Indigenous Peoples Safeguards

A Planning and Implementation Good Practice Sourcebook

Draft Working Document

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Asian Development Bank

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**ABBREVIATIONS**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
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<td>ASI</td>
<td>Assessment of Social Impacts</td>
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<td>BCS</td>
<td>Broad Community Support</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
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<td>DMC</td>
<td>Developing Member Country</td>
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<td>ESMS</td>
<td>Environmental and Social Management System</td>
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<td>FI</td>
<td>Financial Intermediary</td>
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<td>GFN</td>
<td>Good Faith Negotiation</td>
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<td>GRM</td>
<td>Grievance Redress Mechanism</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<td>IP</td>
<td>Indigenous Peoples</td>
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<td>IPO</td>
<td>Indigenous Peoples Organization</td>
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<td>IPP</td>
<td>Indigenous Peoples Plan</td>
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<td>IPPF</td>
<td>Indigenous Peoples Planning Framework</td>
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<td>IPSA</td>
<td>Initial Poverty and Social Analysis</td>
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<td>M&amp;E</td>
<td>Monitoring and Evaluation</td>
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<td>MFF</td>
<td>Multitranche Financing Facility</td>
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<td>MRM</td>
<td>Management Review Meeting</td>
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<td>PMU</td>
<td>Project Management Unit</td>
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<td>PPMS</td>
<td>Project Performance Management System</td>
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<td>PRA</td>
<td>Participatory Rural Appraisal</td>
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<td>SIA</td>
<td>Social Impact Assessment</td>
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<td>SPRSS</td>
<td>Summary Poverty Reduction and Social Strategy</td>
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<td>SPS</td>
<td>Safeguard Policy Statement 2009</td>
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<td>TA</td>
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<td>UNDRIP</td>
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BIBLIOGRAPHY AND REFERENCES
I. INTRODUCTION

A. The Purpose of This Sourcebook

1. On 20 July 2009, the Board of Directors of the Asian Development Bank (ADB) approved the Safeguard Policy Statement (SPS)\(^1\) that governs environmental and social safeguards applicable to ADB’s operations in developing member countries (DMCs). The SPS became effective on 20 January 2010. It builds on the three previous ADB safeguard policies\(^2\) on the environment, involuntary resettlement, and Indigenous Peoples (IP), and brings them into one consolidated safeguard policy framework to enhance relevance and effectiveness.

2. This Sourcebook focuses on the SPS requirements pertaining to IP as well as some good practices. It does not change or establish policy. Instead, it aims to increase the likelihood that ADB-supported projects will achieve the objectives of IP safeguards set out in the SPS, by adding clarity, providing further technical guidance, and recommending good practices in implementing the SPS. The Sourcebook is based on ADB’s own experience in effectively planning and implementing IP safeguards and in international good practices adopted by multilateral development banks. It does not seek to be definitive and exclusive.

3. The Sourcebook is for use of ADB staff and consultants; borrowers/clients and executing agencies; and private sector clients and development practitioners, including nongovernment organizations (NGOs) and Indigenous Peoples Organizations (IPOs). It should be considered a working document that will be updated periodically in light of lessons learned in applying the SPS.

B. How the Sourcebook is Organized

4. The Sourcebook has 10 sections. The next section, Section II, discusses policy objectives, triggers, and scope as well as policy principles for addressing IP safeguards in ADB operations. Sections III–X examine step by step the technical aspects of IP planning and implementation, including clarification of concepts, requirements, tasks, processes, and good practices that need to be considered or addressed. Section III discusses the identification of groups that could be considered IP under the SPS—the most challenging operational issue. Section IV presents the steps to screen and categorize project impacts on IP and clarifies the particular importance of looking at impacts on customary lands and natural resources. Section V explains the consultation and participation requirements for IP, elaborating the concept of meaningful consultation and good faith negotiations, and clarifies the requirements for information disclosure and the mechanism for redressing grievances. Section VI discusses the key attributes and methodology for assessing the social impacts on IP. Section VII focuses on the preparation of an Indigenous Peoples Plan (IPP) and clarifies IP planning requirements for different lending modalities. Section VIII presents the issues of IPP implementation. Section IX clarifies the requirements for IPP implementation supervision and monitoring, and Section X provides guidance on when and how to apply the requirements for consent of affected IP communities.

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II. OBJECTIVES, TRIGGERS, SCOPE, AND PRINCIPLES OF ADB POLICY

A. Policy Objectives—Safeguard Policy Statement 2009

5. The objectives of the IP safeguards as set out in the SPS 2009 are to ensure that projects are designed and implemented in a way that fosters full respect for IP identity, dignity, human rights, livelihood systems, and cultural uniqueness as they define them. This is so that IP:

- receive culturally appropriate social and economic benefits,
- do not suffer adverse impacts as a result of projects, and
- can participate actively in projects that affect them.

6. The need for IP safeguards is an explicit acknowledgment of the special historical circumstances of IP as related to the development process. Due to a history of discrimination and exclusion that has often left IP on the margins of the larger societies in which they live, they frequently face difficulties in directing the course of their own development and well-being. They are therefore disproportionately affected by poverty and exclusion. In recent years, projects have increasingly been situated in areas inhabited by IP, but project effects on their cultures and livelihoods are rarely given appropriate and adequate consideration.

7. For this reason, special efforts are needed to overcome such marginalization to work with IP in devising development strategies that reflect their own desires and values. Such special efforts to engage them should begin when a project that potentially affects them is first conceptualized, and then continue throughout the life of the project.

B. Policy Triggers and Scope

8. IP safeguards are triggered when a project affects either positively or negatively and either directly or indirectly the IP:

- dignity, human rights, livelihood systems or culture (intangible aspects that are integral to their distinctiveness); or
- territories or natural or cultural resources (the tangible aspects of their identity).

9. The safeguards apply equally when projects affect lands simply claimed as ancestral domain; lands they actually occupy for their residential or farming sites; lands used for gathering water or forest products; or land they own. However, IP do not necessarily need to have formal legal title to project-affected territories or resources for the safeguards to apply.

10. The SPS applies to all ADB-financed and/or ADB-administered sovereign and non-sovereign projects and project components, no matter whether they are financed by ADB, the borrower/client, or cofinanciers. ADB will not finance projects

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3 Ancestral domains are the territory, economic resources, and governance of ethnic groups and Indigenous Peoples. Ancestral lands are those under claim of ownership by indigenous communities that they have occupied and used continuously for several generations up to the present to fulfill material and cultural needs, even when such occupation or use has been interrupted by war, displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations.

4 The term “project components” does not include facilities that are not funded as part of the project and therefore are not under the control or influence of the borrower/client and ADB. ADB due diligence will be conducted to determine the level of risk to the environment and affected person and to ADB by association.
that do not comply with the requirements laid out in the SPS, nor will it finance projects that do not comply with the host country’s laws and regulations, including those laws for which the implementing host country has obligations under international law. In addition, ADB will not finance activities on the prohibited investment activities list (Appendix 1).

11. The SPS also applies where project preparation activities have begun or been completed before and in anticipation of ADB support (within a reasonable time). This generally refers to activities or actions that preceded ADB support. These activities may not have been in conformity with the IP safeguard requirements under the SPS. In such cases, ADB’s due diligence at an early stage of project preparation should identify if there are any outstanding grievances or actions in noncompliance with ADB’s SPS requirements.

12. If project preparation activities were not carried out according to the SPS provisions, ADB may insist on corrective actions to bring the project into compliance with the SPS. If such outstanding issues are identified, ADB works with the borrower/client to ensure that appropriate mitigation and/or benefit-sharing measures are developed and implemented within an agreed time frame. In most cases, it is also important for ADB’s due diligence to assess potential risks associated with the projects, even if the previous actions were not done in anticipation of ADB support.

13. For example, in the ADB Comprehensive Socioeconomic Urban Development Project in Viet Nam, one town in Lang Son Province (Dong Dang) had already carried out some resettlement and construction activities in the project area a few years earlier—well before the project was considered—for economic reasons (the town is in a border region). The Government, as part of overall project preparation, formulated a corrective action plan to address the previous activities and bring them in line with ADB policy. The plan had both IP and involuntary resettlement actions, and became part of the ethnic minority development plan and the resettlement plan. Actions included both mitigative measures and additional benefits, ensuring that people affected by earlier projects were treated equally with those under the new project.

C. Policy Principles of Indigenous Peoples Safeguards

14. The SPS sets out the following principles for IP safeguards in all projects in which ADB is involved (page 18 of that document):

1. Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely.

2. Undertake a culturally appropriate and gender-sensitive [assessment of social impacts] or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and

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5 Footnote1, Safeguard Requirements 3: Indigenous Peoples, Appendix 3.
7 Although the SPS uses the term “social impact assessment”, this Sourcebook uses “assessment of social impacts” (ASI) to describe the required process for Indigenous Peoples planning, which should not be confused with the social impact assessment report.
gender and intergenerationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.

3. Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples’ active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples’ concerns.

4. Ascertaining the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the 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.

5. Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.

6. Prepare an Indigenous Peoples plan (IPP) that is based on the [assessment of social impacts] with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.

7. Disclose a draft IPP, including documentation of the consultation process and the results of the [assessment of social impacts] in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.

8. Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.
9. Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP’s objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.

15. Based on these policy principles, specific requirements that the borrower/client is expected to meet are set out in Safeguard Requirements 3: Indigenous Peoples of the SPS. The following sections discuss technical guidance and good practices, to facilitate effective implementation of these requirements.

D. Roles and Responsibilities

1. ADB

16. ADB is responsible for screening projects to specify its safeguard requirements (Section IV). This involves reviewing and categorizing projects early, so as to identify issues that may affect IP. During IPP preparation, ADB is responsible for carrying out due diligence of the processes undertaken by the borrower/client to ensure compliance with ADB policy. It should include a review of the borrower/client’s social and environmental assessments and the plans to ensure that safeguard measures are in place to avoid, wherever possible, and minimize, mitigate, and compensate for adverse social and environmental impacts, and to ensure culturally appropriate accrual of project benefits.

17. ADB should determine feasibility for ADB financing, and assess the capacity and capability of the borrower/client to fund and implement the IPP. ADB is also responsible for ascertaining that the borrower/client has engaged in a process to obtain broad community support in specified projects and to assess the adequacy of the outcomes from that process. ADB should assist the borrower/client to build capacity to deliver the safeguards, and monitor and supervise its social and environmental performance throughout the project cycle. (ADB discloses safeguard plans and frameworks, including social and environmental assessments and monitoring reports, on its website.)

18. If a borrower/client fails to comply with legal agreements on safeguard requirements, including those described in the safeguard plans and frameworks or Environment and Social Management System, ADB will seek corrective measures and work with the borrower/client to ensure compliance. If the borrower/client fails to ensure compliance, ADB may exercise legal remedies, including suspension, cancellation, or acceleration of loan maturity, that are available under ADB legal agreements. Before resorting to such measures, ADB should use other means to rectify the situation satisfactorily to all parties to the legal agreements, including initiating dialogue with parties.

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8 Footnote 1, Safeguard Requirements 3, Section E. Special Requirements.
2. Borrower/client

19. The borrower/client is responsible for assessing projects and their environmental and social impacts, preparing safeguard plans, and engaging with affected communities through information disclosure, consultation, and informed participation following all policy principles and safeguard requirements. The borrower/client will submit all required information—including assessment reports, safeguard plans/frameworks, and monitoring reports—for ADB’s review.

20. The borrower/client must comply with host-country laws, regulations, and standards, including host-country obligations under international law. Further, it must implement safeguard measures agreed with ADB to deliver the policy principles and meet the requirements.

21. To ensure that contractors appropriately implement the agreed measures, the borrower/client includes the IP safeguard requirements in bidding documents and civil works contracts when deemed necessary by ADB and the borrower/client. Where national safeguard policies and regulations differ from ADB’s SPS and safeguard requirements, ADB and the borrower/client will formulate and agree on specific measures to ensure that ADB’s safeguard principles and requirements are fully complied with.

E. Indigenous Peoples Safeguards in the ADB Project Cycle

22. ADB’s general requirements for ensuring safeguards for IP follow ADB’s project cycle. Some requirements on these safeguards will be necessary in one or more stages (Figure 1). Screening and categorization, for example, is an ongoing process and may be required at different stages of the cycle; equally, meaningful consultation is expected to be continuous (Section V).

23. Identification of IP (Section III). The ADB project team, assisted by a qualified and experienced expert, determines whether there are IP living in the project area. The SPS provides an operational application of the term “Indigenous Peoples” to ADB-supported projects. ADB project team discusses with the borrower/client the groups that would be identified as IP for purposes of policy application.

24. After identification, the ADB project cycle has four inter-related phases (discussed in later sections).

25. Screening and Categorization. These activities are primarily the responsibility of ADB and revolve around ascertaining the potential involvement and impacts of IP in the proposed project or financing. Categorization is still incomplete where supporting data may be unavailable. IP leaders and stakeholders may be involved in project concept discussions. The process determines the impact and subsequent requirements for IPP preparation.

26. Design. The borrower/client is usually responsible for preparing IP planning and design documents, while ADB is responsible for ensuring that these documents comply with its policy and for verifying that the borrower/client has the capacity to fund and implement the IPP.
Categorization by ADB will determine the level of document preparation required from the borrower/client, but meaningful consultation will be the main activity of the borrower/client in almost all cases where IP are present.

27. **Borrower/client project implementation.** This will ensure that the IPP is updated, if necessary after detailed design, and followed carefully and completely, using adequate funding as well as mechanisms identified and established in the design and update process. Consultation, disclosure, and grievance redress processes established during the design phase will continue. The ADB, in conjunction with the borrower/client, will ensure periodic monitoring and any updating of the IPP and any necessary corrective actions are taken throughout implementation and prior to project completion.

28. **Completion.** ADB will prepare a project completion report for sovereign operations, or an extended annual review report for non-sovereign operations. The report will highlight the accomplishments of the IPP and lessons learned. The borrower/client will usually continue its internal monitoring. As necessary, ADB will make two further monitoring visits to each project location, one and two years following completion, to assess sustainability of IPP measures.
Figure 1: Indigenous Peoples Safeguards in ADB Project Cycle
III. IDENTIFICATION OF INDIGENOUS PEOPLES

A. Identifying Indigenous Peoples under the SPS

29. An all-encompassing and simple definition of IP is infeasible, given the complex social realities of Asia and the Pacific. Accepted or preferred terms and definitions vary by country, by local tradition, and even by use among groups. Recognizing this definitional difficulty, the SPS provides an operational application of the term to ensure practical application of the policy to ADB-supported projects.

30. For policy application purposes, “Indigenous Peoples” is used in a generic sense to refer to a distinct, vulnerable, social, and cultural group possessing the following four 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.

31. Sociocultural groups therefore need to be both distinct and vulnerable to trigger application of the term Indigenous Peoples in the SPS for ADB-supported projects (Section II).

32. IP may thus include the groups referred to in ADB’s DMCs as tribes, minorities, nationalities, ethnic groups, etc., so long as they possess, in varying degrees, the characteristics indicated in the SPS. Examples from DMCs are discussed in Appendix 2.

33. To determine whether project-affected people are IP under the SPS, an assessment of the people involved against the four above characteristics, along with their relative vulnerability, is needed. Involving a qualified social science expert, IP representative organization, or a local scholar in this field early in project preparation will greatly help to identify those to whom the SPS will apply. If the assessment is carried out at screening and categorization, links are established for the design team to progress.

B. Determining Distinctiveness of Indigenous Peoples

34. To be considered indigenous, a sociocultural group should demonstrate its distinctiveness through possession of the four above characteristics in varying degrees. In some cases, some of the characteristics appear more strongly than the others. Flexible use of the characteristics will allow more inclusive—rather than more restrictive—application, to accommodate the contexts of a country or area.

1. Self-identification and Recognition by Others

35. The collective sociocultural distinctiveness of a group should normally be expressed and described by the groups themselves. Self-recognition as a distinct group is a fundamental criterion for identification. This subjectivity highlights the need for the borrower/client to have good interaction with local leaders and indigenous-specific organizations early in the project process (at concept stage, perhaps).
36. People may also identify themselves as members of a cultural group by name, but explicitly recognize themselves as different from other groups bearing the same name. There may also be conflicting claims on IP identity, even though each claim may be valid.

37. Such self-recognition should therefore also be corroborated by others, which may include local community groups, neighboring self-ascribed IP groups, government entities, academic scholars, or other experts. Reports from private companies may also be useful for identifying groups (although these reports are sometimes hard to obtain). Neither self-recognition nor recognition by others necessarily requires the term IP by the groups themselves, but might refer instead to terms popularly used in the borrower/client country to refer to such groups.

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**Case Study—Identifying The Co Tu People, Song Bung 4 Hydropower Project, Viet Nam**

Loan 2429-VIE was approved in 2008. The project consists of the construction of a 156 megawatt hydropower plant and a 110 meter concrete dam on the Song Bung River. It is in one of the poorest and most remote parts of central Viet Nam, predominantly inhabited by the Co Tu ethnic minority, which has had little contact with the mainstream Kinh people.

The Co Tu identify themselves as a group distinct from the Kinh and other surrounding ethnic groups. The Co Tu have had close ties to the lands and forests for generations. They maintain a traditional lifestyle based on subsistence agriculture and nontimber forest products, which provide most of their cash income. Like most of the ethnic minority groups in the central region, they have the following socioeconomic features:

- animal husbandry is important but productivity is low;
- market and food access are of poor standard;
- hunting and forest exploitation are important for food security;
- handicraft-making is not well developed;
- overexploitation of land is evident in the form of barren mountains;
- trade is based on traditional values of exchange; therefore, prices are generally below market rates and are set by considerations of immediate needs rather than of saving; and
- disease is prevalent.

The Co Tu live in stilt houses and the village is the primary social unit. Their religious system is atheistic, based on world views with a universe of personal gods, magic practices, and rituals. The group holds celebrations at the beginning of the spring crop through decorating houses, music, storytelling, dancing, and folk songs in the cultural center of each village—the community or Guol house. The Co Tu also speak their own language.

Source: ADB. 2008. *Song Bung 4 Hydropower Project (Loan 2429-VIE, approved on 26 June)*.

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2. **Collective Attachment to Land and/or Territories**

38. Collective attachment refers to the ties to land and territories of sociocultural groups that descend from the population groups who have been present in such areas for generations and within the living memory of the groups. The ties may be physical (residence in the project area), emotional/spiritual, or historical (in memory). Collective attachment may also be displayed by IP groups who, even though they do not reside in the project-affected lands, are still bound as a group to those lands through customary use, including seasonal or cyclical use. Similarly, SPS also applies to people pursuing herding or swidden subsistence techniques whose lifestyles may be affected by project activities.

39. IP territories include not only the lands and natural resources over which individuals within the groups have formal legal ownership but also those which are collectively owned and those which IP groups claim as their collective assets. They include the land and the waters of such project areas.

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9 There is no formal definition of "living memory". For purposes of this Sourcebook, living memory is considered to be the period of time experienced and remembered by the community elders or some of the oldest members of the communities who are still alive.
40. The SPS may apply to IP groups that cannot demonstrate collective attachment to lands and territories in the project area because of forced severance from their original ancestral domains within the lifetime of group members. Such severance may have resulted from conflict, involuntary resettlement programs by governments, dispossession, or natural calamities.

41. Although no longer resident, such forcibly severed groups may in some cases still retain spiritual or other ties to that area and want to return there. A good example is the island of Banaba, part of Kiribati in the Pacific. Although most Banabans no longer live there because of ecological and commercial exploitation, they have political representation in Kiribati (from their expatriate community in Fiji) and an active claim on their ancestral lands.\(^{10}\)

42. In other cases, long residence of such displaced groups in the project area may have allowed them to establish a collective presence and maintain a definite and separate sociocultural identity and related social institutions. Examples are Tajik and Uzbek enclaves in the Kyrgyz Republic, and Kiribati communities in the Solomon Islands and Vanuatu.

3. Customary Institutions

43. IP groups may display some degree of cultural, economic, social, or political institutional distinctiveness that defines differences between them and mainstream society in the area or country. Their cultures and traditions are dynamic and responsive to the realities and needs of their time and, as a result, they present a vast spectrum of differentiated institutions and organizational forms. Since IP may also be influenced by developments around them, their evolving cultural institutions—due perhaps to cultural adaptations, technological progress, and participation in wage-labor markets—would not necessarily disqualify them from IP status. The cultural institutions of the

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\(^{10}\) http://www.banaban.com/
Chittagong Hill Tribes in Bangladesh are a good example of this.

4. Distinct Language

44. The sociocultural group’s language is usually distinct from that of the national society. In addition, speech patterns may take the form of dialects or other language variations that mark a community as unique. Many groups may still show this characteristic, despite widespread multilingualism among their populations. However, language distinctions may also be minimal or absent, as in Yunnan Province in the People’s Republic of China (PRC), where some ethnic minorities have adopted Mandarin (although some retain their own language).

**Indigenous Peoples’ Language—Yunnan, PRC**

The Bai people are indigenous to the Dali area, once the center of the ancient Nanzhao Dali Kingdom, with 65% of their numbers living in Dali prefecture. They have their own language, and have also invented their own written characters by reference to Han characters. While their traditional economic base was agriculture and fishing, they have now made a strong transition to commercial activities, which have grown rapidly on the back of tourism. Similarly, the Naxi, who created their own hieroglyphic script over a thousand years ago, have gradually adopted Mandarin as their main language of communication.


C. Identifying Vulnerability

45. To be IP in ADB-supported projects, a sociocultural group or community needs to be identified as vulnerable (as well as show the above characteristics). Unlike mainstream groups, these groups are typically socially excluded, frequently disadvantaged by discriminatory practices, and limited in their capacity to access or take advantage of development opportunities because of their social characteristics. While differing significantly from mainstream groups in culture, identity, economic systems, and social institutions, many IP reflect disadvantages in social indicators, economic status, political status, and quality of life.

46. The vulnerability of IP is usually multistranded. Beyond the economic, social, and political dimensions, it has demographic and environmental aspects. Economically, IP are often generally poorer compared to the mainstream society and may not be involved in the mainstream economic and monetary activities. Socially, they may be excluded from daily interactions with the mainstream society due to their remote location or inability to communicate in the forms or language acceptable to the mainstream society. Politically, IP may not be well represented in the governance structure, political body or administration. Demographically, IP may be at risk of being numerically overwhelmed by other groups or the mainstream society. Environmentally, their land-based subsistence and livelihood may be at risk due to changing living environment.

47. While women, children, the elderly, and poor are often the most vulnerable socially and economically, the definition examines vulnerability of the whole societal group. That of women and the poor, etc. as segments of mainstream society is primarily assessed under the project’s
poverty, gender, and social assessments. That said, once an IP group is identified, part of the assessment of social impacts (ASI) will include the impact on vulnerable elements within that particular group (Section VI).

48. To assess the vulnerability of IP, one needs to consider not only their current status, but also the risks of becoming vulnerable due to project impacts, including probable changes caused by project outputs and its development outcomes. One dimension of their vulnerability is that they risk being made vulnerable—or perhaps more vulnerable—by the project because of their inability to adapt to project-induced changes. These changes are rarely fully appreciated and are often seen as positive for wider society. Such impacts and risks can be direct—for example, excluding IP groups from continued use of their land—or indirect—such as language training that builds the national language but may erode traditional language and communication among IP.

D. Recognizing Indigenous Peoples Under National Law

49. When determining whether a group or community should be considered IP, the borrower/client also takes into account national laws and regulations (including customary law) and laws reflecting host-country obligations under international law on IP. These may also help mission leaders and project designers to determine both the distinctiveness and vulnerability of a sociocultural group.


50. A prime source of data for project planners in determining distinctiveness and vulnerability is the legal status of groups in DMCs’ regulatory frameworks. Some DMCs constitutionally recognize IP groups, as seen in the Indian Constitution’s listing of tribal groups and in Pakistan’s identified groups in provincially administered tribal areas and federally administered tribal areas. Some DMCs also have explicit national development plans for such groups (Fiji’s 20-year plan and Viet Nam’s Program 135, for example) while others have extensive legislation, such as the Philippines’ Indigenous Peoples Rights Act and the PRC’s Regional Ethnic Autonomy Law, which may be used to identify sociocultural groups in project areas.

51. Some countries have dedicated ministries or statutory legislative bodies to work with IP groups, such as Bangladesh’s Ministry of Chittagong Hill Tracts Affairs, the PRC’s State Ethnic Affairs Commission, and Viet Nam’s Committee for Ethnic Minorities and its National Assembly’s Council for Ethnic Minorities. These bodies may be tapped to assist project planners in identifying whether such groups exist and may be affected by projects in particular areas. See Appendixes 2 and 3 for more discussion on relevant legislation in ADB’s DMCs.

52. If countries’ policies and legislation are strong and well developed, ADB may begin to consider supporting DMCs’ efforts to strengthen and more effectively use their systems in parallel with its SPS. This would enhance country ownership, reduce transaction costs, and extend development impacts over the long term. Although ADB is committed to supporting the strengthening and effective application of the DMCs’ country safeguard systems alongside their capacity development, it needs to ensure that application of country safeguard systems in ADB projects does not undermine achievement of its policy objectives and principles. ADB’s strategy
for strengthening and using such systems emphasizes a phased approach that should be highlighted in project processing and review.\(^1\)

### 2. Customary Law

Groups potentially considered as IP may have extensive customs, traditions, and histories indicating distinctiveness and vulnerability. Legal–anthropological and ethnographic (including archival) research may shed light on some of these aspects of a group’s status. Customary law—whether on land and resource use, family and kinship relations, inheritance, dispute resolution, administration of justice, or local governance—may or may not be formally recognized in statutory law, or may be only partly recognized. Customary law is more closely attached than statutory law to IP cultures.

Other examples of indigenous laws can be found in indigenous management of resources in IP conservation areas and territories. Successful practices include the sasi system in the Moluccas, Indonesia, where generations of kewang (indigenous institutions) organize the community to remain committed and united in managing fish stocks and other important coastal resources.\(^2\)

Among the highest forms of formal recognition of customary law are the provisions in the Constitution of India on the customary laws of the Naga and Mizo peoples in the northeast, including both personal and resource-rights legislation.\(^3\) Equally, many countries in the Pacific Region fully uphold customary forms of land tenure and their associated traditional forms of governance and resource allocation, including Fiji, Federated States of Micronesia, Papua New Guinea, Samoa, Solomon Islands, and Vanuatu.\(^4\) Bangladesh also formally recognizes the authority of three traditional chiefs and some 380 mauza headmen of the Chittagong Hill Tracts.\(^5\)

Another example is the Indigenous Peoples’ Council in Thailand, set up to engage directly with the National Reform Committee. Its formation in areas populated largely by the Karen acted as a mechanism for their setting up a district office, later becoming a body representing the voice of the Karen in developing the district.\(^6\)

In the Philippines, the Indigenous Peoples Rights Act 1997 established a consultative body of traditional leaders, elders, and representatives from women and youth of different groups. It advises the National Commission on Indigenous Peoples on matters relating to their problems, aspirations, and interests.\(^7\) However, despite formal recognition of these customary laws by government on the ground, recognition may still be challenging.

