policy on Engagement with Indigenous Peoples (2009), IFAD established a high-level advisory forum of indigenous peoples' representatives who meet with and advise the Governing Council of the Fund. This built on consultative frameworks already put into place during the development of the Policy itself. It also ties to the Indigenous Peoples' Assistance Facility, the IFAD management direct-access fund available to indigenous peoples by including members of the IPAF Board in the newly formed Forum, and to UN expert mechanisms by including members from the UN Permanent Forum on Indigenous Issues.

"An indigenous peoples' forum at IFAD will be established and will be held every other year, in conjunction with the IFAD Governing Council (alternating with the Farmers' Forum global meeting). The forum will be a process of dialogue and consultation between representatives of indigenous peoples, IFAD staff and Member States. It will bring together between 20 and 30 indigenous peoples' representatives, including members of the IPAF board, UNPFII and selected representatives of indigenous peoples' communities involved in IFAD-supported programmes. The forum will also promote accountability in providing feedback on IFAD's operations."

## Annex Two: Free, Prior and Informed Consent Guidelines from the UNDG

### ELEMENTS OF FREE, PRIOR AND INFORMED CONSENT

#### WHAT?

- Free should imply no coercion, intimidation or manipulation;
- Prior should imply consent has been sought sufficiently in advance of any authorization or commencement of activities and respects time requirements of indigenous consultation/consensus processes;
- Informed should imply that information is provided that covers (at least) the following aspects:
  - a. The nature, size, pace, reversibility and scope of any proposed project or activity;
  - b. The reason/s or purpose of the project and/or activity;
  - c. The duration of the above;
  - d. The locality of areas that will be affected;
  - e. A preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle;
  - f. Personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others);
  - g. Procedures that the project may entail.

CONSENT: Consultation and participation are crucial components of a consent process. Consultation should be undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation. Consultation requires time and an effective system for communicating among interest holders. Indigenous peoples should be able to participate through their own freely chosen representatives and customary or other institutions. The inclusion of a gender perspective and the participation of indigenous women are essential as well as participation of children and youth as appropriate. This process may include the option of withholding consent. Consent to any agreement should be interpreted as indigenous peoples have reasonably understood it.

WHEN? Free, prior and informed consent should be sought sufficiently in advance of commencement or authorization of activities, taking into account indigenous peoples' own decision-making processes, in phases of assessment, planning, implementation, monitoring, evaluation and closure of a project.

WHO? Indigenous peoples should specify which representative institutions are entitled to express consent on behalf of the affected peoples or communities. In free, prior and informed consent processes, indigenous peoples, United Nations agencies and governments should ensure a gender balance and take into account the views of children and youth as relevant.

HOW? Information should be accurate and provided in a form that is accessible and understandable, including in a language that the indigenous peoples will fully understand. The format in which information is distributed should take into account the oral traditions of indigenous peoples and their languages.

*UNDG Guidelines*

### Annex Three: Kari-Oca Declaration of indigenous peoples

#### **KARI-OCA DECLARATION**

We, the Indigenous Peoples, walk to the future in the footprints of our ancestors.

From the smallest to the largest living being, from the four directions, from the air, the land and the mountains. The creator has placed us. The Indigenous peoples upon our Mother the earth.

The footprints of our ancestors are permanently etched upon the lands of our peoples.

We, the Indigenous peoples, maintain our inherent rights to self-determination. We have always had the right to decide our own forms of government, to use our own laws, to raise and educate our children, to our own cultural identity without interference.

We continue to maintain our rights as peoples despite centuries of deprivation, assimilation and genocide.

We maintain our inalienable rights to our lands and territories, to all our resources -- above and below -- and to our waters. We assert our ongoing responsibility to pass these onto the future generations.

We cannot be removed from our lands. We, the Indigenous peoples are connected by the circle of life to our lands and environments.

We, the Indigenous peoples, walk to the future in the footprints of our ancestors.

Signed at Kari-oca, Brazil on the 30th Day of May, 1992

Reaffirmed at Bali, Indonesia, 4 June 2002.