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1. Footnote 1, para. 68.
58. Regardless of the formal status of customary law, IP communities generally regulate their internal social matters using such law. ADB staff should consider this point when designing and implementing projects affecting these people.

59. Still, interpretations of customary law among IP groups may conflict—perhaps one group supporting development, another rejecting it, each resting on interpretation of “custom”. This happens regularly in areas like Melanesia where there are often conflicts over land and resources by neighboring communities, each belonging to the same ethnic clan (wantok). The ASI should account for all views, attempt to verify independently the presence of customary interpretations, and ensure a transparent and sensitive process to ascertain the veracity of such interpretations.

3. International Conventions

60. In determining the presence of IP in the project area and the project’s impact on them, ADB and the borrower/client should also consider the government’s commitments to international conventions. They may include legally binding documents such as International Labour Organization (ILO) Convention No. 107 of 1957 Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, ILO Convention No. 169 of 1989 on Indigenous and Tribal Peoples, and the International Convention on the Elimination of all Forms of Racial Discrimination of 1965.18 The two ILO conventions are the only legally binding international treaties that deal specifically with indigenous rights. Among DMCs, Bangladesh, Pakistan and India have ratified Convention No. 107, and Fiji and Nepal have ratified Convention No. 169. Irrespective of whether the project is under sovereign or non-sovereign operations, the borrower/client will have to consider conventions to which the country is party.

61. The UN General Assembly adopted a non-legally binding UN Declaration on the Rights of Indigenous Peoples in 2007 (see Appendix 2 for information on which DMCs have voted for UNDRIP). There are also three key conventions on cultural heritage, particularly relevant to projects that require broad community support. The Convention Concerning the Protection of the World Cultural and Natural Heritage, also known as the World Heritage Convention (1972), has been widely adopted by almost all DMCs.

62. The two more recent conventions relate to indigenous cultures and traditional knowledge have been ratified by the majority of the United Nations Educational, Scientific and Cultural Organization’s member states: The Convention for the Safeguarding of Intangible Cultural Heritage (2003), ratified by 143 of 190 member states, and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), ratified by 117 member states.

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18 UN General Assembly Resolution 2106 of 21 December 1965 (sometimes referred to as CERD).
IV. SCREENING AND CATEGORIZATION OF IMPACT

63. ADB staff screens and categorizes all projects for their potential impacts on IP communities at the earliest stage of project preparation, when enough information is available. Categorization is an ongoing process and can be changed at any time with the concurrence of the ADB’s Chief Compliance Officer as more detailed information becomes available and project processing advances. Project screening and categorization is undertaken by ADB to:

   (i) determine the significance of the potential impacts and risks on IP that a project might present;
   (ii) identify the level of assessment and institutional resources required to address IP safeguard issues; and
   (iii) determine information disclosure and consultation requirements.

A. Performing Screening

64. ADB staff uses a screening and categorization form to assist matters (Appendix 4). They need to identify any impacts and risks on IP early on in order to minimize subsequent delays during project processing and allow adequate resources and approaches to be deployed, both enhancing the project and ensuring appropriate study and design. They can early identify impacts and risks better if they consult with IP leaders and scholars at national or subnational level, and with experts from dedicated ministries and departments. Their screening should verify IP status, ensuring that borrower/client views on IP eligibility are consistent with ADB policy. Involving a local expert will help the process.

65. Projects are tentatively categorized during the initial screening of anticipated impacts and risks, and can be reconfirmed at the ADB management review meeting or staff review meeting (SRM) for sovereign operations, or the final investment committee meeting for non-sovereign operations. At any stage, therefore, the borrower/client is encouraged to share reports or data with ADB to facilitate the process, especially to identify the following: whether there are groups or communities that could be considered IP in the project area; related national and local policies; demographic and socioeconomic data of the project area; and other relevant information. Borrower/client participation in categorization, due diligence missions (for the public sector), or transaction review missions (for the private sector) may contribute to identifying project-affected IP.

66. Good practice also ensures that entities such as IPOs, land councils, or councils of chiefs are consulted at some stage of screening to reconfirm the impact category. This enables a cross-check with borrower/client views. Setting these other links now will be useful later in the preparation and design stages, particularly meaningful consultation and participation. That process arguably starts with ADB initiating contacts at the screening and categorization stage.

<table>
<thead>
<tr>
<th>Practice Notes—Screening and Categorization by ADB</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Use standard ADB screening and categorization forms</td>
</tr>
<tr>
<td>• Consult IP representatives, government and scholars early in the screening to quickly assess IP involvement and impact.</td>
</tr>
<tr>
<td>• Early identification of IPs is essential—if in doubt request further guidance from ADB RSES early</td>
</tr>
<tr>
<td>• Use both official IP national agencies and non-government IP resources to cross-check screening assessment</td>
</tr>
<tr>
<td>• For categorization, significance of impact is measured by both Impact Magnitude and Vulnerability</td>
</tr>
<tr>
<td>• Re-categorization can occur as project progresses and information updated</td>
</tr>
</tbody>
</table>
B. Determining Categorization of Impact

67. ADB categorizes proposed projects depending on impact (categories A–C) or investment (FI):

- **Category A.** Likely to have significant impacts. An IPP, including ASI, is required;
- **Category B.** Likely to have limited impacts. An IPP, including ASI, is required;
- **Category C.** Expected to have no impacts. No further action required; and
- **Category FI.** Involves investment of ADB funds to or through a financial intermediary. An Environmental and Social Management System (ESMS) is required.

68. A project may have several components, each with differing impacts on the IP community. The overall project category is set by the category of its most sensitive component to impacts, which are measured both by their magnitude and by that community’s vulnerability.

69. The magnitude is assessed through the following aspects:

- Customary rights of use and access to land and natural resources;
- Socioeconomic status;
- Cultural and communal integrity;
- Health, education, livelihood, and social security status; and
- Recognition of indigenous knowledge.

70. SPS applies to IP communities rather than individual or household level. It is important to find out whether project impacts in those five areas would be adverse, neutral/none, or positive to IP communities. When impacts in any of the areas are adverse and widespread at the community or subcommunity (rather than individual or household) level, they are generally rated significant (category A). Otherwise, limited adverse impacts (at community or subcommunity level affecting only a few individuals or households) are normally rated limited (category B).

71. Projects targeted at IP could still potentially have negative impacts, risks that the benefits are not culturally appropriate, or that the community may be unable to capture the benefits proportional to those captured by non-IP groups or by mainstream society. Thus, such

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Severity of Impact—Defining Significance

An example of a significant impact may take various forms, including:

- When a hydropower project acquires a huge land area or forest that makes villagers unable to continue their existing traditional livelihood system. (Severe impact on customary rights of use and access to land and natural resources, impact on livelihood and cultural integrity.)
- When a cement plant project changes the status of IP communities from self-subsistence farmers and forest products gatherers to factory workers. (Severe impact on social security status and socioeconomic status).
- If a plantation in a closed IP community results in physically displacing a sub-community far away from its wider community of origin. (Severe impact on cultural/communal integrity.)
- If a project or its construction potentially causes contamination of the major communal water sources resulting in water borne diseases of the IP community. (Severe impact on health.)
- When an education project only promotes the use of the national language of instruction in primary education, causing loss of fluency in the use of local language. (Severe impact on education.)
- If a forestry project restricts forest-dependent IP community from accessing the forest area where for generations they used to hunt boars and collect rattan, wild fruits and other forest products. (Severe impact on customary use and access to land and natural resources.)
- When an irrigation and water-resources project undermines the existing traditional irrigating system and the associated institutional arrangement for water distribution. (Severe impact on indigenous knowledge and institutions.)

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19 Vulnerability is discussed in paras 45-48.
risks to not achieving positive impacts on those five areas at community or subcommunity level may be considered of significant impact (category A). It is also possible that IP groups affected are vulnerable to change in any of these five areas, putting them at risk of not benefiting from the project—rendering the impacts significant. When such risks of capturing positive impacts in these five areas are not widespread at community or subcommunity level, the impact would normally be considered limited (category B).

72. Although adequate screening should determine project categorization, further information collected during assessment or at project review may require another look at the category adopted. If the impacts now seem more significant, additional studies will be required—most probably delaying project processing. It is therefore essential that screening is as accurate as possible. Assistance and guidance should be sought early in the process from ADB resources if there is any doubt or uncertainty.

73. Because determining a significant impact does not depend just on the number of people affected, it is important to have an experienced and qualified expert to judge whether project impacts are significant or not. Apart from ADB resources, umbrella organizations and government agencies may be able to assist. Excellent resources are also found among national consultants or scholars familiar with the project area and the communities themselves or their culture, or those who have worked with IP communities in the country.

C. Is Broad Community Support Required?

74. Broad community support (BCS) also has to be considered. BCS is required as part of project preparation for all projects and investments (under any funding modality) that have activities that include the following:

- commercial development of the cultural resources and knowledge of IP;
- physical displacement from IP traditional or customary lands; or
- commercial development of natural resources within customary lands under use that would affect the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of IP.

75. For policy application, BCS of affected IP communities refers to a collective expression by the affected IP communities, through individuals or recognized representatives, of BCS for such project activities. BCS may exist even if some individuals or groups object to them. For project activities requiring BCS, evidence of the support including documentation of processes and outcomes will be required. (Further details on BCS are in Section X.)
V. CONSULTATION, PARTICIPATION, INFORMATION DISCLOSURE, AND GRIEVANCE REDRESS

76. Meaningful consultation between the borrower/client and the affected IP, as well as the participation of IP, are the crux of the ADB IP safeguard requirements. They begin in some form at screening and categorization, and continue through project design, appraisal, implementation, and completion. They form the basis for developing adequate and relevant IPPs; help to improve impact assessments; and if successfully developed, should sustain through implementation to ensure effective project activities and monitoring.

77. Consultation and participation should be properly documented as they form a continuum of engagement: consultation fits in well at the early stages of a project when proposals are being drafted, and the potentially affected communities are informed about it and their views and inputs solicited; participation can begin then as well if local people are brought into project design, project planning and implementation.

A. What is Meaningful Consultation?

78. According to the SPS, meaningful consultation is a process that:

- begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle;
- provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people;
- is undertaken in an atmosphere free of intimidation or coercion;
- is gender inclusive and responsive, tailored to the needs of disadvantaged and vulnerable groups; and
- enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.

79. The objectives of IP safeguards are to design and implement projects in a way that fosters full respect for their identity, dignity, human rights, livelihood systems, and cultural...
uniqueness (as they define them themselves) so that they receive culturally appropriate social and economic benefits; do not suffer adverse impacts as a result of projects; and can participate actively in projects that affect them. Meaningful consultation—analyzed in the following paragraphs—helps ADB and its borrower/client achieve these objectives.

1. **Begins early and carried out on an ongoing basis**

80. Good practice suggests that consultation and participation begin at the project concept stage when ADB has the opportunity to hire national and local IP specialists to help screen impacts. This process can prepare the groundwork for meaningful consultation during preparation.

81. To be able to give information to members of the affected IP communities about the project’s potential adverse impacts and proposed mitigation measures, the borrower/client should initiate consultation as early as possible in the assessment stage. The earlier the communities get the information, the less uncertain they feel. Early consultation also helps the borrower/client know in advance the aspirations and concerns of these communities.

82. Borrower/client consultation with IP is an iterative process, involving different segments of the communities. It needs to continue throughout project preparation and implementation with the communities approached for feedback on key relevant project documents such as the IPP. Once the project begins, consultation might continue and participation strengthen as part of project benefit-sharing or mitigation activities, and as part of monitoring and evaluation activities. Consultation between borrower/client and IP during project implementation therefore needs to be included in the IPP.

83. One way to improve continued and meaningful consultation throughout project design and implementation is to involve the communities themselves in designing the consultation and participation processes. IP can offer alternative approaches that provide non-mainstream thinking, more appropriate for their own communities, which can have further benefits throughout the project cycle by providing ideas and alternatives for assessing impacts, developing grievance redress mechanisms (GRMs) and monitoring processes.

2. **Provides timely disclosure of relevant and adequate information that is understandable and readily accessible**

84. Timely disclosure means that the affected IP communities should have access to project information that is understandable and acceptable to them well before the borrower/client makes any decision affecting them. It is particularly critical before and during IPP design. Thus it is important for the borrower/client to share the key recommendations and conclusions of the ASI with the affected population. Where possible, better practice should be achieved by the borrower/client (including the IP themselves) in designing the impact assessment.

85. To be relevant and adequate, information shared with the project-affected IP communities needs to provide enough project context and planning to enable them to understand the intent and scope of project activities and participate meaningfully in project consultations. Such information should cover the following:

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the nature, scope, and duration of any proposed project or activity;
the reason/s for the proposed project and/or activity;
preliminary assessment of the likely economic, social, cultural, and
environmental impact and risks to the IP and potential equitable benefit sharing;
the specific sites and groups that will be affected;
the choices or options available to the affected IP;
personnel or parties likely to be involved in executing the project (including IP,
private sector staff, research institutions, government employees);
procedures that the project may entail for continuous consultations; and
a GRM to be put in place.

86. To be understandable and readily accessible, the information needs to be
communicated in a culturally appropriate way for each segment of the community. This may
require different methods for women and the poor, for example. The preferred language or
modes of information dissemination should be ascertained by the borrower/client early during
project preparation. A range of methods should be used depending on project contents.
Communication should not just be through reports, information brochures, and meetings—which,
if used, should be in the local language if the community prefers this. In addition, graphs,
pictures, story-telling, plays, and maps are all inclusive and powerful tools. Modern technology,
such as internet chat rooms, Google earth, and local IP websites can also be used with some
segments of the community, such as youth and young adults.

<table>
<thead>
<tr>
<th>Case Study—Importance of Language in Consultations, Nam Theun 2 Hydropower Project, Lao PDR</th>
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<tbody>
<tr>
<td>Language is an important consultation issue as it largely determines whether the targeted populations understand the message and assimilate the information.</td>
</tr>
<tr>
<td>The Ethnic Minority Development Plan for Nam Theun 2 discussed the importance of language and the approach to ensure that consultations were carried out in a culturally appropriate manner. Information provided was understandable and readily accessible to the affected people.</td>
</tr>
<tr>
<td>The plan set out that while there were a number of ethnic groups on the Nakai Plateau and in the downstream Xe Bangfai area, studies on language use established that the vast majority spoke Lao, the national language, and that the different ethnic languages were for the most part confined to the home. Only a very small share of the affected population did not have a good working knowledge of Lao. None of the ethnic languages had any written form. Thus, it was both unnecessary and impossible to design written materials in each language for the consultation.</td>
</tr>
<tr>
<td>However, in order to ensure that consultations were effective, translation (explanation) of technical words into ethnic languages—Brou and Vietic—was an option. During consultations and meetings in villages, such translations were sometimes provided by local village leaders or ethnic staff of district working groups when necessary.</td>
</tr>
<tr>
<td>It was the responsibility of both the Resettlement Office of the NT Power Company and the Resettlement Monitoring Unit to determine whether translations were required. Thus, before discussion, comprehension checks were conducted, especially for women and the elderly who might have less exposure to the national language and technical terminologies.</td>
</tr>
<tr>
<td>Source: ADB. 2005. GMS Nam Theun 2 Hydropower Project (Loan 7210-LAO, approved on 4 April).</td>
</tr>
</tbody>
</table>

3. Free of intimidation or coercion

87. Consultation should be free and voluntary, without any external manipulation,
interference, or threat of retribution, and be conducted in an atmosphere of transparency. Many
things could be taken as threatening, such as the presence of armed groups, police, or military
personnel, local politicians, government bureaucrats, or even total strangers with no known role
in the discussion. Using the national language without proper local translations or a facilitator
completely unknown to the community could also be threatening, as can even a difference in
economic or cultural status, gender, age, or occupation. The same applies to unfamiliar places
(say, a district office far from the villages) as a meeting venue. These factors could hamper the expression of views, concerns, and proposals, highlighting the need for including not only IP groups but also representatives of segments of their society in designing effective and meaningful consultation and participation programs.

4. **Gender inclusive and responsive; and tailored to the needs of disadvantaged and vulnerable groups**

88. Indigenous women are often dually disadvantaged due to their gender and their cultural identity. Their status and identity continually shift depending on the roles and occupations they hold. Indigenous women are often the most active agents of change, and they have their own economic and social interests and strengths.

89. Some common cultural barriers hinder the participation of disadvantaged and vulnerable groups such as women, households headed by women, and young adults in community decision making. Women may be censored in community forums and their male relatives may talk on their behalf. Households headed by women and young adults, especially when unmarried or with no children, may be marginalized and their comments unwelcomed by the rest of the community. These cultural barriers, identified in the ASI, have to be addressed in the design of mechanisms and instruments for consultations and participation. Yet this must be done with care—sometimes forcing the issue may expose to risks the very people whom participation is meant to help.

90. There are often subtle, albeit more time-consuming, ways to overcome such barriers without inducing conflict with local customs and that help to engender participation. The participation of community subgroups, such as indigenous women, that might be excluded from customary decision making may be sought through means such as women-only discussion groups, plays and music, or cultural events or festivals. Borrower/Client consultation with indigenous women and their participation may require female professionals and technical staff to be hired. It is through such engagement that the borrower/client can select and design the appropriate benefits and mitigation measures to meet the needs of women as well as men. For other excluded vulnerable groups such as the poor, separate consultations without higher-ranked groups present are usually needed to obtain a full picture of their needs.

5. **Incorporation of all relevant views into decision making**

91. The consultation process needs to hear all shades of support for—or opposition to—the project. Consultations would not be meaningful if they only listened, without also addressing people’s concerns by incorporating them into the decisions on project design and implementation. All views should be considered by the borrower/client when making decisions
on the project design, the proposed activities, mitigation measures, as well as the accrual of benefits to be reflected in the IPP.

Free of intimidation—Examples from Projects in Yunnan, PRC

In the Dali Lijiang Railway Project, the executing and implementing agencies contacted the Dali Prefecture Ethnic Affairs Commission and worked out a plan for obtaining the consent of ethnic minorities, with their representatives. The Ethnic Affairs Commission took members of the agencies to ethnic minority villages, organizing villagewide meetings and household visits. Consultations were conducted in Bai and Naxi languages so that local people, particularly the elderly, could understand the information and express their concerns. For example, some villagers worried that tunnel construction might cut off their water resource, destroy their feng shui, and force them to move their temples or ancestral tombs—causing their “good luck” to disappear. These issues were explained in local languages by technically qualified persons.

The consultations led to planning modifications of the railway route. It connects two popular Yunnan tourist towns, Dali and Lijiang. On the west bank of Erhai lake are the Dali prefecture capital of Xiaguan and the ancient town of Dali itself. This west bank is heavily populated and receives more visitors, while the east bank has fewer and poorer residents, and few tourists. On efficiency grounds, it might have been expected that the chosen route would be the west bank. To the surprise of many, the chosen route was the east bank, where the railway promotes social equality.

Similarly, the Kunming Qingshuihai Water Supply Project originally intended to build a feeder road from the main highway to a construction site through a village inhabited by Hui ethnic minority group. When consulted, the villagers were concerned that the road would disturb their quiet life, and did not give consent. The project changed the route of the road, going around the village instead.


92. Differing views and concerns may stem not only from existing internal conflicts between different segments within the communities, but also from the different actual and perceived potential impacts on the various groups in different localities, and conflicting views within the communities as to what is desirable. Communities may have different views on, for example, which section of their territory should be allocated to the project, where to establish a resettlement site, what kind of housing should be provided, and what kind of livelihood program should be developed. Answers to all these questions should permeate the design of the project and IPP.

Case Study—Ensuring the incorporation of all relevant views, Nam Theun 2 Hydropower Project, Lao PDR

Nam Theun 2 endeavored to solicit and incorporate views into project design, safeguards, plans, and measures. It ensured that all affected ethnic groups, including vulnerable ethnic minorities, could take full part in the consultations and influence project design.

It included the following:

- Detailed anthropological studies as part of consultations to identify aspects related to livelihood, language, cosmology, social organization, gender relations, material culture, and leadership to identify the various groups; topics to discuss with each group; and the method, process, and venue for conducting focus groups;
- Focus group discussions within each ethnic group to encourage different groups to raise their concerns and aspirations about the project and mitigation measures;
- Separate discussions for different ethnic groups to ensure that the smaller groups could freely express their opinions and encourage involvement;
- Dialogue with all interested groups and stakeholders directly or indirectly involved in the project who expressed interest to take part in public consultations;
- Discussions with traditional and local religious leaders to make sure that local beliefs were respected and taken into consideration in project design and mitigation;
- Conduct of three rounds of public consultations with project-affected people and stakeholders at several stages of project preparation to provide them with the opportunity to make proposals, recommend further refinements in project design, and raise additional concerns;
- Briefings and consultative meetings at local, national, and international levels about project impacts and measures for mitigation, compensation, and livelihood restoration;
- Translation into the Lao language of summaries and relevant sections of the social and resettlement plans used in the various consultations, meetings, discussions, and focus group discussions; and
- Allowances for modifying mitigation measures to respond to local needs of the different ethnic groups within the various project areas.

Source: ADB. 2005. GMS Nam Theun 2 Hydropower Project (Loan 7210-LAO, approved on 4 April).
Good Practice Notes—Undertaking Effective Consultations with Indigenous Peoples

- Ensure that all community groups, including the marginalized, are included in the consultations.
- Check for gender, generational, and income level balance in any “representative” groups.
- Recognize that in some cases there may be different factions within a community with contrasting views on development projects.
- Meeting separately with different subgroups or factions (women, different ethnic groups, elders or other leaders, the poorest, etc.) first or prior to final group meetings.
- Assure and ensure that participants’ anonymity will be maintained; this helps encourage freer discussion and renders the consultation results more credible.
- Similarly, if local Indigenous Peoples or groups want their confidentiality to be maintained, take steps to see that their views, opinions, or evaluations are not reported elsewhere.
- In the case of BCS individual confidentiality is requested; ensure well-respected body verifies BCS.
- Use professional facilitators, preferably those who know the indigenous languages and are knowledgeable about the indigenous cultures.
- Provide resources (food, shelter, travel funds, etc.) so that people can attend the consultations from distant villages or so that their representatives can attend consultations in district, provincial, or national capitals; ensure that translation services are provided for such consultations.

B. Indigenous Peoples Representatives

94. One issue in conducting consultations with IP is establishing who their proper representatives are. They should be able to take part through their own freely chosen and internally selected spokespersons, who may not be the same as the formal leaders of the administrative units. While these formal leaders may assume the role of representative, IP may also put forward religious or spiritual leaders, a council of elders, or clan leaders to represent them. The borrower/client may want to talk with IPOs familiar with the area for their suggestions.

95. When several groups of IP are likely to be affected by a project, the consultation process needs a cross-section of different people. The number of people from each group should be proportional to the effects the project will have on it. Each group may have its own leader to represent it.

96. Properly clarifying who represents which groups early helps avoid the groups finding the consultation outcomes unacceptable later. It also affects information disclosure, participation in project implementation, and grievance procedures.

C. Good Faith Negotiations

97. Facing major disagreements with affected IP over the project, its components, or the IPP, the borrower/client may consider good faith negotiation (GFN). Major disagreements might relate to the nature of mitigation or benefit-sharing measures, or the scope of the project area. In one project, the major disagreement was the location of the new resettlement...
site for the community; in another whether new roads could be constructed in certain areas; and in another, whether certain groups arriving after the cut-off date for determining eligibility for compensation would also be entitled to benefit from the livelihood program. GFN is also a critical step in relevant projects where BCS is required.

98. GFN is a joint exploration of key outstanding issues relevant to the project among project-affected people and the borrower/client, with the main intention to mutually resolve those issues. A documented process of negotiation and its outcomes, GFN operationally has the following elements:

- a willingness to engage in an extended process and be available to meet at reasonable times and frequency;
- provision of information necessary for informed negotiation;
- exploration of key issues of importance;
- use of mutually acceptable procedures for the negotiation, which might include the use of a third party facilitator (IPO or other local groups);
- willingness to change initial positions and modify offers, where possible (including reconsideration of both indigenous-preferred alternatives and mitigation measures); and
- allowance for sufficient time for decision making.

### IPP Checklist—Information Disclosure, Consultation, and Participation

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has an information disclosure, consultation, and participation process with the affected Indigenous Peoples communities carried out during project preparation been described?</td>
<td>Yes</td>
</tr>
<tr>
<td>Has a summary of comments and feedback by Indigenous Peoples on the results of the social impact assessment been provided?</td>
<td>Yes</td>
</tr>
<tr>
<td>Have all concerns raised during consultation been identified and have they been addressed adequately in the project design?</td>
<td>Yes</td>
</tr>
<tr>
<td>For activities requiring BCS, has the process and outcomes of consultations with affected IPs, including any agreements and safeguard measures, been adequately documented?</td>
<td>Yes</td>
</tr>
<tr>
<td>Is the consultation and participation mechanism to be used during implementation adequate and fully described?</td>
<td>Yes</td>
</tr>
<tr>
<td>Has disclosure of the information in the IPP to the affected IPs been confirmed?</td>
<td>Yes</td>
</tr>
<tr>
<td>Has the IPP been endorsed by the borrower/client and disclosed on ADB website?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

99. After spotting that there are serious issues to resolve (or to determine BCS), the borrower/client informs the affected IP of the decision to begin GFN. It should try to clarify points of agreement and disagreement with those communities, so as to begin negotiating with a clear list of issues needing resolution. With that list, the borrower/client may want to resort to calling in expert opinion or third-party facilitators, agreeable to both sides, to comment. It should decide early during project preparation whether GFN will be necessary and ensure that realistic and adequate time and resources are budgeted.

100. The borrower/client should document the negotiations with the IP, including their informed participation in the negotiation process, and the successful outcomes (or otherwise) of such negotiation. Impacts on vulnerable groups within the affected IP communities should be adequately addressed in the negotiation and documentation. Examples of documents include a memorandum of understanding, a letter of intent, a joint statement of principles, and written agreements. The results—both a summary of the process and a fuller narrative, including communities' participation and the outcomes (successful or otherwise) of the GFN—are reported in the IPP to confirm the responsibilities of the parties.
D. Disclosing Information to Affected Indigenous Peoples

101. The SPS requires that the borrower/client provides information to and consults with the affected IP and other stakeholders in a manner appropriate for the anticipated project impacts. This requirement is intended to facilitate engagement so as to establish and maintain constructive relationships over the life of the project.

102. Timely disclosure of relevant information on the proposed project to IP, to be done in a form and language(s) understandable to them, is also mandatory. It should be an integral part of consultation and participation. In the case of the IPP and other detailed documents, relevant information to be disclosed to the affected IP could be reported in abbreviated form. Such documents would include key findings and provisions, and could be provided as brochures written in clear local language, describing the benefits and mitigation measures to be taken, including contact information for grievances and further project information.

103. For those projects likely to affect many illiterate people, pictorial depictions and oral representations of the IPP can be used. When there is no widely used written form of the local language, it is quite possible that the narrative of the pictorial brochures or posters will have to be written in the national language but the verbal presentation of such information will be done in the local language.

104. In the interest of transparency and wide dissemination, the borrower/client could usefully disclose full and abbreviated versions of the IPP—in draft and updated forms—locally. It should consider the best ways to go beyond the minimal disclosure requirements (e.g., deposit of such documents in the local library) to expand the arena of IPP disclosure via methods such as delivery of the IPP directly to rural townships and IPOs, posted on village communal walls, described in a village meeting, or distributed as brochures to households. The abbreviated form would describe the project very briefly; list the anticipated impacts, major proposed mitigation measures, and project benefits; outline the GRM; and include contact details of the project contact information office for more information.

E. Public Disclosure of IPP and Relevant Documents

105. While relevant information in the IPP should be disclosed to the affected IP, public disclosure of the IPP, IPPF, and the monitoring reports on ADB website is mandatory. The borrower/client will submit to ADB the following documents to put on ADB’s website:

- a draft IPP or IPPF (or both), including the ASI endorsed by the borrower/client before project appraisal;
- the final IPP on completion;
- a new or updated IPP and a corrective action plan prepared during implementation, if any; and
- the monitoring report.

106. The timing of public disclosure is important. After ADB reviews the IPP/IPPF and the borrower/client incorporates the comments, as good practice, the latter needs to submit a

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Footnote 1, Safeguard Requirements 3, para. 20.
satisfactory IPP/IPPF to ADB at least 5 working days before appraisal or similar milestone, such as management review or investment committee meetings, to ensure that it will be posted in good time on the ADB website.

F. Project Grievance Redress Mechanisms

107. GRMs receive affected persons’ grievances on environment, involuntary resettlement, and IP impacts. Grievances are inevitable in projects for IP—that project proponents usually come from outside may have already created some. IP generally complain about lack of information on the project and its impacts, their lack of understanding, inadequacy of compensation or livelihood programs, benefits that they consider culturally inappropriate, and the attitude of the project staff, among others. Prompt redress is critical to smooth implementation and timely completion of a project. For the GRM to be well implemented, the budget should be adequate to support the grievance committees.

108. A GRM is the responsibility of a borrower/client at the project level, and is supervised by ADB (as it is part of ADB’s project communication). It is a documented process for receiving, evaluating, and addressing project-related grievances from people affected by the project. It can be used to also address resettlement and environmental safeguard grievances. It would be able to deal with most of the community’s concerns about a project that are covered by ADB’s safeguard requirements on the environment, involuntary resettlement, and IP.

109. It is very important for borrower/client to establish early an effective and meaningful consultation and participation process. The GRM should evolve from such a process and realistically meet the needs of affected IP.

G. Good Practice Principles for a Grievance Redress Mechanism

110. Good practice incorporates seven main principles for setting up and running a GRM.

1. Proportionality

111. The scale and complexity of a GRM should be proportionate to the potential adverse impacts, as determined by the project ASI. For Category A projects, the borrower/client is encouraged to establish a GRM at the design stage and keep it to the end of the project, assuring a full organizational structure with clear authority and responsibilities for community liaison and grievance resolution (examples are in Figures 2 and 3). It is good practice to have representatives of IP in the local GRM committee.
112. For category A projects, the borrower/client is encouraged to assign a staff member to receive and respond to grievances. He or she would preferably have handled such issues previously, have a thorough knowledge of and experience with the communities involved, and is well respected—seen as independent and impartial.

113. In category B projects, the borrower/client should consider designating a point of contact, such as a community liaison officer, to whom members of the affected community can address their views. Except in the simplest cases, the GRM should include a procedure for receiving grievances, recording/documenting them, and responding to the complainants in a reasonable time. Affected communities should be free to express their grievances orally in their own language, which will be recorded and documented with the help of the community liaison officer.

2. Involvement

114. The borrower/client should seek solutions to complaints by involving the affected communities. The GRM should be easily understandable to them, in local language, and its workings regularly communicated to them. It should also form part of the documented communication and participation plan of the project (see paragraphs 101–104).
3. **Accessibility**

115. When designing the mechanism, the borrower/client normally assesses how accessible IP are by the physical location of the contact point; their access to transportation and roads; their literacy, language proficiency, and education levels; and their access to conventional communication infrastructure (phone, mail, and internet). Accessibility also implies that the borrower/client reimburse reasonable expenses for filing complaints, perhaps transport and forgone wages. The procedure should define who can raise complaints, protecting the confidentiality of the persons raising them.

4. **Cultural appropriateness**

116. The design of a GRM should take account of cultural attributes of IP and their traditional mechanisms for raising and resolving issues. The latter could facilitate the resolution of the initial complaint. If the project affects groups with significant cultural differences among them, the borrower/client may need to tailor its approach to ensure that each group (including women) can raise their concerns.

117. Preferring verbal, over written, arenas of complaint, members of IP may prefer to convey their dissatisfaction or sense of grievance outside the project’s formal channels. Thus the borrower/client should consider ways to capture such community sentiment, considering mechanisms including verbal reporting stations (where community liaison officers could transfer...
oral to written complaints) and informal methods. To cite an example: affected by the Nam Ngum 3 project, Villagers in Ban Xiengdet, Lao People’s Democratic Republic, established a village grievance process very early, which ensured that decisions belonged to them, the Khmu ethnic minority villagers. It allowed them to address and halt opportunistic Lao outsiders from claiming project benefits. This unexpected boost to their confidence strengthened their willingness to cooperate with the project.

118. Such approaches are important, because members of IP rarely resort to formal grievance procedures, especially when there is a wide social power gap between them and the project representative, or when they are illiterate or do not speak the mainstream language.

5. **Responsiveness**

119. The grievances received and responses provided should be documented and reported back to the affected communities promptly. A good GRM provides regular updates on its activities to the communities, clearly addresses the expectations of what the mechanism does and does not do, shows how the grievances were resolved, and gathers feedback from affected people to improve its redress system. Sometimes concerns raised by communities may need a higher decision for a solution, adding to time taken, and this fact too has to be communicated to IP so that they understand that their grievances are being dealt with.

6. **Clear responsibility**

120. A good GRM establishes and maintains the organizational structure with clear lines of authority and responsibility for community liaison and grievance resolution. Individuals assigned as contacts points are more effective if they are trustworthy, trained, knowledgeable, and approachable by complainants, regardless of the latter’s ethnicity, gender, or religion.

7. **Appropriate protection**

121. Project planners should be aware of judicial and administrative remedies available in the country for resolution of disputes so that the project’s GRM does not inadvertently impede access to the country’s mechanisms. How these remedies function should also be explained to affected communities. The GRM must also set up protection for complainants in order that they do not suffer from retribution.

H. **ADB’s Accountability Mechanism**

122. ADB’s Accountability Mechanism allows people affected by ADB-supported projects to submit complaints to ADB. (It is entirely separate from the GRM, the responsibility of a borrower/client at the project level.) The Accountability Mechanism provides an independent forum that allows people to voice their problems and seek resolution, and report alleged violations of ADB’s operational policies and procedures. It has two separate but related phases. First is problem solving, led by ADB’s special project facilitator, to assist project-affected people in finding solutions to their problems. Second is compliance review led by a three-member panel.
that investigates alleged violations of ADB’s operational policies and procedures, including safeguard policies, that have already resulted in, or are likely to result in, direct adverse and material harm to project-affected people. It recommends how to ensure project compliance with these policies and procedures.

**Grievance Redress Mechanism—Nam Theun 2 Hydropower Project, Lao PDR**

This project had large community impacts, particularly on Indigenous Peoples. The Concession Agreement required that “all project affected persons will have full access to the Grievance Procedure.”

The GRM reviews and adjudicates on grievances submitted by any individual. The basic steps to lodging grievances are as follows:

**Step 1:** Dissatisfied villager prepares a grievance application to the village grievance committee.

**Step 2:** That committee receives the application and should complete the investigation within 15 days of receipt. After 15 days the villager meets with the committee to be advised of the outcome. If satisfied with the response, the issue is closed; if not, the issue is transferred to the next level.

**Step 3:** The village grievance committee sends the villager’s application to the district grievance committee, which works with the downstream program, the Nam Theun 2 Power Company, and the Resettlement Management Unit (RMU) for another 15 days of investigation. Then those three bodies inform the villager of the outcome. If the villager is satisfied, the issue is closed; if the arbitration is unsatisfactory, the issue is transferred to the next level, possibly through the District People’s Court.

**Step 4:** That court and the provincial governor/chairperson of the resettlement committee receive the file. If the outcome still does not satisfy the villager, the case is handed to the final level.

**Step 5:** The provincial court makes a final, binding decision.

Most grievances are expected to be settled by step 3. Although the government takes the lead on developing and operating the GRM, NTPC is responsible for providing sufficient support to:

- develop schedule of implementation (village, district, provincial levels);
- develop organization charts, procedures, flow charts, communication materials;
- identify appropriate GoL counterparts;
- develop terms of references for different positions;
- develop budgets for supply of necessary materials;
- conduct training to RMU/District level counterparts; and
- supervise DWG training of village grievance officers.

VI. ASSESSMENT OF SOCIAL IMPACTS

A. Assessment of Social Impacts

123. An ASI provides a key analysis for preparing an IP planning document. It generally involves analyzing or estimating in advance—and managing the intended and unintended positive and negative social consequences of—a planned intervention and any social change processes induced by the intervention. From the social safeguards perspective, the purpose of an ASI in ADB-supported projects is to inform the design and operation of the proposed projects so that adverse impacts can be avoided and positive impacts can be delivered in a culturally appropriate manner. But if adverse impacts are unavoidable, such impacts could be minimized and mitigated so that the affected people can enjoy the intended positive outcomes.

124. Where screening indicates potential project impacts on IP, SPS requires a field-based ASI, either as part of the overall project feasibility study or as a stand-alone activity. The detail and comprehensiveness of the ASI will be proportional to the complexity of the proposed project and to the nature (short or long term, direct or indirect, positive or negative) and scale of its potential effects on IP.

125. The ASI is preceded by an initial poverty and social analysis, which is a preliminary assessment carried out as part of the overall project feasibility study. The ASI verifies and expands that analysis on the basis of detailed social research. The ASI should also cover IP in the project area and project impact zone (the distinction is discussed in the next section) and assess the nature of the project impacts. Thus, the borrower/client gathers and analyzes new and additional information including the identification of IP communities not covered in the initial poverty and social analysis identifies:

- opportunities, constraints, and risks for all poor and marginalized groups related to the project, whether they are IP groups or not;
- establishes a participatory process for the design of the project;
- prepares design measures to achieve social development outcomes and avoid or mitigate any social risks during implementation.

126. The ASI of a project on IP may be carried out with the project’s overall social analysis (which covers broader social issues).

127. If the impacts and risks on IP are likely to be proportionally worse and significant than those on other affected communities, and such impacts need targeted measures to address, the borrower/client may decide to conduct a stand-alone ASI for IP. This should be identified at screening where possible so that adequate funds and time are allocated to the process.

128. While their content may overlap, an ASI and social analysis have distinct outputs, unless all beneficiaries and affected people are all IP. The results of the overall social analysis exercise

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22 Also sometimes called the social analysis.
are summarized in the Summary of Poverty Reduction and Social Strategy, which is attached to a Report and Recommendation of the President. However, the reporting of the ASI on IP that may be carried out during the overall social analysis or as a stand-alone activity will form an integral part of the IPP.

B. Project Area and Project Impact Zone

129. The “project area” refers to the immediate project sites, such as a power plant, power transmission corridors, canals, access roads, borrow pits, and disposal areas. The “project impact zone” is wider, and denotes not only the immediate project site but also the larger physical area in which project effects (positive and negative) are felt. Examples include areas where IP livelihoods have been usurped by a road bypass or downstream from a dam; originally closed or remote IP areas that will see increasing traffic, an influx of people or higher resource spending as an effect of construction elsewhere. The extent of the impact zone varies greatly by sector and project.

130. The project impact zone might extend some kilometers from the project area. In a project in Western PRC, for example, the ASI for a national road upgrade project (converting a two-lane road to a restricted-access highway) not only included the villages the road passed through, but also those up to 10 km on either side of the road. This was done to measure the impact of restricted road-access on the sheep migration of somewhat distant pastoral Kazakh communities.

131. Also, in a large hydropower project, the impact zone may cover the downstream area or the watershed area where IP may live tens of kilometers from the power plant. In these cases, an ASI would be undertaken as part of both the IPP preparation and the environmental assessment process.

132. Project impacts may also cross national boundaries. The Yunnan Integrated Road Network Development Project (2011-2015), for instance, aims to develop an integrated road transport system that supports sustainable growth in the province. The main project area, close to Myanmar, is inhabited by several ethnic minority groups who straddle both sides of the border. Dai people, for example, are only in Yunnan Province, but are known as Shan in Myanmar, where they number some half a million. Dai and Shan share a similar language, festivals, and cultural traits, living together in some communities or in neighboring communities along the international border.

133. It is therefore important for project planners to ensure that impacts are confined to the ethnic groups and communities within the borders of the borrower/client. Although some projects extend across borders (and thus different IP groups), such as ADB’s Greater Mekong Subregion “flagship” programs, they have been carefully designed and implemented so that components are cooperative, but retain national integrity in their implementation and handling of impacts.
Defining Project-Affected Areas and People: Experience in the Tangguh LNG project, Indonesia

The issue of how to define project-affected area and people is well demonstrated by the experience of the ADB-funded Tangguh LNG project. Direct impacts associated with the physical development of the project were the result of either proximity to the project or access to the bay (port).

Issues revolved around affected-people’s expectations and perceived entitlement to benefits; tribal and community adat and hak ulayat rights and customs; and proximity to and impact from new transport routes.

The project therefore defined a nested hierarchy of project-affected areas and people based on impact and proximity:

**Province:** The overall area reflected project-derived revenue flows and replication of development programs across the province.

**Bird’s Head:** The immediate region had increased direct benefits and risks of induced adverse impacts.

**Regency Area:** The primary focus of the project and the majority of programs supporting participation, benefit, and mitigation of adverse impact were directed at this level. Implicit in this focus is that the regency is the most immediate, direct link between the project and Papuan communities, and that through this focus, the project is seeking to develop viable, sustainable models that may be replicated across the region.

**Directly Affected Villages:** Nine villages directly affected by the Project and which are the subject of more intense development and mitigation efforts.

**Resettlement-Affected Villages:** A subset of the directly affected villages, three villages (a resettled village and two host villages) were specifically and uniquely affected by project development.

The IPP had 14 social development programs targeting these levels to an increasing degree, which were developed to promote participation and benefit of local people, respond to identified project impacts, and respond to specific issues of Indigenous Peoples.


C. Types and Nature of Impacts on Indigenous Peoples

1. Types

134. Impacts can be tangible and intangible. The ASI helps the borrower/client to identify whether a proposed project will have impacts on the following:

(i) IP communities' traditional sociocultural and belief practices (e.g., child-rearing, familial and gender roles and relations, household management, health, education, ritual practices);

(ii) livelihood systems of IP (e.g., food production system, natural resource management, crafts and trade, employment status, savings patterns); and

(iii) land and/or territories or natural or cultural resources within land and/or territories owned, used, occupied by IP, or claimed as their ancestral domain.

2. Nature

135. *Direct and indirect impacts.* The ASI should identify direct and indirect impacts on IP. “Direct impacts” refer to the immediate results of a project’s activities stemming from the project design. “Indirect impacts” are those not a direct result of a project and are often produced at a distance or as a result of complex physical, biological, or socioeconomic interactions. Indirect impacts are often called secondary or tertiary impacts, depending on the number of steps between the original cause and the ultimate impacts.

136. Examples of direct impacts are:

- a new road development project in an area inhabited by isolated or semi-isolated groups causing direct contact to outsiders;
- a highway project reducing travel time but raising highway fatalities; and
• lowered school drop-out rates of IP participating in a writing and reading skills project.

137. Examples of indirect impacts are:

• access for new settlers in a previously inaccessible area that may lead to rapid changes in livelihoods and traditional lifestyles;
• increase in rural wage employment due to hiring of outsiders or nearby villagers for roadside commercial enterprises;
• increase in trafficking of indigenous women in roadside areas;
• spread of HIV/AIDS to the IP region due to arrival of highway traffic; and
• out-migration of youth among IP in search of jobs.

Direct and Indirect Impacts, Nam Theun 2 Hydropower Project, Lao PDR

Nam Theun 2 is a good example of a project where some of the social impacts were not a direct result of project activities but stemmed from environmental impacts. The experience also highlighted the need to consider other impact assessments as a source of information for potential social impacts and a starting point for identifying social safeguards requirements. The criteria used to identify possible impacts of operation on villages and sectors were developed based on an initial environmental impact assessment.

**Downstream of the Power Station**

The downstream impact from the power station was expected to start when the first Pelton unit was operating, increasing with later units coming online, and producing significant inflows to the Xe Bangfai. Water released from the project would modify the natural flow of the river with potentially some positive and negative impacts for the 71 riparian villages on the 175 km section of the river affected by the project.

**Downstream of Nakai Dam**

The impact downstream of Nakai Dam was expected on closure of a diversion tunnel with reduced discharge to the Nam Theun. This flow has limited ability to be regulated by the operator. This reduction in natural flow will have the greatest impact on the 12 km stretch of river between the Nakai Dam and the Nam Phao tributary. Although there are no permanent settlements or established villages along this stretch, some households from nearby villages use it for fishing activities. The impacts may be significant as a large part of the current fish population may be drastically depleted due to the major flow reduction and hence the change in natural habitats. Thirty-seven villages along tributaries of the stretch of the Nam Theun between Nakai Dam and the Theun Hinboun head pond would be affected.

**Upstream of Nakai Reservoir**

The impact upstream of Nakai Reservoir is expected on closure of the diversion tunnel. Migratory fish in the Nam Theun will likely be affected by the closure of the Nakai Dam, although migration is already inhibited by Nam Theun Hinboun Dam. A number of 31 villages located along the Nam Theun or its tributaries upstream of the Nakai Reservoir were to be affected.


138. **Short and long-term impacts.** Potential impacts on IP should be assessed for each key stage of the project cycle including design and planning, construction, operations, and decommissioning or closure. ASI usually identifies short-term impacts occurring during planning and construction.

139. An example of a short-term impact is the social and cultural disruption in communities due to an influx of newcomers during construction of a hydropower plant and its facilities. A long-term impact during construction might include physical displacement of families due to inundation of their land. Further long-term impacts of such a plant are usually felt during post-construction or after operations and even at decommissioning. These impacts may include a total alteration of the production systems and traditional livelihoods of IP in the new settlement area due to their loss of their former agriculture and grazing areas, or restrictions on access to existing forest areas. Long-term impacts are often permanent and irreversible as well.
140. It is a useful practice to include IP (particularly local leaders and scholars) in formulating and implementing the ASI. One study showed, for instance, that “ASI participants “preferred a long-term, cumulative view to assessment of any single impact, and for most IP future aspirations were linked to past impacts.” The study found that long-range, coordinated planning resulted from assessments that involved full participation of IP groups, rather than “ad hoc development”. Borrower/client assessment of cumulative impacts was central for it to understand potential impacts, likely adaptations, reactions, and aspirations.

141. Positive and negative impacts. The objectives of IP safeguards are to design and implement projects in a way that fosters full respect for their identity, dignity, human rights, livelihood systems, and cultural uniqueness as they define them, so that they receive culturally appropriate social and economic benefits; do not suffer adverse impacts as a result of projects; and can participate actively in projects that affect them.

142. Beyond positive and negative impacts, the ASI should also review potential benefits and costs. It should also be able to capture impacts perceived by the IP themselves. Borrower/Client may claim that the project will have positive impacts on them when the interventions are assumed to result in improved socioeconomic status of people in general, yet the IP affected may not appreciate the changes and may be reluctant to take part.

143. It is very important for projects to identify the envisaged positive impacts and ensure that they are critically presented to and discussed by IP communities. This is because positive impacts on people in general may occasionally lead to unexpected negative impacts for these communities, or their perception that they are negative for them. One reason is that even generally regarded positive interventions, as in education, health, and livelihood, may significantly alter their customary way of life, affecting their rights, resource use, cultural integrity, indigenous knowledge, and social support systems.

D. Elements of the Assessment of Social Impacts

144. An ASI—integrated in the project’s social analysis or a separate exercise—has the following elements:

- A review of the legal and institutional framework applicable to IP in the project context;
- Identification and confirmation of the presence of IP in the project area and project impact zone;
- Baseline socioeconomic profile of the IP groups in the project area and project impact zone;
- Assessment of their access to basic social, economic, and community services, including their land and resource use and land tenure system;
- Assessment of the short- and long-term, direct and indirect, and positive and negative impacts of the project on each group’s social, cultural and economic status and differential impacts of the project on their livelihood systems, culture and socioeconomic status;
- Assessment and validation of IP groups vulnerability;
- Gender-sensitive assessment of the perceptions among affected IP of project impacts on them;

Examples of Social Impacts of IPs

- People's way of life—how they live, work, play and interact with one another on a day-to-day basis
- Their culture—their shared beliefs, customs, values and language or dialect
- Their community—its cohesion, stability, character, services and facilities
- Their political or institutional systems—the extent to which people are able to participate in decisions that affect their lives, the level of democratization that is taking place, and the resources provided for this purpose
- Their environment—the quality of the air and water people use; the availability and quality of the food they eat; the level of hazard or risk, dust and noise they are exposed to; the adequacy of sanitation, their physical safety, and their access to and control over resources
- Their health and well-being—health is a state of complete physical, mental, social and spiritual wellbeing and not merely the absence of disease or infirmity
- Their personal and property rights—particularly whether people are economically affected, or experience personal disadvantage which may include a violation of their civil liberties
- Their fears and aspirations—their perceptions about their safety, their fears about the future of their community, and their aspirations for their future and the future of their children.


145. The breadth, depth, and type of analysis for the ASI would be proportional to the nature and scale of the proposed projects’ potential impacts on these communities. The data and information needed for such assessment vary from project to project. Both the numbers of communities included in the ASI and the topics covered would be proportional to the complexity of the project and its impacts on IP.

146. The ASI is typically organized methodologically into five or six phases from scoping to evaluation. For meaningful and culturally appropriate inclusion of IP into the process there are a number of issues that need to be considered. Early in the process, formal hearings, public submissions, or targeted consultation processes can provide meaningful input for scoping the historical, social, geographic, and ecological impacts of the studies. Cultural and language issues need to be addressed at this stage. This may require multilingual publications, use of interpreters in public meetings, and employment of cross-cultural expertise in developing processes that are fair, accessible, and inclusive. Where there is inter-cultural mistrust, it may be necessary to allow sufficient time for trust-building exercises. However, there is a balance between excessively focusing on building trust at the expense of delaying or halting the benefits of the project. 

147. The ASI should pay as much attention to the possibilities for achieving positive economic and social gains as to the mitigation of social costs. It should be iterative and continue long after the consultants and report writers have left. This emphasizes the need to make IP, through their involvement in ASI design and implementation, both object and subject. “Indigenous Peoples can be the engineers, rather than the recipients, of social change.” 25

E. Data Collection and Analysis

148. Many tools and methods (or approaches) can be used in an ASI (see the Reference Materials at the end of this Sourcebook). More than one tool may well be needed—indeed, multiple assessment methods should be used to cross-check and verify data integrity and assumptions.

149. Each approach involves particular methods for collecting and analyzing data. Data collection is based on questionnaires, qualitative or quantitative, with open or closed questions. Some approaches may involve more than one data collection method. A combination of methods is often useful, including quantitative questionnaires based on a sample survey for a broad understanding of a range of indicators and qualitative analysis for critical issues. The data collection methods that are appropriate also depend on the amount and quality of the data already available (i.e., secondary data), and the time and resources available to collect additional data (i.e., primary data).

150. Baseline data on the project-affected communities to explain “without project” socioeconomic conditions can be drawn from secondary sources, supplemented if needed by primary data. All such data should be disaggregated according to significantly affected population groups. A social diversity and gender analysis can be included in the baseline data which identifies the ethnic, gender, language, religion, class, clan, or other social markers that characterize affected communities.

151. This baseline data could also be used to devise monitoring indicators for use during implementation, including indicators suggested by the IP communities themselves. The baseline data may be supported by an in-depth stakeholder analysis that delineates the major social

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groups or institutions to be affected by the project and analyzes how their interests will be affected by the project. It could recommend ways to decrease opposition to and increase support for the project. Other than the affected IP themselves, affected stakeholders may include religious, academic, or business groups along with affected government agencies and other population groups. Such analyses would typically also look at differential power relationships that will affect the participation of different groups in the IP communities planning process.

152. The stakeholder analysis may reveal internal conflicts within the IP communities, which can affect project participation; such as when there are generational divisions or ambivalence toward engaging the outside society. As a subset of a stakeholder analysis, a vulnerability analysis can demarcate segments of the affected population who have limited capability to access, participate, and derive benefits from development opportunities. This may be because of their socioeconomic poverty, institutionalized exclusion, education and health deficiencies, and/or disadvantage due to discriminatory practice.

153. The ASI can be reviewed under four approaches.

1. **Socioeconomic Profile**

154. The baseline socioeconomic profile is a key input to the design of a project, and provides data for monitoring the social impacts of the project on the relevant groups. The profile involves:

- identifying the relevant IP groups and any other populations likely to be affected by the project;
- identifying subgroups that may have different needs and interests; and
- assessing the relevant needs, demands, constraints, and capacities of these groups and subgroups in relation to the proposed project.

155. The profile draws on secondary sources such as statistical records, government reports, and civil society and academic investigations, but as these sources are often incomplete or out of date, or lack specific information on IP, project analysts should review their adequacy and, if necessary, supplement them with primary field data through project-specific surveys or a participatory rural appraisal. The profile’s scope and content may vary, depending on the issues and likely impacts.

2. **Participatory Rural Appraisal**

156. This is an approach and range of techniques to enable stakeholders to analyze their own problems and take part in preparing solutions. The techniques emphasize visual and verbal analysis to ensure that data collection and discussion are transparent and group oriented. The appraisal is often useful to help the borrower/client understand problems faced by IP and what they think the best solutions would be. Some common techniques include: key informant interviews, focus groups, transect walks, participatory mapping and modeling, preference or wealth ranking, oral histories, and trend analysis. They may be combined with the baseline socioeconomic profile or quantitative methods such as household surveys.

3. **Risk and Vulnerability Profile at Project Level**

157. This tool helps identify the most vulnerable groups in the population in the project area; major risks affecting these groups; coverage and effectiveness of existing risk-reduction mechanisms (informal, at household/community level and formal, supported by government, the
private sector or NGOs); and opportunities to reduce risks or mitigate their impact on vulnerable groups through new mechanisms. This profile may be based on a review of secondary data, interviews with key informants, interviews/focus groups, or sample surveys among affected groups.

4. Sampling

158. Spatial sampling is the selection of communities to include in the ASI. It is based on estimating the scope of project impacts and endeavoring to capture a representative sample—usually 10%–20% of each of the project-affected communities and their social groups. Where impacts are expected to be less significant, sampling of 10%–20% of a few (rather than all) communities should suffice. But where impacts are likely to be significant, a purposive selection of communities may be needed, based on: types of impacts expected (e.g., 10%–20% of communities affected by loss of access to water resources, 10%–20% of those hurt by loss of access to forest products, and 10%–20% of those hit by loss of agricultural land); diversity of IP groups in the area; severity of expected impacts (e.g., 20% or even 30% of the communities to be physically relocated, but only 10% of the communities that will not be); and other significant social or situational factors, such as previous experience with similar projects, degree of isolation, and poverty.

F. Reporting on the Results of the Assessment of Social Impacts

159. Reporting the results of the ASI would include a methodology section which provides a discussion of how and on what basis the decision for such methodology was made. If the project design indicates that the project is likely to include the three activities for which the project will require the collective expression of broad community support of the affected IP communities, this needs to be reflected in the report.

160. Regardless of whether the ASI is conducted with or separate from the project’s social analysis, the results of the ASI on IPP are summarized in the IPP.

G. Expertise Requirements for Conducting the Assessment of Social Impacts

161. The SPS requires that the ASI be conducted by qualified and experienced experts. Beyond the qualifications obtained through formal technical training, experience should have been gained by close work with the IP groups under study, or at the minimum in the immediate area or similar groups in other area. Valuable sources of relevant experts are members of IP who have left the communities and undertaken education outside the traditional system, and social researchers from educational and the private sector (such as mining, forestry) institutions and who have been based in the area. The ability for at least one member of the team to communicate in the language understandable to the affected IP is desirable.

162. Although not having the “qualifications” of external experts, some individuals or groups from the communities are encouraged to help the ASI process working with ASI experts. This strengthens the analysis, and can reveal previously unseen impacts.

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26 As in a Lao PDR project where 10%–20% each of Hmong, Tai, Viet, and Brau were sampled.
27 Footnote 1, Safeguard Requirements 3, paras. 30–36.
<table>
<thead>
<tr>
<th>Good Practice Notes—Operating Principles of Traditional Knowledge in an Assessment of Social Impact</th>
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<tbody>
<tr>
<td>• <strong>Provide an open and transparent impact assessment process:</strong> IP have the right to be well informed of the decisions made concerning their traditional lands. Developers and government agencies have a duty to include IP in the decision making process. This obligation may go above the information standard offered to other stakeholders and often will involve ways of communicating that may differ from other stakeholders.</td>
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<tr>
<td>• <strong>Agree on the degree of participation:</strong> Involvement can range from opinion-giving to shared decision-making power. Developers and IP (and where applicable, government agencies) should jointly determine the degree of participation and the avenues of communications up front. Developers should not presume to know how and to what degree IP want to get involved.</td>
</tr>
<tr>
<td>• <strong>Provide meaningful participation and reassurance:</strong> Participation of IP must be meaningful and they should be reassured that their participation is important. Developers should frequently ask the opinions of IP and explain how their opinions have been considered and were incorporated in the impact assessment.</td>
</tr>
<tr>
<td>• <strong>Ensure gender equality:</strong> Women and men play different roles in indigenous cultures and may be responsible for different heritage places and values. It is important to take both perspectives into account. This may require the gathering of traditional knowledge from men and women separately.</td>
</tr>
<tr>
<td>• <strong>Allow mediation:</strong> Recognize that profound differences in perspective often create difficulties between IP and those representing the project. Take a precautionary approach for such instances and agree upon processes for mediating and resolving disputes between parties that may arise during the course of the project.</td>
</tr>
<tr>
<td>• <strong>Include native customs:</strong> Use participatory approaches that take into account traditional customs, etiquette, and decision-making processes. For example, in some societies it may not be possible to contradict an elder in public. Silence then may indicate opposition rather than consent. Some societies reach decisions by consensus and their representatives may not be able to make decisions on the spot.</td>
</tr>
<tr>
<td>• <strong>Provide interpretation and translation:</strong> Traditional and western belief systems require context, language, and skilled interpreters in order for indigenous traditional knowledge to be used effectively and for western knowledge to be fully understood by traditional communities. IP may express things in different ways, e.g. through story telling rather than direct statements. Verify the meaning and understanding of the communications. Interpretation may be required during meetings.</td>
</tr>
<tr>
<td>• <strong>Safeguard against exploitation:</strong> Build in safeguards to protect indigenous communities that are vulnerable to unfair exploitation, e.g. because of inexperience or nonacceptance of money-based systems of resource sharing.</td>
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<tr>
<td>• <strong>Use Traditional Knowledge responsibly:</strong> Keeping traditional knowledge creates responsibility and its misuse can have catastrophic consequences for IP. Such knowledge is ordinarily shared among kin and transmitted personally to an apprentice. Developers must refrain from widely sharing it and from using it to interfere in a community’s affairs.</td>
</tr>
<tr>
<td>• <strong>Use Traditional Knowledge only within its context:</strong> IP will share traditional knowledge with developers only for a specific time and purpose. Developers and governments should not attempt to apply that knowledge to other ecosystems, areas, or projects.</td>
</tr>
<tr>
<td>• <strong>Plan ahead:</strong> Incorporating traditional knowledge and indigenous ways of decision making into impact assessment can take time. Developers should start the process early, ideally before the project approval process.</td>
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</table>

VII. INDIGENOUS PEOPLES PLANNING

A. Planning Requirements for Different Lending Modalities

163. The SPS applies to all projects supported by ADB. Depending on the project, a range of instruments can be used to meet ADB requirements on IP assessment and planning including the IPP, IPPF, ESMS, social safeguard audit, and matrix of environment and social impacts (Table 1).

164. The general requirements in the SPS for policy delivery processes are based on business processes for the preparation and implementation of standard loan projects. For category A or B projects, the borrower/client prepares an IPP to identify and assess project impacts, and ADB staff reviews and clears the IPP before the Board approves the project.  

165. ADB has gradually adopted various finance modalities (other than standard loan projects) to promote inclusive growth and sustainable development in DMCs. These modalities include policy-based lending, sector lending, multitranche financing facilities (MFFs), emergency assistance loans and projects in conflict areas, projects involving financial intermediaries (FIs), and general corporate finance.

166. The following sections discuss the various IP safeguards and planning instruments for different types of projects and finance modalities. (Appendix 5 summarizes their triggers, timing, and disclosure requirements.)

B. Indigenous Peoples Plan

167. An Indigenous Peoples Plan (IPP) will need to be prepared for all projects having either significant (Category A) or limited (Category B) impacts on IP, even if only positive, as it is needed to mitigate the risks that they may not be able to capture the project benefits, improve their participation in sharing benefits, and address the possibility that effects may arise that may reinforce their vulnerability. The borrower/client must submit it to ADB before Management decides to process the project further.

168. The borrower/client initially develops the IPP requirements and detail after screening and categorization. As the project design moves ahead, it starts meaningful consultation and assesses impacts, progressively refining the IPP scope. At this stage it may have to also reassess the IP impact category. (An outline of an IPP is in Appendix 6. Checklists, outlining questions to assess the adequacy of information in an IPP prior to submission are in Appendix 7.)

**Practice Notes—IPP Planning**
- Get organized early and ensure participation by IP groups throughout the preparation
- Re-confirm and update as necessary, IP categorization
- Ensure all the IPP preparation processes (consultation, ASI, etc) are well documented
- Ensure data and tables are accurate and presented appropriately.
- Maintain complete disclosure of documents and information to IP groups throughout preparation
- Refer questions as required early to ADB for supervision and clarification of policy
- Allow adequate time for document assessment and review and any possible revision.
- Revised documents need to be disclosed on ADB website prior to management review meeting.

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28 The process in the previous sections is based on the characteristics of standard loan projects: stand-alone (normally do not include a large number of subprojects); greenfield (new projects rather than existing projects); prepared prior to ADB Board approval (project sites and major activities are identified before Board approval); direct investments (not through financial intermediaries); and project investments (rather than corporate finance).
<table>
<thead>
<tr>
<th>Instrument</th>
<th>Safeguard Requirement</th>
<th>Trigger</th>
<th>Timing</th>
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<tbody>
<tr>
<td>Policy-based lending</td>
<td>Matrix of environment &amp; social impacts</td>
<td>All Category A or B policy-based lending projects</td>
<td>Before ADB Board approval of the loan</td>
</tr>
<tr>
<td>Sector lending</td>
<td>Indigenous Peoples Planning Framework (IPPF) for entire project</td>
<td>Projects with potential Indigenous Peoples (IP) impacts</td>
<td>Before ADB Board approval of the loan</td>
</tr>
<tr>
<td></td>
<td>Indigenous Peoples Plan (IPP) for sample subprojects</td>
<td>Subprojects with IP impacts</td>
<td>Before ADB Board approval of the loan</td>
</tr>
<tr>
<td></td>
<td>IPP for succeeding subprojects</td>
<td>Subprojects with IP impacts</td>
<td>After ADB Board approval of the loan</td>
</tr>
<tr>
<td>Multitranche financing facilities (MFF)</td>
<td>IPPF for entire MFF</td>
<td>MFF with potential IP impacts</td>
<td>Before ADB Board approval of the MFF</td>
</tr>
<tr>
<td></td>
<td>IPP for first tranche</td>
<td>Tranche with potential IP impacts (category A or B)</td>
<td>Before ADB Board approval of the MFF</td>
</tr>
<tr>
<td></td>
<td>IPP for succeeding tranches</td>
<td>Succeeding tranches with potential IP impacts (category A or B)</td>
<td>After ADB Board approval of the MFF but before approval of each tranche</td>
</tr>
<tr>
<td>Emergency assistance loans and projects in conflict areas</td>
<td>IPPF</td>
<td>Category A or B projects</td>
<td>Before ADB Board approval of the loan</td>
</tr>
<tr>
<td></td>
<td>IPP for subprojects</td>
<td>Subprojects/components With IP impacts</td>
<td>After ADB Board approval of the loan</td>
</tr>
<tr>
<td>Financial intermediary investments</td>
<td>Environmental and Social Management System (ESMS)</td>
<td>Investments using ADB funds with anticipated adverse social impacts</td>
<td>ESMS arrangement agreed on before ADB Board approval, ESMS adopted before first disbursement</td>
</tr>
<tr>
<td></td>
<td>IPP</td>
<td>Subprojects with potential significant IP impacts (category A)</td>
<td>After ADB Board approval of the FI project, but before subproject approval</td>
</tr>
<tr>
<td></td>
<td>Social assessment report as required by the government</td>
<td>Category B subprojects</td>
<td>After ADB Board approval of the FI project, but before subproject approval</td>
</tr>
<tr>
<td>General corporate finance</td>
<td>Corporate ESMS Audit</td>
<td>All Category A or B general corporate finance, working capital or equity finance</td>
<td>Before ADB Board approval of finance</td>
</tr>
<tr>
<td></td>
<td>Corrective action plan</td>
<td>Audit identifies non-compliance with ADB safeguards</td>
<td>Before ADB Board approval of finance</td>
</tr>
<tr>
<td>Existing facilities</td>
<td>Social Safeguards audit</td>
<td>Under construction or existing Category A or B project facilities and/or business activities</td>
<td>Before ADB Board approval of the loan</td>
</tr>
<tr>
<td></td>
<td>Corrective action plan</td>
<td>Audit identifies non-compliance with ADB safeguards</td>
<td>Before ADB Board approval of the loan</td>
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</table>
1. Using the Assessment of Social Impacts and Meaningful Consultation

169. An IPP is based on the findings of the ASI on IP as well as the meaningful consultation (and possible GFN). It includes the key findings, conclusions, and recommendations in a section of the IPP (see the Annex to SR3). Enhancement and mitigation measures outlined in the IPP should reflect an appropriate response to the findings of the ASI and be within the specific reach and context of the project.

170. Particularly for projects with significant effects on IP communities, good practice is that the borrower/client confirms the contents and approach of a draft IPP by consulting with the IP communities, accomplished through ongoing, meaningful consultation, and participation. Specifically, it may include workshops with representatives from selected communities or a cross-section of the affected groups identified in the ASI. Such workshops present the main sections of an IPP to the affected people for feedback and discussion. In the case of project activities requiring consent of affected communities—and so need to seek BCS—such consultations help the borrower/client to confirm that this has been obtained. (Section X discusses BCS further.)

2. Ensuring Culturally Appropriate Benefits

171. IPPs need to include accrual of socioeconomic benefits that take into account the specific languages, cultural practices, religious beliefs, and ways of life of the affected people. In a basic education project, for instance, IP would benefit from provision of reading materials in the local language, using examples and illustrations taken from familiar local contexts.

Case Study—The Need for Ethnic Minority Development Plans, Nam Theun 2 Hydropower Project, Lao PDR

The borrower/client decided to prepare and implement ethnic minority development plans (EMDPs) to ensure a higher standard of project implementation.

Such plans were prepared for two geographic impact areas—the Nakai Plateau and the downstream areas impacted by construction—to address culturally sensitive development for project-affected people. The overall aims were to avoid adverse project impacts, and where this is unavoidable, to reduce and mitigate these impacts through fair and effective compensation; significantly improve the livelihoods and standards of living of the ethnic minorities to be resettled on the Nakai Plateau; and ensure that ethnic minorities on the project lands (infrastructure) and in the downstream areas (mainly along the Xe Bangfai) are adequately consulted, fully compensated, and participate actively in mitigation activities.

All the affected people to be resettled on the Nakai Plateau are classified as ethnic minorities in the Resettlement Action Plan; about 10% along the Xe Bangfai and approximately 45% of project lands downstream are also minority groups—hence the need for EMDPs. The EMDPs addressed the requirements of both the World Bank (Operational Policy 4.10: Indigenous Peoples) and ADB (1998 Policy on Indigenous Peoples). The EMDPs identified the specific needs and aspirations through prior consultations in order to create conditions for participatory planning, implementation and monitoring, minimizing potentially adverse effects and encouraging developments that will lead to economic and social improvements.

The EMDPs' material and recommendations are the same as those in the project for a resettlement plan; however, they are much more detailed and provide background material justifying recommendations and conclusions. The integrated approach process is in effect a "mainstreaming" strategy for ethnic minority issues. Culturally sensitive methods of consultation and planning have been used for all communities directly and indirectly affected.


172. In another example, micro-finance and business activities need to be carefully designed to take account of kinship relations among members. In some communities, for instance the West Papuans affected by the Tangguh LNG Project, people of the same clan or the younger

Footnote 1, Annex to Appendix 3, reproduced in this Sourcebook as Appendix 10.
members of the community may find it hard to request payment of goods or services from older members. Such activities thus need to consider social preparation for the community, clarifying the roles and responsibilities of the program’s participants.

173. The borrower/client should tailor benefits to indigenous sensivities, consulting with clan elders before major project activities begin or after communities have followed their customary procedures to reach a decision.

**Case Study—Livelihood Improvement and Benefit Sharing, Song Bung 4 Hydropower Project, Viet Nam**

The project consists of the construction of a 156 megawatt hydropower plant and a 110 meter concrete dam on the Song Bung River located in one of the poorest and most remote parts of central Viet Nam, predominantly inhabited by the Co Tu ethnic minority who has had little contact with the mainstream Kinh people.

The overall objective of a livelihood development program under the project is to restore income and improve livelihoods system of the four affected villages and Pa Pang host village Co Tu subsistence activities. Their tradition and culture as well as the absorptive capacity of men and women were used as the basis for development of a livelihood program.

To improve livelihood system of the affected Co Tu households, they themselves identified key livelihood activities including

- land use planning and development of sustainable use of agricultural land and forest resources;
- an effective and culturally appropriate extension program for agriculture, livestock, and aquaculture;
- development of a village forestry development and management program;
- non-farm activities; and,
- strengthening institutional capacity of Co Tu social organization and capacity building of affected people through community mobilization.

While initial activities are supported by a Technical Assistance grant, it is hoped that future funds for livelihood improvement will be supplemented by the communities’ share in hydropower revenues. Through policy dialogue under the project, ADB and the government agreed on the principle of benefit sharing. Project preparatory resources were allocated to formulate benefit sharing guidelines and to pilot test these in the on-going A Vuong hydropower project.


174. Benefits should also consider traditional but possibly sustainable practices, such as land allocation and land use practices, before introducing new forms of land-based economic or social services in the communities. A livelihood improvement program should first identify livelihood activities already familiar to them, including planting local food trees or vegetables that they themselves will consume, or raising local cattle that do not depend on cattle-feed supplies from outside the area. For physically displaced IP who may depend on food production from forests, it is important to secure their continuing access to the forest area as part of any livelihood improvement program.

175. When extending benefits to IP, the borrower/client should respect the cultural sensitivities of indigenous local communities, especially important rituals and ceremonies that may be required at different points of project implementation. An initiative to provide clean water supplies, for instance, should consider whether the water sources traditionally belong to the same communities, and should avoid taking water from certain springs or certain sites along a river considered sacred. Relocating to a new settlement, too, may need to be preceded by traditional rituals, both in the originating village and the area of destination. There may be certain dates or time of day believed unfavorable for people to move or start building houses or communal facilities.
176. The scale and nature of development benefits included in theIPP vary. It is important to explore the options and to agree on these with the affected IP. While the project has to allocate adequate resources to ensure accrual of development benefits to IP, in large projects the borrower/client should consider offering a comprehensive set of development packages as part of its regional or community development benefits. This approach gives it an opportunity to work with the ministries responsible for IP affairs, if any; or the local government offices working with such issues and in charge of delivering programs for IP. If, on the other hand, the ASI finds that government institutions responsible for interacting with IP do not possess the necessary legal, social, and technical capacities, project planners may consider the provision of capacity development for these agencies.

177. Depending on the project, it is also possible to involve experienced local community organizations, civil society organizations, and IPOs that can serve as intermediaries and that are acceptable to all parties. The IPP should include a clear statement of their roles and responsibilities, funding and resource inputs, as well as a time-bound schedule of activities and a budget.

<table>
<thead>
<tr>
<th>Ensuring Benefits and Minimizing Adverse Impacts in an Education Project, Bangladesh</th>
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<tr>
<td>Positive and negative impact on Indigenous Peoples will largely depend on the sites selected for new schools and those selected for expansion and improvement works. Whenever there are impacts on IPs, to avoid or minimize adverse impacts, and ensure culturally appropriate benefits, the Department of Primary Education will select, design, and implement the physical works adhering to the following principles:</td>
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<tr>
<td>• Fully include IP communities and their organizations in the process leading to identification, planning, and implementation of expansion/improvement works and the location and sites of new schools and dormitories for children and teachers;</td>
</tr>
<tr>
<td>• Carefully screen, with IPs, the required physical works for existing schools, and the locations and sites of new ones, to ensure a preliminary understanding of the nature and magnitude of potential impacts and the alternatives to avoid or minimize any adverse impacts;</td>
</tr>
<tr>
<td>• Where alternatives are not feasible and adverse impacts are unavoidable, immediately work with IPs and others knowledgeable of IP cultures and concerns, to make an assessment of the key impact issues;</td>
</tr>
<tr>
<td>• Undertake the tasks necessary to prepare IPPs with the most appropriate measures to mitigate the adverse impacts and, if opportunities exist, develop measures to improve the general IP communities; and</td>
</tr>
<tr>
<td>• Not begin civil works where the IP communities remain unconvinced about the project or do not offer broad support.</td>
</tr>
<tr>
<td>Source: Ministry of Primary and Mass Education. 2010. Indigenous Peoples Framework Primary Education Sector Development Program in Bangladesh. Manila: ADB</td>
</tr>
</tbody>
</table>

3. Avoiding, Minimizing, and Mitigating Adverse Impacts

178. When the ASI indicates potential adverse impacts, the IPP should indicate the measures for avoiding them. They could include changes in project design or the impact area, or reschedule the sequencing of some project activities to adjust to the timelines acceptable to IP. If adverse impacts cannot be avoided, the IPP should indicate measures, agreed through meaningful consultation with the affected IP, to minimize and mitigate such impacts, and compensate the affected communities.

179. Mitigation measures may include provisions that project activities or sites will not be placed on or hinder access to religiously or economically significant areas; that project-related materials and information will be conveyed using indigenous languages; and that project construction crews demonstrate respect for indigenous customs.

180. In order to address adverse impacts on IP, the borrower/client should prepare an IPP that pays attention to the following:
• Project design should take into consideration the skills and knowledge relating to local resource management of IP. It should draw on the strengths of IPOs and communities, as well as traditional social organizations and indigenous knowledge. It will be useful to identify whether proposed changes introduced by the project are considered acceptable or desirable to the IP themselves. However, while doing so, the IPP designers should be aware that there are often conflicting views within the IP community as to what is “desirable” and, therefore, must carefully consider the issue of intracommunal tensions and conflicts;
• The IPP should address indigenous women’s concerns, whether pursuing specifically women-designated development goals or including special measures to overcome obstacles to women’s full participation in decision making;
• As relevant, the IPP should include measures for recognizing and regularizing customary rights to land and natural resources;
• Where previous experience and knowledge of working successfully with IP is lacking, pilot-scale operations should be carried out and evaluated prior to the execution of full-scale efforts;
• The IPP may need to consider inclusion of capacity building of project staff on understanding safeguard requirements and interacting with IP;
• While ensuring that project affected IP will enjoy some benefits from the project, it should avoid creating dependency on project entities, and instead promote self-reliance among these communities. This could be done by, for instance, preparing a phased-strategy to hand-over maintenance of communal facilities from project proponent to the IP communities.

4. IPP Cost and Budget and Implementation Plan

181. The borrower/client must allocate a budget within the project to shoulder the costs of implementing the IPP. Any actions or measures outlined in the IPP require funding. Indeed, meeting IP safeguard requirements should be covered as a project cost, rather than the project relying merely on existing development programs run by the government. Furthermore, details of the financing source of IPP activities are needed as they may be implemented by different government agencies and may also be part of ongoing government programs in the project area. Commitment of the various agencies to be responsible for running the various programs under the IPP should also be seen in their commitment to finance such activities, and in turn well reflected in the IPP.

182. The IPP budget of a large hydropower project will normally include adequate amounts for establishing and staffing a safeguards management unit (where needed), staff training and capacity building, engaging NGOs or IPOs, and monitoring and evaluating IPP implementation. Contingency funds should be provided for, as well as annual allocations and provisions for modifying the budget.

183. Since IPP implementation requires ongoing consultations with affected IP, the cost of facilitating consultations and the GRM should be considered, especially where impacts are
significant. Experience shows that a number of projects underestimate the costs incurred to conduct consultations with IP communities. This is often because these people may not be easily contacted or gathered as the groups within the communities may live far away from each other in difficult terrains and quite remote areas.

184. An implementation plan—an IPP summary—may be useful. Often using a Gantt chart to aid discussion, it should show the planned and optimum sequence and scheduling of the key events of consultation, communication, and participation; the GRM; capacity building; and construction. It should outline the key preparatory activities, as well as those scheduled during implementation and post completion. It should highlight key milestones or critical paths. A detailed IPP may require project management tools to assess the critical path, ensuring that these activities are given priority funding and attention.

5. **Action Plan for Legal Recognition of Customary Land Rights**

185. The SPS states that “if the project involves activities that are contingent on establishing legally recognized rights to lands and territories that IP have traditionally owned or customarily used or occupied, such as land titling projects, or the acquisition of such lands, the borrower/client will integrate an action plan for the legal recognition of customary rights to such lands, territories, and ancestral domains in the IPP.”

186. Such recognition may take much longer than the life of the project itself. The action plan is normally implemented before project implementation, but can also run with the project itself. The SPS provides that it may take the following forms:

- full legal recognition of existing customary land tenure systems of IP, or
- conversion of customary use rights to communal and/or individual ownership rights.

187. If neither option is possible under national law, the IPP will include an action plan for legal recognition of perpetual or long-term renewable custodial or user rights. In addition, for a project with potential physical displacement impacts, the legal recognition process requires BCS (Section 10).

188. Efforts to provide legal recognition should not have adverse impacts that outweigh the benefits. For instance, land tenure regularization may subject IP to taxation or land speculation. They also need to consider customary law and practices, and support local or other efforts to strengthen land rights. Collective tenure may be an alternative to (or complement) tenure. It is important to be aware of, avoid or have a process to manage the creation of conflicting claims. Where possible such legal regularization should be an integral component of wider planning systems such as water policy, climate change investments and food security, livelihood, and governance programs.

6. **Submission of an IPP to ADB**

189. The borrower/client is required to submit the first draft of an IPP/IPPF to ADB, which reviews the document and adds its comments. The borrower/client then incorporates these

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30 Footnote 1, Safeguard Requirements 3, para. 27.
comments and resubmits the document to ADB for concurrence. Although the SPS only requires review prior to the Management Review Meeting, as good practice, a minimum of one week should be allowed for each ADB review. Once ADB concurs, the borrower/client needs to disclose the document in its own country and to project-affected people (Section VIII). ADB also puts the document on its website, at least 5 working days before the Management Review Meeting.

190. At least 4–5 weeks (preferably longer) should be allowed from the time ADB receives a draft IPP to the time that ADB reviews the final document. Since many DMCs may not be particularly familiar with the requirements to prepare an IPP, including timing and review processes, and since such documents may not be formally required under their national policy and legal framework, ADB should advise the borrower/client of the procedure at a very early stage.

7. **When a Stand-Alone IPP May Not Be Needed**

191. While an IPP is required for category A and B projects, a stand-alone IPP may not have to be prepared when a project meets two criteria: IP are the sole or overwhelming majority of direct project beneficiaries, and when only positive impacts are expected from the project.

192. This situation may happen, for instance, when a water and sanitation project brings benefits to the local people who are overwhelmingly IP. Another example is when an education or health project is specifically implemented in certain provinces or districts highly populated by IP or ethnic minorities.

193. Although integrating the elements of an IPP into the project design as a whole eliminates the need for a stand-alone IPP, the project must still address and incorporate key elements of an IPP, specifically a summary of ASI results, and a plan for continuing meaningful consultation, accrual of beneficial measures, and capacity building into the project feasibility study or similar document.\(^{32}\)

8. **Independent Advisory Panel**

194. Projects that ADB deems highly risky or contentious or involve serious, multidimensional, and generally interrelated potential social and/or environment impacts, are “highly complex and sensitive” (*Indigenous Peoples Impact Categorization, Appendix 4*). On such projects, SPS requires that the borrower/client engage an independent advisory panel (IAP) during project preparation and implementation.\(^{33}\) One example is the Nam Theun 2 Hydropower Project, which had significant physical displacement of IP and severe livelihood disruption.

195. The purpose of the IAP is to objectively verify and report on compliance with ADB and the host country’s safeguard requirements; and increase the ability of the borrower/client to document, manage, and reduce risk exposure to environmental and social issues. The IAP also provides technical expertise to help the borrower/client to take timely actions to address complex and controversial issues, and to achieve its social and environmental safeguard plans. When the project involves IP, good practice is for the IAP to include members with expertise or experience in IP safeguards. Additionally, members could be recognized national or subregional leaders from business, law, or major institutions. A good example of an IAP is the board of the

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\(^{32}\) See Appendix 6.

\(^{33}\) Footnote 1, Safeguard Requirements 3, para 19 and para 56.
West Papua, Tangguh LNG Project which at one stage had an ambassador, a state senator, and a national religious leader of IP origin.  

196. The overall role of an IAP is to provide an objective, balanced, and impartial view on the overall project preparation and implementation processes, including identification of potential issues as they arise that concern social and environmental impacts; and independent advice to facilitate decision making on complex and controversial issues to ensure the actions taken regarding such issues comply with the safeguard requirements.

197. The IAP’s terms of reference are project specific but normally require it to do the following:

- establish a robust and transparent site visit and monitoring process;
- create a well-defined reporting process under which the IAP has ultimate responsibility for final content;
- establish and abide by clear operational protocols that define the relationship of the IAP to other project stakeholders and allow the IAP supervisor and/or monitor to avoid conflicts of interest; and
- submit reports to the borrower/client and ADB, making them available to the public.

198. The IAP is appointed and contracted by the borrower/client in consultation with ADB. ADB may recommend panel members. The project may be subject to additional direct oversight from ADB, government regulators, and civil society organizations.

9. Institutional Arrangements and Capacity Building

199. To effectively implement IPP activities, there has to be solid preparation by the borrower/client to ensure adequate capacity and commitment of the agencies responsible for IP planning and activity management. Although institutions may exist specifically to administer IP or ethnic minority projects and activities, local capacity often needs to be built. This can be through training in existing agencies, or a new, separate safeguard unit (see next paragraph). While the borrower/client is responsible for setting up and adequately funding such endeavors, it is for ADB to assess the adequacy of the borrower/client’s institutional capacity and provide support for developing capacity.

200. For some projects, IP safeguards can be overseen and managed through a safeguard specialist or a safeguard unit attached to the project management unit. The size and complexity of the project determine whether an individual or a project unit with several specialists and other staff is required.

201. It is often better to place safeguard specialists/units in existing IP institutions to enhance knowledge transfer, while maintaining an integrated management link to the project. During

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project preparation, the borrower/client and the ADB project team should decide whether a social safeguard unit is required and how it should be integrated within the existing government institutions and the proposed project management structure. When major impacts on IP are related to involuntary resettlement, the IPP may well be implemented by the same unit carrying out the resettlement plan.

202. IPOs and groups should, as well as government structures and NGOs, be included in the IPP management and IP process, ideally continuing the meaningful consultation and participation begun early on, possibly incorporating the mechanisms developed for grievance redress, information disclosure, and ongoing monitoring.

203. It is important for the borrower/client to assess and develop activities that will improve IPOs’ capabilities, boosting the chances that they will be successful in project undertakings. The project, ADB, and the borrower/client may need to provide funding and technical assistance (TA). Capacity-building programs should aim to extend capabilities beyond the project life. This may entail programs that enhance structural and functional changes within local institutions, as well as sustained funding commitments.

204. A good example of institutional and capacity building comes from the Nam Ngum 3 Hydropower project in the Lao PDR. Due to the complexity of the project, and the need to obtain BCS from a range of IP communities, the project established a social safeguards team comprising experienced local and international staff; local IP staff for consultation and participation activities; a staff consultant to provide compliance supervision; and an independent monitoring agency to ensure transparency and oversight. Each was matched with counterparts throughout the national government’s project implementation institutions.

C. Indigenous Peoples Planning Framework

205. An IPPF is required before ADB Board approval for projects delivered through four financing modalities—sector lending; MFFs; emergency assistance loans and projects in conflict areas; other finance modalities including projects where subprojects or project components are prepared after ADB Board approval—because these projects have many subprojects or components that will only be identified after ADB Board approval:

206. An IPPF guides the screening and categorization, assessment, planning, institutional arrangements, and other processes to be followed for identified components or subprojects during implementation. (Appendix 8 contains an IPPF outline. Checklists on questions for assessing the adequacy of information in an IPPF are in Appendix 9.)

207. Successful implementation of IP safeguards relies heavily on the borrower/client’s capacity, commitment, and understanding of ADB safeguard requirements. Establishing borrower/client implementation capacity, coupled with ADB due diligence review, is crucial. To determine whether applying safeguard frameworks is appropriate, ADB will assess the borrower/client’s capacity to manage environmental and social impacts and risks and to implement national laws and ADB requirements. If gaps exist between ADB requirements and country laws, or where gaps in borrower/client’s capacity are apparent, the safeguard frameworks should include the details of the specific gap-filling measures to ensure that policy principles and safeguard requirements are achieved.

208. Sector lending. In addition to an IPPF, one or more sample subprojects will be appraised to establish good examples for IP safeguards and planning for succeeding subprojects. For such a subproject (there may be more than one), the borrower/client is required to prepare an
IPP before ADB’s Board approves the sector loan. For any subproject with IP impacts prepared during implementation of a sector lending project, an IPP should be prepared by the borrower/client and reviewed by ADB based on the IPPF that ADB and the borrower/client have agreed on.

209. **MFFs.** An MFF is not screened and categorized according to its impacts on the whole facility but rather on the impacts on each tranche. An MFF can finance multiple projects under an investment program in one or more sectors, or large stand-alone projects with substantial and related individual components with long-term implementation plans. It can also finance slices of long-term contract packages in such investment programs or large stand-alone projects. For any category A or B tranche, the borrower/client prepares an IPP; for any financial intermediary (FI) tranche, it prepares an ESMS.

210. **Emergency assistance loans.** ADB’s Disaster and Emergency Policy (2004) allows procedural flexibility in applying safeguards requirements, although the borrower/client needs to justify any deviation from the general procedures and the emergency loan processing schedule.

211. **Projects in conflict areas.** Where the borrower/client cannot formulate standard IPPs in time for ADB Board approval, it may submit an IPPF in lieu of safeguard plans for project approval. It needs to justify deviation from the general procedures. The IPP prepared based on the approved frameworks are formulated and approved before any project-related physical activities start.

212. **Subprojects or components prepared after ADB Board approval.** If these have likely limited impacts on IP, the borrower/client may submit an IPPF instead of safeguard plans, but must justify any deviation from the general procedure. The environment and social assessments and safeguard planning documents are formulated and approved before any physical activities start in the specific section of the subproject or component assessed to have IP impacts; civil works can start in other sections with no such impacts.

D. **Environmental and Social Management System**

213. While standard loan projects are direct investments, loans through a FI are indirect. ADB provides funds to eligible FIs for onlending, at their credit risk, to the final borrower/client for eligible subprojects. As ADB has no direct supervision over these subprojects, it holds the FI accountable for managing the environmental and social risks of its subprojects.

214. An FI is required to have in place or establish an appropriate ESMS commensurate with the nature and risks of its likely future portfolio, to be maintained as part of its overall management system. Before ADB Board approval, ADB and the FI agree on the arrangement for the ESMS and the procedure for subproject review by ADB. An ESMS arrangement satisfactory to ADB is to be adopted by the FI before ADB’s first disbursement for financing subprojects. Any Category A or B subprojects require an IPP submitted before subproject approval. (Appendix 10 presents an ESMS outline.)

215. **General corporate finance.**

   This requires a corporate ESMS audit of the borrower/client and the company’s past and current performance against ADB requirements. If the audit finds any issue, including that on IP safeguards, a corrective action plan is prepared that specifies

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35 General corporate finance refers to loans and/or investments to a corporate entity that are not earmarked for implementing specific subprojects. For corporate finance related to the implementation of specific subprojects, the requirements for stand-alone projects apply, in addition to establishing and maintaining ESMS.
time-bound measures to achieve and maintain compliance with the objectives, principles, and requirements of the SPS within a reasonable time. This action plan will be incorporated into the client's corporate ESMS. The audit and, if necessary, the corrective action plan are required before the ADB Board gives its approval.

E. Social Safeguard Audit

216. Particularly in the private sector, ADB sometimes supports a project with existing or under-construction facilities, but they may have been built without adequate safeguard measures. A project that uses such facilities require a social safeguard audit to determine whether they follow ADB safeguard principles and requirements for the borrower/client, and to identify and plan appropriate measures to address compliance issues.

217. Where noncompliance is identified by ADB, a corrective action plan will be prepared by the borrower/client and agreed by ADB. The plan will define remedial actions, the budget for these actions, and the time frame for achieving compliance. A social safeguard audit and, if necessary, the corrective action plan are required before the ADB Board gives its approval.

218. If a project involves an upgrade or expansion of existing facilities that have the potential to generate IP impacts, an ASI on such expansion and planning requirements under SR3 applies, as well as the social safeguard audit.

Case Study—Addressing Project Impacts through a Plan and Framework, the Tangguh LNG Project

Two related Indigenous Peoples' safeguards documents were prepared for the Project. The first was the Integrated Social Program—the equivalent of an Indigenous Peoples Plan—to address expected IP and other social development issues during project construction and transition to project operations (2006–2010).

The Integrated Social Program set out principles for informing and promoting participation of local IPs in project preparation and implementation; delivering benefits to local IPs; and safeguarding them from adverse project impacts. It identified the main project impacts and risks for IPs.

The program was prepared within the context of the Papuan Special Autonomy Law (1999), which obligates the local government to acknowledge, protect, and develop the rights of indigenous communities. Enabling legislation has been passed for formation of a Papua People's Assembly (Majelis Rakyat Papua), which has indigenous representation.

The second document was the Indigenous Peoples Development Framework (IPDF), which addressed unanticipated IP issues and other possible social development issues over the lifetime of the project. The IPDF was required in recognition that the project lifespan and project loan maturity extended beyond the current Integrated Social Program planning period, and that the long-term socioeconomic environment was unpredictable.

The IPDF had the following components: a diversified growth strategy developed with UNDP and the government to reduce impacts of population influx; to support development of a regional development plan and to increase the capacity of local government; a community mobilization program developing small social and physical infrastructure projects in nine villages in the immediate vicinity of the project; a basic health program focusing on maternal and child health, malaria control, tuberculosis detection and treatment, and HIV/AIDS prevention; a community-based security network; microfinance and an SME development program (with USAID); proposals to strengthen adat institutions and local civil society; and definitions of mechanisms and forums to facilitate information dissemination, consultations, and grievance and dispute resolution.

According to the IPDF, after 2010 the project and the government would provide ongoing support to socioeconomic development initiatives based on an assessment of needs and risks.


F. Matrix of Social Impacts

219. The SPS requires that a matrix of social impacts be prepared for policy-based lending projects to discuss the major social implications of the proposed actions. Unlike standard loan projects, such projects are not linked to specific project activities but policy reforms that have sector- and economy-wide impacts.
Identification of Potential Adverse Effects of the Dali-Lijiang Railway Project

The assessment of social impact observed that along with the benefits of economic development expected as a result of the project, there were also some expected indirect adverse impacts. It noted that culturally appropriate actions were needed to avoid or mitigate the issues identified during consultations with local people, local officials, and NGOs.

<table>
<thead>
<tr>
<th>Identified Potential Adverse Impact</th>
<th>Impact on Ethnic Minorities</th>
<th>Mitigation Measures (existing or proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Increased interaction with tourists, entrepreneurs, and workers from outside</td>
<td>Project Area</td>
<td>Boundary of Analysis</td>
</tr>
<tr>
<td>1.1 Weakening the cultural realm of ethnic minorities due to “cultural shock”</td>
<td>Bai and Naxi have already adapted to this influx (but there are still some concerns); Lisu and Yi are less affected because they live in more remote villages</td>
<td>Mosuo, Pumi, and Zang people are vulnerable, but this has already become evident, so the cumulative impact of project is not considered significant</td>
</tr>
<tr>
<td>1.2 Exposure to infectious diseases and drug addiction</td>
<td>All people, but current infection rates are not high</td>
<td>All people, and many are vulnerable due to lack of education and awareness</td>
</tr>
<tr>
<td>1.3 Exposure of young people to behavior that conflicts with traditional society and weakening of traditional family structures</td>
<td>Mainly in urban centers of Dali and Lijiang</td>
<td>In tourist areas and major towns, ethnic minorities are already exposed to these threats</td>
</tr>
<tr>
<td>2. Land acquisition for the railway and station development</td>
<td>Impacts are mainly on Bai and some Naxi and Lisu peoples</td>
<td>No direct impacts</td>
</tr>
<tr>
<td>3. Destruction or deterioration of cultural relics and sites through increased tourism</td>
<td>Lijiang old city, Snow Jade Dragon Mountain, and Erhai Lake</td>
<td>Lugu Lake, spiritual mountains and rivers, monasteries</td>
</tr>
<tr>
<td>4. Competition for employment with outsiders; competition between local and outside entrepreneurs for new businesses</td>
<td>Bai has done well, Naxi less so</td>
<td>Zang, Mosuo, and others raised concerns</td>
</tr>
<tr>
<td>5. Increased economic development and urbanization—higher cost of living</td>
<td>This has already happened in Dali and Lijiang; it could in Heqing, too</td>
<td>The area is still quite remote and has small towns with few industries, other than tourism and services</td>
</tr>
</tbody>
</table>

Case Study—Impacts and Mitigation Measures, Song Bung 4 Hydropower Project, Viet Nam

The project consists of the construction of a 156 megawatt hydropower plant and a 110 meter concrete dam on the Song Bung River located in one of the poorest and most remote parts of central Viet Nam, predominantly inhabited by the Co Tu ethnic minority which has had little contact with the mainstream Kinh people.

**Impacts.** The Project will result eventually in the physical relocation of four Co Tu villages comprising 206 households; and the loss of a significant portion of agricultural land, as well as the commune center itself, which houses the school and health center. The Project will also affect the agricultural lands of three other communes with majority Co Tu populations through land acquisition for construction sites and the transmission line associated with the Project.

**Culturally Appropriate Consultations.** Initial consultations involved sample communes and villages in the river basin and focused on the country’s development plan. These formed the strong foundation of an extensive and detailed participation strategy that was implemented during the preparation of the Resettlement and Ethnic Minority Development plan, covering project-affected villages and other stakeholders. The overriding principle of these consultations was cultural appropriateness, which promoted inclusiveness and openness, active participation, gender sensitivity, and meaningful participation in the design of mitigation measures. Outputs from the consultations in the villages included informed decisions on the location of resettlement villages and the permission of the host community (Pa Pang) to receive the relocated villagers, house design, village layout, and components of the livelihood development programs.

**Mitigation Measures.** A primary school will be built in each village. The commune center will be reestablished in Pa Dhi and a subcenter will be established in Pa Pang. A secondary school and health center will be built in Pa Dhi and Pa Pang. The host population of Pa Pang will also receive benefits including schools, health center, lands, water supply, and an irrigation system. The resettlers and host population have undertaken detailed village planning and design. For example, the final position and orientation of each community building was determined in consultation with the affected communities prior to construction. House construction will be supported from the project team. New access roads and village infrastructure facilities will also be built by the project.

**Key Features.** The impact assessment and mitigation measures were enhanced by:
- addressing the important issue of culturally sensitive development for project-affected persons;
- significantly improving the livelihoods and standard of living of the ethnic minorities and other vulnerable project affected persons;
- providing effective safeguards against adverse impacts; and,
- ensuring that the affected persons had been consulted fully and participated in the decisions affecting them

The project ensured that the Resettlement and Ethnic Minority Development Plan will be implemented in accordance with the arrangements agreed upon by the project proponents and the affected villagers. It was agreed that the village level resettlement and development group will be established within each affected village; headed by a village leader; and include health, elders and women’s representatives, as well as community facilitators.

**The village level resettlement and development group** undertakes the following tasks:
- Act as a lead group in the village and communicate any opinion or request from the village community to project staff and the project resettlement implementation unit;
- Monitor site development planning activities and report back to the affected communities on a regular basis;
- Collect preferences on housing and other related activities on Site Development Plan from each household;
- Conduct village meetings to inform all members of the community about their entitlements and mechanisms for grievances. Separate meetings will be conducted for men and women;
- Coordinate with the project resettlement unit for relocation logistics;
- Solve conflicts related to resettlements and compensation or inform project staff and resettlement implementation unit about complicated conflicts which need to be solved at higher levels;
- Assist project staff and the resettlement implementation unit to carry out participatory monitoring and evaluation during the implementation of the resettlement project;
- Assist the resettlement implementation unit to carry out the livelihood restoration activities at village level;
- Provide project staff with regular feedback on the resettlement activities;
- Assess the demands of the community for information to support the resettlement process and inform the resettlement implementation unit; and
- Report regularly to all affected persons on the status of site development planning, resettlement activities, and livelihood development.

Source: ADB. 2008. *Song Bung 4 Hydropower Project* (Loan 2429-VIE approved on 26 June), Manila.
Case Study—Ensuring adoption of culturally appropriate measures—Nam Theun 2 Hydropower Project, Lao PDR

The planning and implementation of the Nam Theun 2 Hydropower Project provides a rich experience for identifying culturally appropriate measures to address identified issues concomitant to project impacts. The Ethnic Minority Development Plans (EMPD) for the project set down specific issues and culturally appropriate measures:

- **Livelihoods.** The EMPD presented both similarities and differences of the different communities in terms of food security and livelihood. The approach was particularly important for the small ethnic groups that do not have the same technology and skills as other groups, and could have been further marginalized if specific interventions were not devised, such as additional training and support during a transitional period.

- **Land Rights.** The EMPD addressed community land tenure security and long-term rights to resources issues raised by communities. Legal documents, land certificates, and the introduction of necessary legislation and decrees aimed at securing land and resources on the Nakai Plateau for resettlers and guarding against exploitation by outsiders.

- **Relocation and Site Selection.** Relocation of villages within or as close as possible to traditional administrative, cultural, and spiritual boundaries in order to retain familiarity with the land and its resources and to avoid cultural alienation and social disruption during resettlement and rehabilitation. Specific arrangements for a separate Vietic community and relocation of Tai groups to a village in Bolikhamsai were planned.

- **Respect for Local Traditions.** The EMPD ensured that the relocation process integrated with a number of cultural aspects. These include ritual and ceremonies for local deities, territorial deities, and ancestors; village layout set according to kin relations and clan membership; house design; and reestablishment of ritual and cultural centers and organizations in the new villages or replacing those affected by the project.

- **Inclusive Consultation.** Consultation and participatory planning were more intensive and considered a key feature of the EMPDs and the Social Development Plan. Concerns and aspirations of the affected people were incorporated in project planning and have influenced project design, including relocation sites, livelihood options, and mitigation alternatives.

- **Representation through Traditional Organizations.** The EMPDs stressed the roles and responsibilities for traditional organizations and individuals in order to facilitate the mitigation and resettlement process at the village and household levels. Formal leadership positions and informal leaders and ritual specialists were key stakeholders in planning and implementation of EMPD and the Social Development Plan. The EMPD also pushed for greater representation of small ethnic minority groups in decision making bodies at the district level.

- **Culturally sensitive Capacity Building.** Capacity building and institutional strengthening of local institutions through training and support was pursued during planning stages to ensure for a more culturally sensitive approach to implementation. The EMPD also provided for engaging a social development and ethnic minority expert in the project.

VIII. IPP IMPLEMENTATION ISSUES

221. A key step for successful IPP implementation is to ensure that the executing/implementing agency in the case of sovereign operations, or the client in the case of non-sovereign operations, is ready. These entities have to be adequately staffed and equipped before implementation begins. For infrastructure projects, the civil works schedule must be synchronized with land acquisition and relocation of the affected IP. Other key steps are to update, when necessary, the IPP based on detailed design, and to allocate funds for program delivery and ongoing consultations with the affected communities. For health, education, and natural-resource management projects, coordination between the executing/implementing agency or the client on one side and other agencies that render services to IP on the other is also important, from the start.

A. Updating the IPP during Implementation

222. The IPP may have to be updated after detailed project engineering design and if there are changes in the scope of project work affecting IP during implementation. Detailed engineering and technical designs for tendering and/or construction under civil works contracts may be finalized after ADB approval of the loan. In such cases, the IPP may need to be updated to account for any changes. The updates must be approved by ADB before civil works contracts are awarded or similar milestone events occur, and will be put on ADB's website. The updated plans also need to be disclosed to the affected IP.

223. Similarly, a major change in project scope requires an ADB project team to rescreen a project for IP impacts and possibly recategorize it, and if it becomes category A or B after screening, the borrower/client is required to prepare a new or updated IPP, submitting it to ADB for review and posting on its website. It must also disclose relevant information on the changes to the affected IP.

B. Addressing Unanticipated Impacts

224. The borrower/client has to be alert to the need to change project dimensions as they affect IP throughout the cycle. Unanticipated impacts may occur when newly identified IP groups in the project area are found affected or when new types or scales of impacts from project activities are detected. The former may happen precisely because certain groups may come forward and claim to be IP.

225. In such cases, the project authorities need to assess the significance of impacts and identify measures to mitigate them, ensuring that benefits accrue to the affected communities. The borrower/client should regularly check for such unforeseen impacts and document them in the project’s periodic progress reports. This information can be fed back into the project’s management and decision-making structure, particularly on possible needs for consultations or a new or updated IPP.

C. Capacity Development

226. To facilitate the borrower/client’s effectiveness to address IP safeguards, DMCs can request capacity development assistance from ADB, which could include one or more of the following:

- Strengthen local legislation to establish legal recognition of the customary or traditional land tenure systems of IP;
• Enhance participation by IP in the development process by incorporating their perspectives in the design of development programs and poverty reduction strategies and providing them with opportunities to benefit more fully from development programs through policy and legal reforms, capacity building, and meaningful consultation, participation, and empowerment;
• Support the development priorities of IP through programs developed by governments in cooperation with IP;
• Address the gender and intergenerational issues that exist among many IP, including the special needs of indigenous women, youth, and children;
• Prepare participatory profiles of IP to document their culture, demographic structure, gender, and intergenerational relations; and social organization, institutions, production systems, religious beliefs, and resource use patterns;
• Strengthen the capacity of IP communities and IP organizations to prepare, implement, monitor, and evaluate development programs;
• Strengthen the capacity of government agencies responsible for providing development services to IP;
• Preserve and respect indigenous knowledge, including strengthening intellectual property rights; and
• Facilitate partnerships among the government, IP organizations, civil society organizations, and the private sector to promote IP development programs.

227. ADB has provided TA to its DMCs to strengthen their capacity to address IP issues. Since early 2000, ADB has financed a series of TA projects and conducted IP workshops in Bangladesh, Cambodia, the PRC, Indonesia, the Philippines, and Viet Nam. Reports on “Indigenous Peoples, Ethnic Minorities and Poverty Reduction” were published on Cambodia, Indonesia, the Philippines, and the Pacific Region. ADB also implemented a TA on “Health and Education Needs of Ethnic Minorities in the Greater Mekong Region” (ADB 2001). A 2008 TA on “Targeted Capacity Building for Mainstreaming Indigenous Peoples Concerns in Development” conducted a series of training workshops in Bangladesh, the PRC, and the Philippines, and came up with a training manual for the three countries and a toolkit for the education sector, transport sector, and natural resource management. An opportunity for further support is provided by ADB’s ongoing TA 7566 for Strengthening Country Safeguards Systems.

Practice Notes—Capacity Building on IP during Implementation
• Successful and productive capacity building initiatives are developed with direct IP participation and input.
• Be proactive and encourage a sense of “local ownership.”
• IPs best know their needs, strengths and weaknesses.
• Participatory capacity building approaches can allow IPs to operate at their best.
• Any activity must be culturally suited to IP (e.g., language, content, timing, people involved).
• Local institutions, processes and structures should be respected and, when appropriate, strategies to build on these should be considered.
• Training initiatives should be participatory and “hands on.” The purpose must be practical and relevant, and must be seen as such by participants and the organizations they represent.
• Transparency and “good process” are very important.
• A conflict resolution perspective is often helpful given that power struggles are not uncommon within and between communities/organizations, or between IPs and relevant government agencies

Cultural sensitivity implementing the Dali Lijiang Railway Project, PRC

During the implementation stage, all contractors were required to “promote good relations with local people”. An offer of a cigarette, a greeting or other small gesture of help would be greatly conducive to securing agreement and help. On the other hand, if villagers felt not well-respected, things could become very difficult.

The contractor in Songgui Town gives a good example. When a local householder found that one of his walnut trees was on the alignment and had to be cut down, the contractor used an excavator to relocate the tree. When villagers felt they needed help in improving their road, the contractor tried to help in all possible ways. Whenever ethnic minority people were celebrating traditional holidays or festivals, the contractor always sent representatives with small gifts to participate. When local people were fully happy and felt respected, good relations made it easier for contractors to discuss and reach agreement to cope with the many issues involved in construction.

Another contractor in Fengyi, Dali Prefecture strongly believed that everything should strictly follow the rights and obligations set out in the contract. As the terms of all compensation and other reimbursements were clarified in the contract, there was no need to have much contact with local people. One day, an explosion damaged a house and infuriated the local people. They blocked all access to the construction site and brought the work to a halt. It was only when the local government, including the Ethnic Affairs Bureau, came to reconcile the parties that construction could continue.

“Damage to the house was not serious. If the contractor had had better communication with the local people and mutual trust had been established, then a simple explanation with a guarantee of repairing the damage would have satisfied the local people. The problem is that local people did not trust a contractor with whom they did not have good relations”, an official explained. After the event, the contractor learned to promote relations with the local people in a culturally appropriate way, so that the construction work was implemented smoothly.

Such good practice maintaining good relations with local people has not been part of the previous culture of contractors. They might or might not do so, depending on their understanding of the context and what was deemed necessary. Under ADB safeguards policy, it was a requirement. A senior official from Western Yunnan Railway Company explained that ADB safeguard policy requirements seemed quite complex, but “if we get used to them, things go more smoothly than expected because the good planning and assessment significantly reduce the problems we may encounter in project implementation”.

IX. IPP IMPLEMENTATION SUPERVISION AND MONITORING

228. The SPS requires the borrower/client to monitor and assess the IPP activities and outcomes and determine whether its objectives have been achieved. Successful IPP implementation depends—in addition to good management—on close monitoring by the borrower/client, tight supervision by ADB, and verification of monitoring data by external experts. This enables the borrower/client to take corrective measures.

229. It is therefore important that the monitoring activities of an IPP be adequately budgeted, conducted by personnel who are well qualified and experienced, and integrated in the project’s planning and management processes.

A. IPP Implementation Monitoring by the Borrower/Client

1. Objective

230. The objective of monitoring is for the borrower/client to identify IPP implementation problems and successes as early as possible so that it can adjust arrangements and fix problems, thus ensuring—or improving—quality. Monitoring is the responsibility of the borrower/client and the steps involved should be fully outlined in the IPP/IPPF. The borrower/client should review the results of monitoring and take follow-up actions and report progress to ADB.

231. As good practice, an arrangement for IPP monitoring may include the following:

- Allocate responsibilities for monitoring within the Project Management Unit and local IP liaison offices. For large projects, a special monitoring unit or group is desirable. For projects involving different agencies or levels of government, a coordination plan is necessary. Inclusion of the State Ethnic Minority Committee or Agency is encouraged.
- Set responsibilities for specific tasks, including data collection, data analysis, verification, quality control, coordination with related agencies, preparation of reports, submission of reports to decision makers and ADB, and review and action on reports.
- Establish the method to be used to collect and analyze data.
- Detail the resources required for field survey work and for record keeping, including the provision of IP specialists, preferably with a background in social sciences.
- Identify any requirements for building capacity and skills in monitoring, including the need and budget for a training plan.
- Lay down the time frame for data-collection efforts and the preparation and submission of reports.
- Set the budget for monitoring, reporting, and evaluation.
- Provide for establishment of a database and a management information system.

232. The scope of monitoring and reporting is commensurate with project risks and impacts on IP. The borrower/client submits to ADB semi-annual IPP monitoring reports. Typically, the safeguards implementation is monitored until loan closure or issuance of the project completion
report/extended annual review report. However, since many IP impacts, especially indirect impacts, may occur once the project is operational, the borrower/client is encouraged to continue monitoring IP impacts for 2 years after loan closure or until any major concerns have been reasonably addressed. The project’s semi-annual IPP monitoring reports from the borrower/client should document:

- the process and the extent of implementing the IPP,
- status updates on the IPP monitoring indicators, and
- any unforeseen changes or impacts on IP from the project, so that these data can be fed back into the project’s management and decision-making structure.

233. For projects that ADB regards as highly complex and sensitive, ADB requires quarterly monitoring reports. The monitoring reports must be disclosed to the affected persons and ADB posts them on its ADB website. ADB’s monitoring and supervision activities are carried out on an ongoing basis until a project completion report/extended annual review report is issued.36

234. IPP monitoring reports should address the IPP’s culturally appropriate indicators to measure project outputs and their impacts, as well as the schedules for feedback and reporting of monitoring results to affected IP communities. Many of the monitoring criteria have already been developed during the ASI and used to form baselines. A minimum but sufficient number of indicators should be used, each contributing to or measuring a process or result. (Projects often paste lengthy lists of monitoring indicators without thought as to how or why they are being collected, and whether will they add value to the ability of those working on the project to understand and improve outcomes.)

235. The monitoring should be participatory, paying close attention to indicators based on IP development objectives as well as those of outsiders. In an education project, for example, on one side the indicator may be satisfaction among indigenous parents on whether schooling alienates their children from their own customary identity, in contrast to the outsiders’ number of primary school graduates.

236. The borrower/client could also do field inspections. As with entities selected to conduct the ASI, monitoring units outside the project’s own bureau or department helps avoid conflicts of interest. Monitoring entities should be staffed by experienced social scientists acceptable to ADB, and their reports reviewed jointly by the senior management of the executing agency/client and by the ADB project team.

237. IP can provide valuable input for project improvement and heighten project acceptance. Project teams are encouraged to adopt mechanisms where IP could participate in monitoring, including engaging IP themselves or their IPOs as monitors.

2. Verification of Monitoring Information by External Experts

238. For category A projects, the borrower/client retains qualified and experienced external experts or qualified NGOs to verify monitoring information. Experience has shown that an external group to verify monitoring conducted by the project is necessary. External monitoring is not a substitute for internal monitoring by the borrower/client and should comprise people who are not involved in day-to-day project implementation or supervision.

36 For a sovereign project, ADB issues a project completion report within 1–2 years after the project is physically completed and in operation. For a non-sovereign project for which such a report is not issued, an extended annual review report is prepared after early operating maturity.
239. Qualified and experienced external expert refers to an appropriately qualified professional with relevant experience in similar activities, who is not associated with day-to-day operation of the project. The term qualified NGOs refers to NGOs including IPOs, having relevant qualification and experience to perform the verification of the monitoring reports and who are external to a project. They may be of either international or national origin. Such people would have extensive experience with IP in similar contexts, and preferably have a member in the team who is familiar with the local language and customs of the subject IP community.

240. The external experts would verify internal reports by field-checking delivery of mitigation and beneficial measures to the affected IP. Semi-annual site visits and reports provided by an external team are often desirable. Such external teams operate most effectively when they are participatory; directly involving project affected IP in verification. This helps heighten both credibility and reliability.

241. The tasks of the external experts are to verify the borrower/client’s monitoring information to assess whether IPP objectives have been met, and particularly whether adverse impact mitigation and beneficial measures have been effective; and advise the borrower/client on safeguard compliance issues identified during monitoring.

242. If the external experts identify significant IP non-compliance issues, it is the responsibility of the borrower/client to prepare a corrective action plan to address them. The experts will inform it of such issues and advise it how to resolve them. The borrower/client should submit the plan to ADB for review. (Sample terms of reference for external experts are in Appendix 11.)

3. Monitoring Mechanism

243. During IPP preparation, the implementing agency develops a monitoring and reporting framework for IP activities. This overall framework, based on predefined indicators, should provide a routine flow of information from the field level to the headquarters of the implementing agency and be combined with periodic supervision and verification. The record is updated by periodic surveys designed to measure change against the baseline established during the ASI. The periodic surveys focus on the progress of mitigation measures for project impacts and on the benefit indicators.

244. At the project level, ADB requires an overall design and monitoring framework based on a project performance and management system (PPMS). Although at a level not specific enough for IPP monitoring, the process itself may be useful for adaptation when designing monitoring at the IPP implementation level. The PPMS takes into account the “managing for development results” approach, a management strategy focused on development performance and on sustainable improvements in outcomes.\(^ {37} \)

245. Using this approach, project monitoring programs focus on some expected results, not just outputs. They include:

   (i) **Results** that are described as statements and should be specific if they are to be measureable. They may require both qualitative and quantitative information.

   (ii) The results will be measured using **indicators**, which need to be as clear and precise as possible. Indicators can consist of process (inputs, outputs, etc.) and outcome measures (kept to the minimum but necessary). The indicators should

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\(^ {37} \) Managing for Development Results: Second International Roundtable on Results, Marrakech, February 2004: Joint Marrakech Memorandum.
Case Study—External Monitoring, Song Bung 4 Hydropower Project, Viet Nam

The project consists of the construction of a hydropower plant and concrete dam on the Song Bung River located in one of the poorest and most remote parts of central Viet Nam, predominantly inhabited by the Co Tu ethnic minority who has had little contact with the mainstream Kinh people.

The project engaged an external monitoring agency to assess through its own investigation, and by verifying internal monitoring data, whether the objectives of the Resettlement and Ethnic Minority Development Plan are being met. The tasks include:

- **Consultation, participation**: Monitor the participatory process and mechanisms as well as measures taken, both in terms of the quality and meaningfulness of this process, and the extent that primary stakeholders actively participate in the process.

- **Disclosure**: Monitor the disclosure of the updated and detailed plans to affected people for the cultural and language appropriateness of the disclosure methods, and whether affected people know their entitlements and whether they have received all of them.

- **Gender**: Monitor and assess the following: the designed institutional and staffing mechanisms; women’s representation and participation in the detailed planning and implementation process; gender inclusiveness such as health programs for men and women, and technical training to both men and women, rather than segregating health awareness for women and technical training for men; delivery of land titles in the names of both husband and wife; delivery of all compensation to both husband and wife; and the effectiveness of resettlement and livelihoods programs for restoring women’s income and living standards.

- **Ethnic minority concerns**: Monitor and assess the adequacy of the measures taken to address ethnic minority concerns.

- **Vulnerable groups**: Monitor the appropriateness of various entitlements; programs; and activities; and methods of delivery for various vulnerable households and groups; and the need for adjustment or additional measures.

- **Compensation and resettlement process**: Monitor the detailed measurement survey, pricing, compensation payment and resettlement related activities based on the provisions of the Resettlement and Ethnic Minority Development Plan.

- **Transparency**: Monitor how information is distributed and to whom, in order to make sure that all affected people have the proper information and access to knowledge. Related to this is the functioning of decision-making bodies and how this information is properly recorded and made available to the population as a whole.

- **Grievance mechanism**: Monitor the effectiveness of the grievance mechanism, types of grievances, and if and how resolved.


### 4. Monitoring Indicators

246. Indicators can be quantitative or qualitative. They can be oriented to process (counting number of participants, number of people receiving benefits, etc.), or to results/outcomes (livelihood and income improvement in communities). They define how impacts are measured over time. A combination of indicators and data-collection methods to ensure a true picture is usually required.

247. A good way to judge whether an indicator is appropriate is to check it against a set of criteria. SMART (Specific, Measurable, Attainable, Relevant, and Time-bound), for example, is good for agencies’ quantitative data. A checklist for qualitative indicators from participatory surveys, interviews, and rapid appraisals is SPICED (Subjective and Participatory, and consisting of Interpreted data that must be Cross-checked. The process is Empowering and Diverse as it involves stakeholders from across communities and functions.)
248. Each of the indicators should be assessed against the SMART or SPICED checklist, and the best ones selected. The key is for planners and monitors to fully articulate the activities that would be necessary to achieve change, thereby delineating outcomes from inputs. A large amount of process indicators will not necessarily indicate the result that is envisaged in the design, just because there are a lot of them. Instead fewer, carefully selected indicators may more meaningfully show how the process is moving along toward the desired results. (Potential process and outcome indicators are shown in Appendix 12.)

B. Reporting

249. For a project with IP impacts, the borrower/client is required to prepare semi-annual monitoring reports for submission to ADB that will include the progress of all activities. For projects deemed by ADB as highly complex and sensitive, ADB requires quarterly monitoring reports. The monitoring reports must be disclosed to the affected persons and ADB will have them posted on the ADB website. ADB's monitoring and supervision activities are carried out on an ongoing basis until a project completion report/extended annual review report is issued.

C. Assessment and Evaluation

250. The borrower/client should evaluate IPP implementation after project completion, particularly for projects with significant impacts (category A). Evaluation is essentially a summary assessment of outcomes versus objectives, measured against baseline conditions.

D. IPP Implementation Supervision by ADB

251. The SPS requires that IP components of ADB-supported projects be supervised throughout implementation by the appropriate project staff. ADB project review missions are required to visit project sites to ascertain the status of IPP implementation. For category A projects, ADB conducts supervision missions that involve detailed review by ADB's safeguard specialists. ADB missions also ensure that for highly complex and sensitive projects, the borrower/client engages an independent advisory panel during project preparation and implementation (see above).

252. During IPP implementation, the borrower/client submits its monitoring reports to ADB for posting on its website. ADB's supervision of the IP program should be fielded at timely intervals during project implementation. ADB supervision missions assist the borrower/client in confirming satisfactory progress or identifying issues or obstacles encountered and designing corrective actions. The frequency of such missions should be proportional to the nature and potential impacts and risks.\(^\text{38}\)

\(^{38}\) Footnote 1, para. 56 and Safeguard Requirements 3, para. 19.
X. CONSENT OF AFFECTED INDIGENOUS PEOPLES COMMUNITIES AND BROAD COMMUNITY SUPPORT

A. Consent and Broad Community Support

253. SR3 acknowledges that IP may be particularly vulnerable when a project has any one of the following three types of activities:

- commercial development of their cultural resources and knowledge;
- physical displacement from their traditional or customary lands; and
- commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define their identity and community.

254. When deciding whether to proceed with a project involving such activities, the borrower/client therefore seeks the consent of affected communities regardless of whether the project is category A or B.

255. There is no universally accepted definition of consent. For purposes of policy application, consent of affected IP communities refers to the collective expression by affected IP communities, through individuals and/or their recognized representatives, of BCS for any of these three activities. BCS is the application of consent.

256. Since consent of affected IP communities is about collective expression, BCS may exist even if some individuals or groups object. BCS of affected communities will thus involve a process seeking such collective support as well as the outcomes indicating the support. Consent, in short, is both process and outcome.

1. Commercial Development of Cultural Resources and Knowledge

257. Commercial development refers to the development, renovation, production, use, replication, or exhibition of the cultural resources for profit-making purposes, primarily by parties outside the IP communities themselves. Examples of commercial development of intangible cultural resources include commercialization of traditional medicinal knowledge or of other sacred or traditional techniques for processing plants, fibers, or metals. Ethnic tourism, where business run by outsiders brings in tourists to observe the culture of the communities, is an example of the commercial development of indigenous cultural resources.

258. Cultural resources and knowledge can be intangible or tangible. The vast range of beliefs, practices, traditions, and knowledge of IP are often referred to as intangible cultural resources, encompassing music, dance, language, crafts, belief systems, folklore and spiritual wisdom, medicinal and healing practices, ceremonies, and intellectual knowledge. They are mainly transmitted from generation to generation, and are constantly recreated by communities and groups in response to their environment, their interaction with nature, and their historical conditions. They provide communities with a sense of identity and social continuity. Safeguarding such intangible cultural resources promotes and sustains cultural diversity.

259. Tangible cultural resources refer to the physical manifestations of an indigenous community’s cultural heritage, including movable or immovable objects, sites, structures, and remains of archaeological, architectural, historical, religious, spiritual, cultural, ecological, or aesthetic value or significance. They may also include natural features and landscapes, and be in urban or rural settings, above or below ground, or under water. Communities affected by
commercial development of physical cultural resources include those using such resources for long-standing cultural practices or for those within living memory.

260. Part of SPS’s BCS requirements for projects under this head is that the borrower/client ensure that affected IP communities are well informed about the proposed activities, and must share with them three items:

- **Their rights to cultural resources under statutory and customary law.** IP customary laws may provide details of coverage of such rights to cultural resources. In addition, national legislation and policy may also describe these rights, which may reflect principles under relevant International Conventions. In fact, many countries recognize the rights of IP to cultural resources (see *International Conventions*, in Section III).

- **Scope and nature of the development and the parties interested or involved in it.** The scope includes how and to what extent such resources would be appropriated; from whom they would be appropriated; and how they will be developed. The borrower/client also has to disclose information about the particular entities, companies, or persons involved in such activities, as well as the potential beneficiaries or end users of the cultural resources commercialized.

- **Potential effects of the development on livelihoods, environment, and use of such resources.** This covers continued use of such resources by the IP.

261. In addition, where a project proposes to develop IP cultural resources and knowledge for commercial and profit-making purposes, the borrower/client should share the benefits with the affected communities. Benefits may include profit sharing, vocational training, employment, and participation in community development and similar programs. Benefit-sharing measures should be determined as part of the process of seeking BCS by the affected communities, and must address issues of timing and longevity (e.g. in perpetuity) and the beneficiary communities, including descendants. Agreements on these measures should be included in the IPP.

2. **Physical Displacement from Customary or Traditional Lands**

262. Consent expressed as BCS is required when a project involves physical displacement of IP from customary or traditional lands. The borrower/client should pursue all avenues to avoid the physical displacement of the communities from customary or traditional lands they possess either by legal title or through customary use. Customary or traditional lands may not be recognized by statutory law. Such lands have typically been in the possession of the groups or families within the groups for generations, and where they reside and establish their livelihood and common cultural identity.

263. Such displacement may apply regardless of whether the communities are relocated away from their traditional lands or still within the same traditional land areas but in a different location. Physical displacement of IP is particularly complex and may have significant and irreversible adverse impacts on their identity, cultural survival, and traditional livelihoods. Any physical displacement should be considered only after the borrower/client has established that there is no feasible alternative to relocation and only once it has sought and obtained BCS from the affected communities. The SPS requires BCS only for physical displacement from customary or traditional lands, not from newly settled or regularized landholdings. In all cases of physical displacement, an IPP must be prepared in addition to, or combined with, an involuntary resettlement plan (RP).
264. Under SR2, physically displaced IP should be fully informed of their rights and entitlements and how they will share in the benefits accrued due to the displacement. This would also be part of the meaningful consultation process, and form an item of GFN.

265. Preparation of an IPP or combined IPP/RP. When avoidance of physical displacement is infeasible, the borrower/client has to inform potentially affected communities of the reasons for such relocation and secure their broad support for such relocation. All impacts on IP should be addressed through an IPP. However, when impacts are mainly related to physical displacement and there are no other major impacts resulting from project activities other than involuntary land acquisition or involuntary access restrictions to lands, the borrower/client must prepare an IPP (which can be combined with an RP, in accordance with involuntary resettlement safeguards in SR2).

266. Since IP may not have legal title of ownership to their land, the borrower/client should offer at least the same level of compensation and due process that it offers to those with full legal title. The combined IPP/RP has to consider cultural preferences and include a land-based resettlement strategy. Such cultural preferences may relate to village settlement layouts, architecture, or communal facilities to enable IP to continue practicing their traditional livelihoods.

267. Physical displacement should involve the least change possible. Communities affected by physical displacement usually feel more comfortable in surroundings near their customary territories. One of the key issues in relocation is the agreement of the host communities to accept the new settlers. In many cases, this is linked with the proximity to the original home, since neighboring communities may be more accepting due to existing socioeconomic ties and cultural bonds. The combined IPP/RP will have to ensure availability of land and natural resources for the livelihood and cultural survival of the affected communities. Where possible, it will include a provision to allow affected communities to return to the acquired lands or territories, as well as provisions to rehabilitate such lands if the reasons for their relocation cease.

268. Land-based resettlement arrangements. Resettlement arrangements for affected IP who have land-based livelihoods are land-based as a matter of principle. This helps ensure that affected communities can maintain and improve their livelihood. Careful attention has to be given by the borrower/client to productive natural resources in the new resettlement sites and to sustainability of such resources under the combined pressure of both host and resettled populations.

269. The land occupied and used by IP is often in areas with no land markets and land valuation, a crucial point as IP rarely sees their lands as a market asset but as their source of life and existence (and more—see next paragraph). From this perspective, compensation in the form of direct and acceptable lands rather than monetary compensation makes the most cultural sense. Land-based resettlement is not easy, and the displaced communities must agree on the replacement land offered to them. When lands are owned collectively, regardless of their tenure system, the replacement land must be equally vested in the community rather than in individuals.

270. Efforts should be made to ensure that the proposed resettlement site and resettlement arrangements for any IP groups are broadly acceptable not only to the displaced IP but also to the larger indigenous population in the project area and the host communities. However, compensation of land for land is in itself only part of the picture of compensation for lost assets. This is because IP often have an integral association of the land with the spiritual aspects of their cultures. Special efforts must be made to ensure that in addition to the land, the compensation covers cultural assets such as sacred sites, waters, temples, cemeteries, and the like. The problem lies in that valuing this kind of asset does not yield a strict monetary value.
Thus the nature of compensation for intangible assets must be carefully considered and the displaced communities due to receive compensation consulted on this.

271. **Special forms of assistance for those with land claims that cannot be legalized.** The legal recognition of customary communal rights to land resources is an important issue. In areas used by IP, land acquisition assessments ascertain whether public lands and privately titled lands to be affected by the project are clear of customary claims. If potentially affected communities do not have legal ownership or use rights for the land or resources on which they customarily rely, the borrower/client is encouraged to help regularize such claims. Most communities have legitimate or recognizable claims over the lands and territories they have been using for generations, but not always as, for instance, when land is constitutionally declared as belonging to the state and all citizens have only use rights. In this case, IP require special forms of assistance before involuntary displacement.

272. SR2 establishes that displaced persons with non-recognizable land claims need not be compensated for the loss of land, but they are still eligible for other assistance to achieve the objectives set out in this policy. The borrower/client is strongly advised to consult the affected IP to identify acceptable substitute assets, resources, or income-generating activities.

273. For displaced communities with primarily land-based livelihoods, such assistance should endeavor to include the option of replacement land, as there is always a risk that communities may opt for cash in lieu of land, preferring short- to long-term benefits. In addition, the valuation of losses and the design of rehabilitation measures require careful qualitative study as some characteristics of indigenous living standards (for example, subsistence production, labor reciprocity, and importance of minor forest products) are difficult to quantify. The borrower/client needs to establish mechanisms to respond to these issues.

3. **Commercial Development of Natural Resources within Customary Lands Under Use**

274. Given the significance of customary land and natural resources held by IP for their livelihoods and cultural integrity, the borrower/client needs to seek BCS of affected communities when the project involves commercial development of these resources. Natural resources include items such as minerals, hydrocarbons, forests, rivers, waters, and hunting or fishing grounds within customary lands under use.

275. Customary lands under use refer to patterns of long-standing community land and resource use in accordance with IP customary laws, values, customs, and traditions, rather than formal legal title to land and resources issued by the state. Use may include not only economically productive activities, including seasonal or cyclical use, but also occasional visits to a designated area for spiritual or other non-economic reasons.

276. The SPS provides that the borrower/client will make sure that the affected communities are well informed about the proposed activities. As with cultural resources and knowledge, SPS lists three items the borrower/client needs to share with the affected communities:

- **IP communities’ rights to natural resources within customary lands resources under statutory and customary law.** The information covers the description of such rights under customary as well as statutory law. Customary law and practices may provide the details of IP rights to such resources and the current practices of the resource use within the lands. In addition, the borrower/client also informs them of the various rights to the existing natural resources as
prescribed by national laws. Most customary laws are territorially inclusive, and
do not distinguish between natural resources on the land and those below the
surface. Statutory laws may explicitly prescribe that the control over the land may
be in the hands of individuals while resources under the surface may be under
the control of the state. Clarifying this and how the project will respect the
customary laws to the benefit of IP will forestall problems in the future.

- **Scope and nature of the proposed commercial development and the parties
  interested or involved in such development.** The scope of commercial
development to be explained must cover all phases of the project cycle, including
concept, planning, construction, operations, and even decommissioning. The
exercise should provide the potentially affected communities with the necessary
information, including publicly available technical plans, for them to fully
understand the project, but should not overburden them with excess information.
The technical information may not be easily explained to lay persons, including
affected IP. The borrower/client should provide assistance to the community to
help them understand it. Presentations of the technical information of the project
would be most helpful. Hiring a qualified and experienced facilitator who could
present the technical information in the language easily understandable to IP
would be necessary. The borrower/client also has to disclose information about
the particular entities, agencies, companies, or persons involved in the project
throughout the different project phases, whether as project proponent, funders,
developer, contractors, consultants, facilitators, operators, or workers.

- **Potential effects of commercial development on IP livelihoods, environment, and
  use of such resources.** This includes the different potential impacts on the
differently affected groups within the communities. The results of the ASI would
be the main project information to be shared. Such information could be shared
iteratively in different forms and stages, including group discussions, leaflets,
radio talk shows, etc. particularly if consultation and participation strategies have
been interactively developed with the affected IP. The borrower/client should
provide assistance to the IP community to help them understand the technical
aspects of the information about such impacts. If there are similar projects under
way in a nearby districts or provinces, a field visit could be organized or a video
shown.

277. In addition, where natural resources within IP lands are proposed for commercial
development, the borrower/client should share the benefits accruing from such use with the
affected IP. Benefit sharing should be determined as part of the process of seeking BCS by the
affected IP communities. It may include profit-sharing (a share of revenues or after-tax profits),
employment, vocational training, and participation in community development and similar
programs. It should be able to fairly cover not only the possible immediate losses due to the
project but enable IP to comfortably adjust and take advantage of new opportunities from their
commercialized natural resources. Such agreements must address issues of timing and
longevity (e.g. in perpetuity) and the specific beneficiary communities, including any
descendants. Any agreements on benefit sharing should be included in the IPP.

B. **The Borrower/Client and Broad Community Support**

1. **Responsibilities**

278. BCS comprises a process and an outcome. When projects entail any of the three types
of project activities requiring consent of affected IP communities, the borrower/client should
carry out an engagement process by conducting meaningful consultation and GFN that lead to BCS. The process and outcomes of such engagement should be documented.

279. The borrower/client then submits the documentation to ADB as early as possible. Before appraisal, ADB will satisfy itself that the positive outcomes of such process are acceptable; and verify whether any agreements made with the affected IP communities are sufficient to demonstrate their BCS and fulfill the SPS requirements. The borrower/client will also present the documentation of the outcomes of the effort to obtain BCS in the IPP.

280. It is good practice to begin the process very early in project design, and integrate it in the consultation and participation mechanisms. Enough time and funds should be budgeted to ensure the process complies with the SPS. The borrower/client should maintain regular contact with ADB, particularly if there are major issues, to ensure that there is adequate time to respond to any issues arising.

2. Process

281. The BCS process for the borrower/client generally involves engaging the affected IP communities in the project area and within the project impact zone. It builds on the conduct of meaningful consultation (see Section V.A) and, when there are major disagreements, GFN (Section V.C). The borrower/client should document the process of seeking BCS. (A summary of the aspects and processes that the borrower/client might use to obtain BCS is in Box 1 of Appendix 13.)

3. Outcomes

282. Outcomes from meaningful consultation and GFN may be formal or informal agreements, as well as dissenting views. Agreements with the affected communities indicate their level of support or agreed-on conditions for such support. The borrower/client should document the outcomes of seeking the BCS.

283. Evidence of agreements may be formal or informal. Formal agreements could include a memorandum of understanding; a letter of intent; a joint statement of principles; written agreements on alternatives; measures for mitigation of impacts and enhancement of benefits; additional rounds of consultations or negotiations during project implementation; and indication of community representatives’ support for such agreements. Formal dissent could be in the form of written public statements by the affected communities.
Informal expressions of support and opposition may be photographs, media reports, personal letters, or third-party accounts on events/demonstration of dissent or support, and organized support or dissent for the project undertaken by affected communities with high participation.

4. Determining Broad Community Support

For applying the policy, the consent of affected communities refers to a collective expression by them, through individuals or their recognized representatives (or both), of BCS for project activities. BCS may exist even if some individuals or groups object to the project activities.

Although the SPS does not set a numerical threshold for determining the adequacy of “broad” community support, it is still a reasonable expectation that BCS entails a majority of the affected IP and communities favoring the proposed activities.

Operationally, BCS is deemed by ADB to exist if the following conditions are met:

(i) the majority of recognized representatives of the affected IP communities formally express their support;
(ii) a considerable majority of affected IP communities’ members, and particularly those most severely affected, provides their support either through formal agreements or other informal means;
(iii) any significant opposition or major disagreement has been resolved through a GFN process.

Recognized representatives refer to elected or hereditary leaders or persons nominated as representing a particular subset of the overall IP community. Their support might be expressed through formal agreements such as signed documents.

IP community members refer to adult IP (normally older than 16 years) affected by a defined project activity. The degree of support by each differently affected subgroup needs to be clarified, distinguishing the opinions and desires of those more significantly affected by the project from those less affected. Community members’ support may be through formal written means, such as signed documents or agreements; or more informal or oral means, such as group consensus, oral histories; or proactive behaviors in the new areas that denote support, such as moving house or investing in community infrastructure. Informal support should be well evidenced through multiple sources including documents, such as minutes and attendance lists; and multimedia, such as photographs and videos of proceedings, investments, or other activities.

The borrower/client must ensure that the most vulnerable elements of the IP community are adequately represented. This may include women, the elderly, and poor. This could be obtained through separate meetings, sensitively held and led by people acceptable to the subgroup. These could include other local women, designated leaders or representatives of the
subgroup, or members of similar groups from inside or outside the area. Such people must be acceptable to the vulnerable elements, independent, and relatively impartial.

291. The evidence of agreements will greatly help decide on whether BCS is present. A third-party (expert) opinion may also be needed to assess it exists. That opinion might be from somebody outside the affected community who is not affiliated with the borrower/client in preparing the project or in its daily operations. To be able to perform the function well, the third party should be acceptable to both the affected community and to the borrower/client.

C. ADB’s Responsibility for Ascertaining Broad Community Support

292. ADB is responsible for ascertaining whether there is BCS for the project activities. First, it reviews the process of meaningful consultation and GFN; second, it reviews the outcomes. ADB reviews the documentation of the engagement process and outcomes submitted by the borrower/client and carries out its own field investigation to assure itself of BCS. (A summary table is in Boxes 2 and 3 of Appendix 13.)

293. ADB review of the engagement process. The question to be asked is “Has the borrower/client conducted meaningful consultation and enabled informed participation of affected IP communities?” Based on a document review and its own field investigation, ADB verifies whether (Section V, highlighted paragraphs):

(i) Consultations began early in the project preparation stage and were carried out on an ongoing basis throughout the project cycle (paras. 80–83);
(ii) Relevant and adequate information was disclosed in a timely manner and in a form understandable and readily accessible to affected people (paras. 84–86);
(iii) The consultations were undertaken in an atmosphere free of intimidation and coercion (para. 87);
(iv) The process was gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups (paras. 88–90);
(v) The process enabled the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues (paras. 91–93);
(vi) Appropriate IP representatives were identified (paras. 94–96); and
(vii) Methods used are appropriate to social and cultural values (paras. 84–86).

294. When there are major disagreements and GFN, ADB will also validate the process of negotiations to determine the parties involved, and the extent and depth of exchanges or discussions toward resolution of disputed issues.

295. ADB review of engagement outcomes. The key question here is, “What is the level of support and dissent to the project activities among the affected IP communities?” Based on

**Documentation of Meaningful Consultation—Nam Ngum 3 Hydropower Project, Lao PDR**

The Project consists of a proposed dam, hydropower station and associated infrastructure with varying degrees of impacts on over 50 villages, most of which comprise IPs. The project had to obtain broad community support for some components, and in some cases through a series of good faith negotiations.

Evidence of these processes included:
- minutes of meetings
- household consent forms
- video and photo documentation
- effective functioning of Village Grievance Committee
- investments made by Community at new site (new primary school constructed)
- all agreements documented
- minutes (in Lao) authenticated by Nai Ban (Khmu)
- attendance sheet lists of participating APs, authenticated by village, district authorities
documentation review and its own field investigation, ADB will also look at the level of support and opposition among the different groups within the affected IP communities.

296. Levels of support could be formal or informal expressions of support. Formal expressions of support include signed agreements (memorandum of agreement, letters of intent, joint statement of principles, benefit-sharing agreements) or recorded oral agreements captured in minutes of meetings with the village council, council of elders, or other respected community bodies. The contents of formal agreements should be verified with the signatures and witnesses of such agreements. Formal expression of dissent may include a letter of objection or a signed statement of opposition.

297. Informal expressions of support and dissent could be ascertained through verifying records, photographs, media reports, personal letters, or third-party accounts on events, demonstrations, or other activities undertaken by affected IP communities with relatively high participation. (Informal support can also be observed from people’s positive attitudes toward project activities. In the case of Nam Ngum 3 Hydropower Project, the villagers of Ban Xiangdet has constructed a small school on a resettlement site, indicating their willingness to move to the resettlement site.) ADB will also check the evidence of GFN, which may be verified from written agreements during consultations.

D. Implications of the Absence of Broad Community Support

298. If the BCS of affected IP communities for the proposed project activities is withheld, the project will not be financed by ADB.

299. Depending on the nature of the project, this might have different impacts for the project as a whole. If, for example, local IP communities did not collectively express their broad support to being physically displaced due to the planned construction of a new road through their territory, the project might elect to reroute the road to avoid any effects on the indigenous communities and so continue with the realigned project. If, on the other hand, affected communities did not collectively express their broad support to physical displacement and/or commercial use of their traditional lands for the construction of a dam, the project might have fewer options available.
APPENDIX 1: ADB PROHIBITED INVESTMENT ACTIVITIES LIST

The following do not qualify for Asian Development Bank financing:

(i) production or activities involving harmful or exploitative forms of forced labor or child labor;

(ii) production of or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements or subject to international phase-outs or bans, such as (a) pharmaceuticals, pesticides, and herbicides, (b) ozone-depleting substances, (c) polychlorinated biphenyls and other hazardous chemicals, (d) wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and (e) trans-boundary trade in waste or waste products;

(iii) production of or trade in weapons and munitions, including paramilitary materials;

(iv) production of or trade in alcoholic beverages, excluding beer and wine;

(v) production of or trade in tobacco;

(vi) gambling, casinos, and equivalent enterprises;

(vii) production of or trade in radioactive materials, including nuclear reactors and components thereof;

(viii) production of, trade in, or use of unbonded asbestos fibers;

(ix) commercial logging operations or the purchase of logging equipment for use in primary tropical moist forests or old-growth forests; and

(x) marine and coastal fishing practices, such as large-scale pelagic drift net fishing and fine mesh net fishing, harmful to vulnerable and protected species in large numbers and damaging to marine biodiversity and habitats.


1 Forced labor means all work or services not voluntarily performed, that is, extracted from individuals under threat of force or penalty.
2 Child labor means the employment of children whose age is below the host country’s statutory minimum age of employment or employment of children in contravention of International Labour Organization Convention No. 138 “Minimum Age Convention” (www.ilo.org).
3 A list of pharmaceutical products subject to phaseouts or bans is available at http://www.who.int.
4 A list of pesticides and herbicides subject to phaseouts or bans is available at http://www.pic.int.
5 A list of the chemical compounds that react with and deplete stratospheric ozone resulting in the widely publicized ozone holes is listed in the Montreal Protocol, together with target reduction and phaseout dates. Information is available at http://www.unep.org/ozone/montreal.shtml.
6 A group of highly toxic chemicals, polychlorinated biphenyls are likely to be found in oil-filled electrical transformers, capacitors, and switchgear dating from 1950 to 1985.
7 A list of hazardous chemicals is available at http://www.pic.int.
8 A list is available at http://www.cites.org.
9 As defined by the Basel Convention; see http://www.basel.int.
10 This does not apply to project sponsors who are not substantially involved in these activities. Not substantially involved means that the activity concerned is ancillary to a project sponsor’s primary operations.
11 This does not apply to the purchase of medical equipment, quality control (measurement) equipment, and any equipment for which ADB considers the radioactive source to be trivial and adequately shielded.
12 This does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.
APPENDIX 2: OVERVIEW OF INDIGENOUS PEOPLES IN THE COUNTRY CONTEXT

1. The great diversity in culture, ethnicity, ideology, economic resource base, history, demography, and political and institutional frameworks has rendered the concept of Indigenous Peoples (IP) challenging to apply to the developing member countries of the Asian Development Bank (ADB). Some countries may be reluctant to use “Indigenous Peoples” since the dominant ethnic groups can also be considered indigenous to the country. The identification problem is further exacerbated by the fact that IP very often live in mixed communities with other ethnic groups and rarely as isolated, homogeneous groups. Nevertheless, most countries have legislation dealing with “ethnic minorities,” “national minorities,” and “highland peoples” (and even “Indigenous Peoples” in the Philippines).

2. In most countries of the region, there are deeply held prejudices against IP and their ways of life, which are often considered primitive and backward. The general national policy approach has been to encourage assimilation of IP into mainstream society. Thus, even if countries have specific national legislation and policies for groups that satisfy the criteria in the Safeguard Policy Statement (SPS), these seldom correspond fully.

3. Two major challenges relate to reluctance:
   - by some governments to recognize that IP may be vulnerable to development processes due to their highly differentiated and specific cultures and circumstances that warrant special considerations; and
   - by some countries to recognize indigenous customary rights.

4. Early identification through screening and assessment of social impact is key to successfully applying the ADB safeguard requirements for IP. The main issue to assess, in the context of a particular project, is whether there are any social groups meeting the characteristics describing IP that are potentially vulnerable to being disadvantaged in the development process due to their distinct social and cultural identity. The assessment should be based on existing knowledge of specific regional contexts, technical judgments, and provisions of national legislation.

5. It should be recalled that under SPS, in order for an ADB project to trigger the application of “Indigenous Peoples”, sociocultural groups would normally need to be both distinct and vulnerable. To determine whether a particular group will trigger safeguard requirements, a borrower/client may need to look closely at the social situation or even to arrange for a social study assessing the potential effects of the project on minorities. In some cases, the borrower/client could request ADB technical assistance for the study.

6. Given that self-identification as members of a distinct indigenous cultural group is an important consideration, this regional guidance presents some initial information and historical facts on the situation of IP and ethnic minorities in selected countries. It does not claim to be a complete account of the issues.

A. Central and West Asia

7. The Central and West Asia Region includes the Islamic Republic of Afghanistan, the Islamic Republic of Pakistan, and the states that emerged from the Former Soviet Union—the

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1 Due to the continual changing nature of the information in this section, ADB is not responsible for any inaccuracy in the data presented, and all information should be updated prior to use.
Caucasus states of Armenia, the Republic of Azerbaijan, and Georgia, along with the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Tajikistan, Turkmenistan, and the Republic of Uzbekistan in Central Asia. Many countries in the region have a long history of invasions, population movements, and efforts of different ethnic groups to protect, regain, or expand their areas of influence, their cultural integrity, and their economic power. Except for very few instances, a central dynamic of these states was one in which ethnicity and ethnic and religious identification were critical elements of political struggles and changing national boundaries. Indeed, throughout the region, the term “nationality” is often used to denote ethnicity.

8. In historical and cultural terms the region can be better understood as two or three distinct areas or subsets: Central Asia, the Caucasus, and Pakistan–Afghanistan. Each area has had a peculiar historical pattern and cultural dynamic, one that continues to influence its people and possibilities today. Current states in Central Asia are the descendants of the great khanates, centralized polities that ruled over their territories, with nomadic people at the perimeters. They were succeeded by first the Russian Empire and then the Soviet Union, with today’s states the ethnic descendants of those polities. Similarly, the Afghanistan–Pakistan area was ruled by the Moghul Empire, then by the British Raj, with independence coming to these states and people during the mid-twentieth century.

9. This inherited mixture of states, tribes, and local identities vastly complicates the application of the SPS to the area. Pashtuns in Afghanistan, for example, will not be viewed as “indigenous” while, due to their degree of differentiation, Pashtuns in Pakistan might very well classify as “indigenous” due to their “tribal” standing as recognized by the Pakistani state. It is necessary to have a clear understanding of the social and economic standing of the groups potentially affected by a particular project and apply the SPS where investigation reveals groups to be marginalized, vulnerable, and differing from others in terms of the diagnostic criteria provided in the SPS.

10. Processes of ethnic and cultural interaction and migration have been going on for centuries in Central Asia, but the Soviet era had a marked impact on the ethnic map by deliberately relocating members of certain ethnic groups from their places of origin to distant areas. Sometimes the people were moved as a group, but more often they were dispersed in smaller numbers to many places, becoming part of emerging multiethnic populations. In the Soviet Union, European groups (e.g., Russians, Ukrainians) were also sent to different republics where they generally constituted a new ruling elite that was sometimes physically distinctive from the local population, and often the power behind traditional elites.

11. The Central Asian countries have much variability in ethnic makeup and policy. One recurring phenomenon, though, is that of a cross-border ethnic group composing a national majority in one country but a minority in the adjoining country (raising the question of if they should be considered IP there). This is the case with the Tajiks of Tajikistan and the Uzbeks of Uzbekistan—and their neighboring countries. In their home countries, they should not count as IP groups, but in other countries, given marginality, vulnerability, and the other diagnostic criteria of differentness per the SPS, it is conceivable that they should be. An assessment of social impact may be necessary to determine the issue.

12. There are also some groups, often relatively small in number, such as the Badakshani of Tajikistan’s eastern Pamir Mountains, who might fit ADB’s operational application of IP on considerations of vulnerability and other characteristics in the SPS.

13. In the Caucasus, ancient states were succeeded first by the Persian Empire, then the Russian and Soviet empires, and now their national states since 1991. The borrower/client
should be cautious, however, in assigning indigenous status to the many small groups inhabiting the hills and valleys of these republics as these ethnicities and near-nationalities may be contesting with the central state for greater autonomy rather than indigenous status.

14. The Afghanistan–Pakistan area has distinct cultural groups, known as tribals or ethnic groups, that differ from mainstream society and may meet the criteria for indigenousness in the SPS. They have generally inhabited remote, inaccessible areas, are ethnically and culturally distinct from mainstream society, and have retained over centuries their unique cultural, linguistic, religious, economic, and political identity.

15. In Pakistan and Afghanistan, in particular, identifying IP is quite challenging. Afghanistan is composed of tribal societies in a largely tribally organized state, while Pakistan has a region of the country (the northwest) where officially recognized tribal societies reside within the non-tribal Pakistani national state. Projects in such areas may need to build any social interventions on the basis of communities, deemphasizing ethnic or indigenous distinctions, as these all too often serve as conflict flashpoints. The tribal context also calls for strong consultation and participation given the local cultural preferences for egalitarian discussion.

1. Afghanistan

16. The Islamic Republic of Afghanistan is a country largely built on true tribal systems, with many tribal groups spilling over the border into Pakistan. Pashtuns and Tajiks, the two largest groups, also have their own geographic regions where they predominate. Afghanistan voted for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In this tribal–cultural area, cultural norms of clan egalitarianism keep tribes zealous in guarding their autonomy, although the Pashtuns are considered first among equals and some groups are discriminated against socially.

17. The size and distribution of the national population are not precisely known, and the following figures are based on historical patterns and estimated wartime displacement. Afghanistan's ethnic mosaic has no precise boundaries, nor is its national culture uniform. Few of its ethnic groups are indigenous to the local area of residence, and few maintain physical homogeneity. Many zones overlap and interactions have broadened as the economic infrastructure has improved and educational opportunities widened in the brief periods between wars and civil wars.

18. In 2008 the estimated population was 32.7 million, with 75% living in rural areas; the country’s six most populous cities accounted for less than 10% of its population. The national population consisted of the following ethnic groups: Pashtun 42%, Tajik 27%, Hazara 9%, Uzbek 9%, Aimak 4%, Turkmen 3%, Baloch 2%, and others 4%.

19. The largest nomadic group is the Kuchis, a Pashtun group that has dwindled in population to about 1.5 million since 1979. The Pashtuns are the major ethnic group in the south and the east (and a significant portion of the population in Pakistan), while the Tajiks

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3 The UN Population Fund (UNFPA) is currently helping the Government of Afghanistan conduct a census; http://www.unfpa.org/pds/censuses.html. The only previous census was conducted in 1979. Many of the data for this section come from the U.S. Library of Congress Afghanistan Country Report, 2008.
predominate in the northeast. The major groups in north-central Afghanistan are the Hazaras, Tajiks, and Uzbeks.

20. More than 30 languages are spoken in Afghanistan. The official languages are Dari (Afghan Persian) and Pashtu. Dari is spoken to some degree by at least 50% of the population, and Pashtu is spoken as a first language by 35%. Turkic languages (primarily Turkmen and Uzbek) are spoken by 11% of the population. Of the languages spoken by smaller segments, the most important are Balochi and Pashai. Many Afghans speak more than one language; Dari is the most common second language.

21. Virtually the entire population is Muslim. Around 80%–85% of Muslims are Sunni and 15%–19% Shia. The minority Shia are economically disadvantaged and frequently subjected to discrimination. Small numbers of Hindus and Sikhs live in urban centers.

2. Pakistan

22. The Islamic Republic of Pakistan is a multiethnic state of nearly 162 million (2008 estimate) and voted for UNDRIP. The country is divided into significant ethnic or “tribal” divisions, according to mother tongue (Table 1). All but the Pakistani lingua franca Urdu denote tribal groups. The groups are: Punjabi 44.2%, Pashtun 15.4%, Sindhi 14.1%, Saraiki 10.6%, Urdu 7.6%, Balochi 3.6%, and others 4.7%. Many of these groups ethnically dominate a region of the country.4

<table>
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<tr>
<th>Table 1. Pakistani Ethnic Groups by Province</th>
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<td>Population Speaking Each Native Language (%)</td>
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<td>Urdu</td>
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<td>NWFP*</td>
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<td>FATA**</td>
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<td>Punjab</td>
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<td>Sindh</td>
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<td>Balochistan</td>
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<td>Islamabad</td>
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* North-west Frontier Province.
** Federally Administered Tribal Areas.

23. Pakistan is organized as a congress of ethnically dominated states, with the Tribal Area of the northwest a legacy of British rule that is administratively and legally separate from the rest of the state. Thus Pakistan does not necessarily have IP as much as an ethno-provincial division in which ethnic groups differ from each other not only culturally but also in the amount of vulnerability. Each project therefore needs to determine which groups are covered by the SPS

4 More in depth information on ethnic groups in Pakistan can be found in S. Ali and J. Rehman. 2001. *Indigenous Peoples and Ethnic Minorities in Pakistan.* Surrey: Curzon Press.
in its context. Also complicating the social picture are divisions along occupational status and religious lines (different Muslim groups) and the existence of other groups not recognized officially. The World Bank and some other organizations, for instance, recognize the small Kalash minority of the North-west Frontier as IP.

24. **Punjabis** have very diverse origins yet have coalesced into a coherent ethnic community. Most trace their ancestry to pre-Islamic Jat and Rajput castes that intermarried with other ethnic groups who came to the area; while others trace their heritage to Arabia, Persia, Balochistan, Afghanistan, and Kashmir. Punjabis predominate in the upper echelons of the military and civil service and in large part run the central government. Many Pashtuns, Balochis, and particularly Sindhis resent this situation, as they are left underrepresented in public positions. In the early 1980s, tensions mounted between Punjabis and Sindhis as the latter, a poor and vulnerable Hindu minority group, felt increasingly alienated from the state.

25. The North-west Frontier Province and the adjacent Federally Administered Tribal Area (and parts of Afghanistan) are closely identified with the **Pashtuns**—one of the largest tribal groups in the world. Highly conservative and adhering to tribal customs, they stand apart from much of the rest of Pakistani society. Central to their identity are a male-centered code of conduct, strict notions of honor and hospitality, loyalty to one’s clan, and adherence to Sunni Islam. Since the 1980s, many Pashtuns have entered the police force, civil service, and military forces, and have virtually taken over the country’s transportation network. The national government has established numerous schools in the North-west Frontier Province in an effort to imbue Pashtuns with a sense of Pakistani nationalism. A growing number of development projects in the province have provided diverse employment opportunities for Pashtuns. Notably, the government has built roads and schools and provided incentives for industrial investment.

26. **Balochis** are a tribal population whose original territory extends beyond the national borders: around three-quarters live in Pakistan, with the remainder in Iran and Afghanistan. They trace their roots to tribes migrating eastward from present-day Syria before the Christian era. Sometime between the sixth and fourteenth centuries, they migrated to the region of present-day Balochistan, though its physical environment is exceedingly inhospitable. Subsistence agriculture is typical: sheep and goat herding, pastoral nomadism, dryland and irrigated agriculture, and fishing are common. Because of the limited population and low population density, Balochistan has seen little development except in Quetta, its capital.

27. There have been sporadic separatist movements in Balochistan since Pakistani independence in 1947. Balochis have long been accustomed to indirect rule, a policy that leaves local elites with substantial autonomy. However, the 1970s experienced a deterioration in relations between Balochistan and the central government. Conflict between Balochi insurgents and the Pakistani military in the mid-1970s was particularly brutal and politicized much of the population. More recently, conflicts have arisen around control of natural resources.

28. Aside from Punjabis, the province of Punjab is also home to groups that could be classified as IP. These different Baloch tribes include Qaisrani, Buzdar, Lund, Khosa, Leghari, Gorchani, Darishak, and Mazari. They were separated from Balochistan after partition and given a special legal status under which these areas were classified as Excluded Areas. The government administers the area under more than one legal system, both customary and statutory.
B. East Asia

29. In the People’s Republic of China (PRC), the special rights and protections provided under law for IP are generally manifested most clearly in administratively autonomous regions, prefectures, counties, and townships. The presence of any such autonomous area within a project should routinely trigger screening for safeguard issues related to IP. Reliance on such geographically and administratively defined autonomous areas has advantages for clearly determining policy applicability. When an affected group resides outside an administratively autonomous area, the borrower/client should review census data for the project area to appreciate the ethnic distribution. Under such circumstances (such as when a group of persons from a particular minority moves into an urban area), threshold questions of what constitutes a community may be another factor requiring judgment as to applicability of the SPS, along with other criteria such as the presence of identifying indigenous characteristics and levels of vulnerability.

30. Should an Indigenous Peoples Plan (IPP) or its equivalent be needed, the borrower/client’s affiliated Design Institute may not always be the best place to find the requisite expertise. The general lack of capacity by government institutions to carry out the safeguard requirements—especially requirements for consultation and participation—can sometimes be a problem given lack of project resources to finance them. It is advisable for the borrower/client to outsource IPP preparation and implementation to academic institutions with the appropriate research and/or consulting units.

31. Some cautions from those familiar with projects in the PRC include lack of adequate consultation with project-affected ethnic minorities; infrequent social assessments for projects or merely formulaic social descriptions when conducted for environmental impact assessments; and interference by project offices in delivery of independent analysis. Another factor in the often less than robust implementation of IP safeguards is the restricted sphere for operation of nongovernment organizations (NGOs) and Indigenous Peoples Organizations (IPOs) in the PRC.

32. In Mongolia, IP issues are not that prominent but the SPS may apply for some herders and nomads, whose livelihood renders them more vulnerable to project-induced changes. Given its emphasis on vulnerability, the SPS may not apply to Russian and Chinese minorities in Mongolia. The expert identifying populations to whom the SPS might apply should begin with the list of ethnic minorities in the project area and proceed from there.

1. People’s Republic of China

33. Approximately 8.5 percent of the population, or 114 million people (in 2010), are members of the 55 officially designated “minority nationalities” (shaoshu minzu). They inhabit every province, but are concentrated in the northwest and southwest border regions. About two-thirds of the minority nationalities inhabit the five provincial autonomous regions (Tibet, Xinjiang, Inner Mongolia, Ningxia, and Guangxi), 30 designated autonomous prefectures, and 120 autonomous counties. The largest groups are the Zhuang, Tibetans, Uygur, Yao, and Yi, with Muslim populations predominating in the western sections of the country (e.g., Kazakhs, Uygurs) although the Hui Muslims outside Ningxia and Gansu are primarily urban, highly Han acculturated, and found throughout the country.

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34. The State Ethnic Affairs Commission is the main government organization dealing with national minorities. It is organized at state, province, prefecture, and county levels with a focus on policy and administration, not project implementation. Few ethnic minority–related NGOs or IPOs are active in realms other than the arts, academia, and cultural heritage. There are, however, a number of academic institutions that research into and focus on ethnic minority issues and communities at national and provincial levels, particularly in multiethnic centers like Yunnan Province.

35. The PRC constitution, with the 1984 Ethnic Minority Regional Autonomy Law of the People’s Republic of China, the State Council–issued Regulations on Implementation of Minority Regional Autonomy Law (2005), and the above system of designated ethnic minority provinces and counties all combine to provide a legal and administrative foundation particularly for areas where minority nationalities live in concentrated communities. It provides official protection for ethnic minority languages, promotes respect for many customary social institutions, and limited accommodation of traditional modes of agricultural livelihood. However, this framework seems to be too general to apply to any particular development project. To begin addressing this question, the 1984 Ethnic Minority Autonomy Law was revised in 2001, while the PRC Legal Codex (2000) established a basis for further relevant laws and regulations. Some minority autonomous regions have also issued relevant regulations and local laws for environmental and cultural protection. The PRC also voted for UNDRIP.

36. Minority nationalities, especially those living in official minority areas in the sparsely populated frontier regions, have been generally viewed as vulnerable. They are poorer than the general population, more dependent on land-extensive agricultural methods, and less educated. For some of these groups their livelihoods are also closely connected to local ecosystems. Some minorities, however, may be above average in wealth and thus less vulnerable socially and economically, such as the Koreans and Manchus. Whether the SPS applies to such communities depends on project circumstances.

37. Despite this legal framework, PRC law and practice present some challenges in defining or interpreting the scope of applications of the SPS in ADB projects:

   - The PRC officially maintains that the term “Indigenous Peoples” cannot be applied to the PRC, because all of its 56 officially designated nationalities (including Han Chinese) have origins in the territory, or at least have resided in PRC for many centuries. So, while the PRC tends to accept relationships among nationalities as an important social development issue, it has an aversion to using “Indigenous Peoples”. For ADB operations, this obstacle has been largely overcome by pursuing policy objectives that refrain from the term. Instead, ADB generally accepts the officially designated “minority nationalities” as the initial basis for screening projects to determine whether the SPS applies. For projects involving more than one officially designated minority, ADB and the borrower/client have often agreed to prepare “ethnic minorities development plans” rather than multiple group-specific plans to provide benefits or mitigate impacts. This is also an acceptable approach when some of the Han majority might also benefit from area-specific (community) plans.

   - The official list of minority nationalities makes no distinctions between the widely varying degrees of acculturation and economic integration among groups and sometimes within the same group. Some groups live and behave in ways virtually identical to their Han Chinese neighbors, and hence are usually not vulnerable to ethnicity-specific community hardship; an assessment of social impact is often
needed to determine this definitively. Other groups are more complexly positioned, with lowland members almost fully acculturated and economically integrated into the Chinese mainstream, while their co-ethnics maintain very different customs or economic activities in more isolated areas. Under these circumstances, the official list of minority nationalities should be treated as indicative rather than authoritative as to whether the SPS applies. That will require judgment as to whether an officially designated minority community maintains distinctive customs or economic activities that make it potentially vulnerable to hardship; and, if a community is deemed vulnerable to hardship, whether the project affects them as a community.

- Particularly in the border areas (e.g., Xinjiang, Tibet), ethnic situations may be sensitive and should require extra attention, including a visit to the area by a qualified IP expert. So too, some areas may be the ancestral homelands of the ethnic group or might be mountain, forest, or lake sacred to the group, also arguing for special attention.

2. Mongolia

38. Mongolia, which voted for UNDRIP, is ethnically quite homogenous: about 90 percent of the total populace of around 2.76 million speaks one of several dialects of the Mongol language. There are over 20 different groups of Mongols. The Khalkha Mongols are the largest element of the population (about four fifths), and consider themselves the direct descendants of Genghis Khan and therefore the true preservers of Mongol culture. They have been the most thoroughly pastoral of all the Mongol tribes or subethnic groups and least affected by foreign influences. In the 20th century, they occupied most of the central and the eastern areas of the country.

39. The Khalkha Mongols regard their language, Halh, to be the real Mongolian language, since all other Mongols speak variations or dialects of Halh. Otherwise, ethnic distinctions among various Mongol subgroups are minor. Apart from immediate adaptation to different environments, Mongol culture has been relatively uniform over large areas, and dialect or tribal differences have not become significant political or social issues. Most of Mongol subgroups are Tibetan Buddhists.

40. Mongolia’s largest minority, accounting for 4% of the population in 2010, are the Kazakhs. They are a pastoral, Turkic-speaking, traditionally Muslim people who live in the extreme west. Bilingual Kazakhs appear to be part of the Mongolian professional and bureaucratic elite on an equal footing with Mongols. Other minorities, concentrated in the west and north, are the Dorvod 3%, Bayad 2%, Buryat-Bouriates 2%, Dariganga 1%, and Zakhchin 1% (according to the 2010 national census). Due to their small size, these groups may be more vulnerable socially than larger, better-known groups such as the Kazakh and should receive due attention if a project is implemented in their areas and will affect them.

41. In the past most ethnic groups were traditionally herders and nomads or semi-nomadic, but this distinct cultural feature has changed quite rapidly in the past few decades. It is now estimated that about 60% of Mongolia’s population is urban or urbanized, and more than half the urban population lives in the Ulaanbaatar, the capital. The estimated 2010 population of the urban part of Ulaanbaatar was 1.24 million of whom about one third lived in apartments in the built-up core of the city. For these urbanized people, it is quite hard to justify that they display a distinct traditional lifestyle and so be considered IP under the SPS.

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C. Pacific

42. Although the populations of Pacific Islands are small, there is great cultural diversity among (and within some of them). Traditionally, three major cultural regions have been recognized: Melanesian/Papuan, Polynesian, and Micronesian. Among the diversity, one commonality is the tendency of governments to proclaim that “we are all indigenous,” with the exception of recent in-migrant populations from beyond the immediate islands area.

43. The SPS follows the same distinction—not treating immigrants as IP while considering non-migrant population groups to which the safeguard requirements could apply. Thus in Fiji, the SPS may be triggered for ethnic Fijians but not Indians (regardless of how many generations of residence) and in Samoa, ethnic Samoans are considered indigenous and in need of policy protection (e.g., for the Samoan language in an education project).

44. Another Pacific Island consideration is the outer- versus inner-island dichotomy, with governments and others concerned that people from different islands may share development benefits to different degrees. This competition puts the spotlight on relative vulnerability and opens an avenue for possible policy application.

45. For IPP preparation in the Pacific Islands, land rights are also an important issue. Communal land ownership is common (except for Tonga, where the King owns all land). Measures must be put in place to separate compensation for loss of family land-use rights from issues relating to communal ownership rights. These issues should be sorted out as part of IPP preparation.

1. Fiji

46. Fiji has ratified International Labour Organization (ILO) Convention No. 169 of 1985 on Indigenous and Tribal Peoples. Ethnic rivalry has dominated Fiji’s recent history as native Fijians (predominantly Melanesian with a Polynesian admixture) and Indians (descendants of contract laborers brought to the islands by British settlers in the 19th century) have contended for supremacy. The country became independent in 1970 after nearly a century as a British colony. Democratic rule was interrupted by two military coups in 1987, caused by resentment over a government perceived by native Fijians to be dominated by Indians.

47. The coups and a redrafted constitution in 1990 cemented native Fijian control over the islands’ government and led to heavy Indian emigration. A new constitution enacted in 1997 was more equitable. Elections held in 1999 were free and peaceful, but the past decade has witnessed corruption, charges of racism against government leaders, several coups, and prolonged political turmoil, including further coups in 2000 and 2006.

48. Fijian and Indian populations combined in 2007 made up around 95% of the population of nearly 1 million, with only small groups of others, thus: Indian 57%, Fijian 37%, and Other 6% (including Part European 1.4%, Other Pacific Islander 1.4%, and Rotuman 1.2%).

49. Rotumans are residents of the island of Rotuma. Although the island has been politically part of the country since 1881, Rotuman culture more closely resembles that of the Polynesian islands to the east, notably Tonga, Samoa, Futuna, and Uvea. Because of their Polynesian appearance and distinctive language, Rotumans now constitute a recognizable

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minority group in Fiji. The great majority of Rotumans (10,000 according to the 2007 census) now live elsewhere in Fiji, with 2,000 Rotumans remaining on Rotuma. There has been some sentiment in favor of independence: in 1987, when Fiji left the British Commonwealth, a segment of the Rotuman population, known as the Mölmahao Clan of Noa'tau, rejected the island council's decision to remain part of Fiji. Arguing that Rotuma had been ceded to Great Britain and not to Fiji, they declared independence on behalf of the Republic of Rotuma. However, their movement had little popular support. The majority still favors remaining part of Fiji, but rumblings of discontent remain.

2. **Papua New Guinea**

50. Papua New Guinea consists of the eastern half of the island of New Guinea and numerous offshore islands. It is one of the most ethnically diverse countries on Earth, with over 850 indigenous languages and an estimated 1,000 different cultural groups. The majority of its roughly 7 million people are Papuan, whose ancestors arrived in the New Guinea region tens of thousands of years ago. Others are Austronesians, whose ancestors arrived less than 4,000 years ago. There are also numerous people from other parts of the world, including Chinese, Europeans, Australians, Filipinos, Polynesians, and Micronesians.

51. The majority of the population lives in traditional villages and practices subsistence-based agriculture. The rights of these groups are acknowledged in the country's Constitution, which expresses the wish that traditional villages and communities will remain viable units of society and establishes steps to preserve them. Most significantly, the legislature has recognized customary land title, so that claims of IP to traditional lands have some legal basis. Customary land covers 97% of the total land area; all other land is either held privately under state leases or is government land. However, establishing proper ownership title by an individual is often difficult, and disputes between mining and forestry companies and landowner groups often turn on whether the companies entered into contractual relations for the use of the land with the true owners.

52. Applying the SPS faces several difficulties. To begin with, there are no official government lists of “Indigenous Peoples” or the like that could be used as a starting point for identification. Furthermore, group boundaries tend to be permeable, so if benefits are to be had by claiming a particular group identity, it will be easy for people to make such claims. Compensation claims and counter-claims often become major project issues. Groups potentially covered by the SPS are most likely to be resident in the Highlands, Outer Islands, or the islands off the south coast, and to display some attributes of vulnerability in the project context.

53. IPPs in Papua New Guinea may be very complex given the variety of ethnic groups of a typical project area. Consultation and participation also need special preparation that takes into account low literacy and a generalized suspicion of outsiders in this factionalized society. It is common to use religious groups as facilitators in such contexts.

3. **Timor-Leste**

54. The first settlers probably arrived around 40,000 years ago. Subsequent immigrants were kept apart by the island’s mountains and lush vegetation, thus leading to a high degree of linguistic and cultural diversity.

55. Portugal colonized East Timor in the 16th century. In 1975, East Timor declared its independence but was invaded and occupied by Indonesia later that year, declaring it as its 27th province in 1976. In 1999, nearly 80% of participants in a referendum on sovereignty chose
to break away from Indonesia. Indonesia relinquished control of the territory, but violent clashes, instigated primarily by elements within the Indonesian military and aided by Timorese pro-Indonesia militias, broke out soon afterwards. With the intervention of international peacekeepers, the violence died down, and national sovereignty was established.

56. The Democratic Republic of Timor Leste voted in favor of UNDRIP. The Timorese population of over 1 million consists of a number of distinct ethnic groups, most of which are of mixed Malayo–Polynesian and Melanesian or Papuan descent. The largest Malayo–Polynesian ethnic groups are the Tetum (numbering around 100,000), primarily along the north coast and near Dili; the Mambae (around 80,000) in the central mountains; the Tukudee (approximately 63,170) in the area around Maubara and Liquiçá; the Galoli (around 50,000), between the tribes of Mambae and Makasae; the Kemak (50,000) in north-central Timor island; and the Bakkeno (20,000) in the area around Pante Macassar.

57. The main tribes of predominantly Papuan origin include the Bunak (50,000) in the central interior of Timor island; and the Fataluku (30,000), at the eastern tip of the island near Lospalos.

58. Another Malayo group is the Makasae, toward the eastern end of the island. There is also a small population of mixed Timorese and Portuguese origin and a small Chinese minority.

D. South Asia

59. South Asia has four countries with significant ADB-supported programs and are likely to frequently apply IP safeguards to projects—Bangladesh, India, Nepal, and Sri Lanka. Two countries, Bhutan and the Maldives, although with smaller loan portfolios, also have proportionately significant investments by ADB.

60. Historical factors mean that the term IP does not have full acceptance by regional countries. Waves of migration have occurred over centuries, and the cultures and identities of migrants have fused over time, making application of “Indigenous Peoples” challenging.

61. IP, particularly in India and Bangladesh, are considered culturally and socially backward. Their social, economic, and political exclusion has placed them among the poorest and most marginalized. In some cases, their rights to land and forest resources have been weakened. Natural calamities, such as floods and droughts, have exposed them to considerable hardship and extreme poverty.

62. India has legislation and policies on promoting tribal culture, heritage, and economic welfare—with “tribal peoples” considered the equivalent of “Indigenous Peoples” for SPS application. Implementation of these pro-tribal policies is not, however, always satisfactory.

63. Other countries in the region either have general policies for safeguarding the rights of all communities, including IP; have legislation regarding IP only in one area of the country; or completely ignore the indigenous communities with the implicit aim of eventually assimilating them into mainstream society.

64. Lack of action has been one of the factors that has led to armed conflict in several parts of the region. In Sri Lanka and Nepal, particularly, project implementers need to be careful not to exacerbate community tensions when applying the SPS, and emphasizing cross-ethnic, anti-poverty efforts or vulnerability might be a way to avoid doing so. Use of often-vibrant civil society sectors in these countries can sometimes be an advantage when dealing with potential conflict situations.
1. Bangladesh

IP are scattered all over Bangladesh and they form a very small minority of the national population of some 160 million. The vast majority, over 85%, of the national population belongs to the mainstream Bengalis, who are Muslims. The rest are indigenous minority and ethnic groups often called Adivasis, who are Buddhists, animists, Hindus, or Christians. These ethnic minorities are overwhelmingly concentrated in the following regions, especially the Chittagong Hill Tracts:

- North-west region (Rajshahi division—includes Rajshahi, Naogaon, Chapainawabganj, Natore, Sirajganj, Pabna, Joypurhat, Dinajpur, Thakurgaon, Rangpur, Bogra and Gaibandha district): major Adivasi communities are: Santal, Uraon/Oraon, Munda, Mahato, Paharia, Malo, Pahan, Rajbongshi, Rajooar, Karmakar and Teli);
- North-east region (Sylhet division—includes Sylhet, Sunamganj, Habiganj and Moulvibazar district: major Adivasi communities are; Khasi, Patro, Monipuri, Garo, Tripura, Kharia and tea garden labours);
- Central region (Greater Mymensingh and Dhaka—includes Gazipur, Tangail, Sherpur, Jamalpur, Netrokona, Mymensingh): major adivasi communities are: Garo, Hajong, Koch, Banai, Rajbangshi, Dalu, Barman and Hodi;
- Coastal region (Khulna, Chittagong and Barisal division—includes Patuakhali, Barguna, Chandpur, Chittagong, Cox’s bazar, Khulna, Satkhira): major Adivasi communities are- Rakhhaine, Tripura, Munda, Bono, Bhagabania; and
- Chittagong Hill Tracts (Bandarban, Rangamati and Khagrachari): the indigenous communities are; Chakma, Marma, Tripura, Tanchangya, Mro, Lushai, Khyang, Khumi, Chak, Pangkhua, Bawm, Santal, Rakhaine, Asam/Asamese, and Gorkha.

The government has generally preferred to use “tribals/tribes” or most recently, “small ethnic groups” (according to the Ethnic Minority Cultural Institution Act of April 2010), rather than officially recognizing the presence of IP on national territory. Despite this reluctance, the government has shown ample evidence of proactive measures to advance their socioeconomic development. Moreover, the government has actually used the local term Adivasi/IP in various pronouncements, including official correspondence and laws.8

Bangladesh has ratified ILO Convention No. 107 (but abstained during voting on UNDRIP). The Chittagong Hill Tracts Accord, signed in December 1997 between the government and indigenous insurgents, laid down an institutional framework for protecting the rights and socioeconomic safeguards for the region’s indigenous inhabitants. The accord gave birth to a series of laws which created institutions for strengthening safeguards for the region’s IP. A Ministry of Chittagong Hill Tracts Affairs was established in 1998 and was vested with responsibility for overall governance in the region. The Chittagong Hill Tracts Regional Council was established the same year by an act of parliament9 with the mandate for coordination and

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8 The current Poverty Reduction Strategy Paper uses interchangeably the terms Indigenous Peoples, Adivasi and ethnic minorities. The term ‘indigenous hillmen’ is also mentioned in correspondence of the National Board of Revenue in relation to taxation matters. This is in addition to the occasional messages by Prime Ministers from different governments and other higher government functionaries, mostly on the occasion of the International Indigenous Peoples Day where the terms Adivasi and Indigenous Peoples have been used. See copies of the publication ‘Solidarity’ by Bangladesh Adivasi Forum over the past few years.

9 In April 2010, there was a verdict by the High Court annulling the Regional Council Act and several articles of the Hill District Council Acts as ultra vires to the Constitution, following a writ petition filed in 2000. The verdict has been stayed by the Chamber Judge for a period of six weeks. The Attorney General Office and as well the
supervision of all development and administrative services in the region. The former Local Government Councils were renamed Hill District Councils and saw their mandate and role expanded by separate acts of parliament.

68. After the Ministry of Chittagong Hill Tracts Affairs was set up, the former Special Affairs Division was dissolved but still continued to function as a cell in the Prime Minister’s Office with a joint secretory-level officer in charge. Its primary function now consists of disbursing block grants to IP in the plains areas. The Chittagong Hill Tracts Development Board, already established in 1976 to undertake regionwide development projects, saw its mandate altered, and for the first time appointed a civilian chairperson in 1998.

69. Several other institutions play very important and influential roles in IP safeguards in development. These do not have in themselves a specific mandate on IP. However, because of their central role either in development planning or in training government officials, they play a crucial role in shaping national development programs. The Planning Commission and Bangladesh Public Administration Training Centre are the most notable such institutions.

70. At the institutional level moreover, all major development policies include specific reference to IP development concerns. The Poverty Reduction Strategy Paper is arguably the most significant, but sectoral policies, particularly the Primary Education Development Program and the Health, Population and Nutrition Sectoral Program may be considered equally important. It is also expected that relevant references will be included in both the Sixth Five-Year Plan (2011–2015) and Vision 2021. These measures, although not overtly and exclusively meant for IP, nevertheless represent quite meaningful progress for safeguarding the development concerns and rights of IP.

71. Still, Bangladesh has a dearth of IPOs in the plains and Chittagong Hill Tracts. Many of these IPOs are member of a national Bangladesh Adivasi Forum. They are known as active advocates, voicing the concerns of IP and Ethnic Minorities throughout Bangladesh.

2. Bhutan

72. Landlocked Bhutan is at the eastern end of the Himalayas and bordered to the south, east, and west by India and to the north by the PRC. The total population is slightly over 700,000. Bhutan abstained during the voting on UNDRIP. There are four major ethnic groups in Bhutan—Ngalong, Sarchop, Kheng, and Nepali migrants. The first three generally share the same religion, Buddhism, although each has a distinct cultural identity as well. The national language is Bhutanese, or Dzongkha, one of 53 languages in the Tibetan language family.

73. Minorities in Bhutan are identified primarily on the basis of language, with migrant Nepalis comprising overall a marginalized and poorer section of the population. Nepali speakers are predominantly in the south and called Lhotshampa, literally “southern-border peoples.” Although no reliable figures are available, Nepali speakers are estimated to constitute at least a third of the population of Bhutan, a proportion that has increased in recent decades. Numerous other ethnic groups are present on a much smaller scale, including Adivasi, Birmi, Brokpa, Doya, Lepcha, Tibetan, and Toktop, representing around 10 percent of the population.

Regional Council filed an appeal at the Appellate Division against the verdict. As such, the Regional Council continues to function after obtaining the stay order until the disposal of the appeal.
3. India

74. India does not commonly use the term IP, variously describing them “Scheduled Tribes,” “tribes,” “tribals,” “tribal people,” “primitive tribal groups,” and “forest-dwelling tribes” in official and academic references and “adivasi” in popular parlance. Recently, however, some IPOs have adopted use of the international “Indigenous Peoples” label and advocating its use (or “Tribal Peoples”) in the country. The constitutional category (Article 342) Scheduled Tribes and its accompanying legislation were inherited from the British colonial period when the term first referred to populations that the colonial bureaucracy defined as tribal (as well as “backward,” also a constitutional category). One problem, however, is that the recognition of groups as part of a scheduled tribe is based on a recommendation of a state government to the central government, such that a group may be recognized as a scheduled tribe in one state but not in another—and migration across state lines might lose a group its Scheduled Tribes status (as with the “tea tribes” of the north-eastern states who migrated there in the 19th century). Thus the category of tribals is probably much larger than a list of those groups officially labeled Scheduled Tribes.

75. The Scheduled Tribes account for 8.2 percent of India's population (2001 Census). Most inhabit remote, inaccessible areas close to or inside forest areas. In recent years demand for natural resources in their territories has given rise to conflicts and frequent instances of tribal exploitation. One problem is the extremely low compensation that tribal communities are offered when their lands are taken for development or commercial projects. These projects also lead to other challenges such as communities and homelands being fragmented, their cultures disrupted, and their well-knit communities dispersed to isolated pockets in far-flung urban agglomerations.

76. The highest concentration of tribals is in northeast India. The scheduled tribes in Chottanagpur Plateau of Central India and the more dispersed groups in Western and Southern India have been influenced by majority Hindu society, but nonetheless continue to suffer widespread social, political, and economic discrimination. The tribes in northeast India have had more influence from Christianity, have higher Western educational standards and many are in government jobs, although mainly at lower levels. That region is facing political volatility, however, due to deterioration of the natural resource base caused by unregulated deforestation and mining and rising numbers of conflicting claims over those resources. Socially, it is witnessing high levels of violence, alcoholism, drug abuse, and AIDS. Against this background, a movement demanding self-determination has arisen among some northeast tribes such as the Naga.

77. Although the status of women in some tribal society groups is higher than in mainstream society, a fair degree of gender inequality exists among both Scheduled Tribes and Scheduled Castes: their women have far more limited access to both educational and employment resources than men. This research also suggests that socioeconomic development serves to reduce the disadvantage of scheduled tribe’s women relative to men’s.

78. India has ratified ILO Convention No. 107 and voted for UNDRIP. The constitution details the process whereby Scheduled Tribes are denoted by the states and confers special rights and privileges on them. Consequently, special government programs, quotas, targeted

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interventions, and subsidies are available for their members, resulting in an incentive now to be recognized, as seen in the struggle of the Gujjars and others to be so recognized.

79. The lack of recognition of customary tenure and privatization of formerly common land by the state has often resulted in depletion of the natural resources on which tribals depended for their livelihood. In many cases, they are considered encroachers or squatters on their own land because these have been classified as protected forests. Despite special legislation and many development initiatives, the socioeconomic conditions of the Scheduled Tribes has improved only marginally in the past few decades, with gaps in education, infant mortality, and income between them and the majority population quite wide.

80. The passage of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act in 2006 has given some recognition to indigenous rights over resources and land, and has extended safeguard protection to tribals living in forest areas. The act seeks to address the long-standing insecurity of tenure and access rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers, including those forced to relocate due to state development interventions. It also recognizes that “forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India. This has resulted in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem.”

81. Yet some IPOs also consider this act not have gone far enough in recognizing their rights to land, forest, and water, nor to sheltering tribal groups from government or corporate land grabbing. The 2007 Revised Draft National Tribal Policy, although criticized by some IPOs, would seek to address some of the development problems of the Scheduled Tribes, and might very well render the Indian safeguard approach for tribals substantially equivalent to the standards of the SPS. The Ministry of Tribal Affairs has still to submit the revised policy to Parliament.12

82. SPS application in India begins with the constitutional definition of tribes, especially scheduled tribes. Sometimes it might be necessary for ADB staff to point out during the screening and categorization stage that IPPs (or Tribal Groups Plans) may be necessary even in indigenous-majority districts to guard against capture of project benefits disproportionately by powerful non-IP groups. Another related challenge is to apply the SPS in communities of heterogeneous and poor populations, some of whom are equally vulnerable but not recognized as tribal groups.

83. States in India differ greatly in their approach to tribal issues, with some states—such as Himachal Pradesh and those in the northeast—very sympathetic to tribal issues and with favorable policies and legislation, while other states have no policy at all. When formulating planning instruments to address indigenous issues, the borrower/client needs to determine the parameters of individual state policy, regulations, and programs—as well as those at national level.

84. As the states vary greatly in their legal and policy frameworks in addressing tribal issues, there is a need for ADB staff during the screening and categorization stage to consult with local specialists as to whether such frameworks supplement the national legal and policy frameworks. How Scheduled Tribes are distributed over the country may be seen in the national census.

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4. Nepal

85. Nepal is a multi-ethnic, -caste, -religious, and -lingual society. The government has recognized “nationalities” (janajati, IP) since 1976 but the constitution of 2007 was the first foundational legal document to recognize such nationalities in the country. Nepal voted for UNDRIP and has ratified ILO Convention No. 169. The constitution declares that the state shall pursue a policy that will help promote the interests of “economically and socially backward groups and communities” by making special provisions for their education, health, and employment. The end of the civil war in 2006 brought the Maoist Party into power, introducing directly into the government their approach emphasizing equal representation for all groups, including Adivasis.

86. Discussions on caste and ethnicity in the country often revolve around four major caste, ethnic, and regional groups: Bahun-Chhetris, Dalits (“untouchables”), Madhesi, and indigenous Nepalese. These groups are found at particular altitudes as a result of successive migrations from India and Tibet. There are some tribal communities such as the Tharus and Dhimals of the Terai (plains) that are remnants of indigenous communities whose habitation predates the advent of other castes and ethnic groups. The dominant group is the Bahun-Chhetris who, although latecomers, still dominate Nepal not because of their numbers, but because of their political, religious, and cultural hegemony. The largely Hinduized Newars—one of the IP groups concentrated in the Kathmandu Valley and with about 5% of the national population—are prominent in all aspects of society.

87. Out of the 59 IP formally recognized by the government, 24 live in the mountains, 18 in the Hills, 10 in the Terai, and 7 in the Inner Terai. Fifty-six have organized through the Nepal Federation of Indigenous Nationalities. Khasa/Nepali is the only official language (with about 50% of the population native speakers) although more than 125 languages and dialects are spoken throughout the country. Of the country’s 23 million people in 2001, about 36% were indigenous (“nationalities”).

88. Given this wide mix of groupings, it is important for the borrower/client to look closely at how projects will affect groups on the ground, consider dimensions of vulnerability, and apply the SPS flexibly.

5. Sri Lanka

89. Sri Lanka voted for UNDRIP. It is home to Vedda (aboriginals or “forest-dwellers”—Wanniyala-Aetto) IP whose population is estimated to be between 1,229 and 4,510 persons.\(^\text{13}\) Traditionally, they are hunter-gatherers and have lived deep inside the forests. However, many years of close interaction with the Sinhalese majority (in the North Central and Uva provinces) and Tamil minority (on the East Coast) have resulted in the Vedda assimilating many cultural and economic traits from mainstream society. Veddas usually work as laborers on the agricultural lands of their neighboring villages, attracted by higher wages. Intermarriage between Veddas and Sinhalese is very frequent. They are not considered outcasts in Sri Lankan society.

90. An ILO field study in 1992\(^\text{14}\) pointed out that the drastic changes in the number, distribution and social organization of the Veddas started in the 1930s and 1940s when large irrigation and colonization schemes in the Polonnaruwa and Mahiyangana regions were

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launched. These projects brought a massive influx of Sinhalese and Tamil colonists and a reduction of the forestland that was homeland to the Veddas. In the 1950s, the Government initiated an irrigation program that involved damming the Gal Oya river and encouraging landless farmers to settle in and cultivate jungle lands. When the Gal Oya scheme was completed, access of the Veddas to their ancestral lands and their means of livelihood were eroded even more drastically. More recently, development projects such as the Maduru Oya National Park in 1983 (under the Mahaweli Project) affected them adversely as many were forced to relocate from ancestral lands. The small numbers of Veddas makes them particularly vulnerable to complete loss of identity.

E. Southeast Asia

91. Applying the SPS in Southeast Asia raises different issues in each subregion.

92. The Mekong countries of Cambodia, the Lao People’s Democratic Republic, and Viet Nam have centralized governments with shared histories and patterns of population migration. All three give special recognition to ethnic minorities, but in all three minorities remain marginalized. Support for capacity building, particularly locally, would be an important consideration during project planning when the safeguard requirements for IP apply.

93. Infrastructure projects are common in the Mekong subregion, with energy and transport sectors emphasized. Concentrated in the highlands of these countries, such projects usually invoke both involuntary resettlement and IP safeguard requirements. The combined resettlement and IP planning documents should therefore be carefully designed to recognize the prominence, or even majority status, of IP among project-affected people. Consideration should be given to integrating planning for resettlement and IP safeguard measures.

94. In Indonesia, more so than in most nations, predetermining a rigid identification formula for IP at the project planning stage presents difficulties. Instead, an assessment of social impacts and consultation process will usually be needed to determine if the SPS applies to particular projects based on the characteristics listed in the SPS and Indonesian legislation. A field visit may be necessary. Given the difficulties of determining to which groups the SPS will apply, it might be useful for project planners to visit provincial ministries of education, social affairs, or culture to gather information on local groups. Identifying local groups as indigenous could be based on their distinctiveness, as opposed to national, as well as regional mainstream groups.

95. The Philippines has arguably the strongest framework of IP legislation in the Asia-Pacific Region—in some aspects exceeding the policy requirements of ADB and other multilateral development banks. However, those preparing projects will discover a lack of implementing guidelines and that capacity building may often be necessary to ensure that IP planning documents are implemented as designed.

1. Cambodia

96. Cambodia is a multiethnic society with an ethnic Khmer majority. Data on IP are sparse and out of date. A survey from 1995 by the Ministry of the Interior estimated 440,000 people in ethnic minorities (about 4% of the total population). Within this category, Cambodian legislation recognizes a subcategory of IP or “indigenous minorities” with particular circumstances. These groups are also referred to as highland peoples, hill tribes, or Khmer Loeu—the last meaning “upper Khmer” and reflect Khmer efforts to establish a Cambodian unity defined in terms of all groups that are Khmer to various degrees.
97. Estimated figures from the Inter-ministerial Committee on Highland Peoples Development in 1997 set the total population of indigenous minorities at around 120,000, or about 1 percent of the population. More than 90% of them live in the northeast, in the provinces of Ratanakiri (62,000 or 66% of the total provincial population, according to the 1995 census), Mondolkiri (23,000 or 71%), Stung Treng (5,000 or 6.6%), and Kratie (21,000 or 8.3%). There are also small numbers of indigenous minorities in Koh Kong, Preah Vihear, Pursat, Kampong Thom, Kampong Speu, Kampong Cham, Siem Reap, Battambong, Banteay Mean Chey, Odormean Chey, and Sihanouk Ville provinces. The 2008 national population census reports the three leading ethnic languages as Cham (240,000), Mon-Khmer (100,000), and Tai-Kadai (20,000).  

98. Most of the indigenous minorities belong to the Mon-Khmer branch of the Austroasiatic linguistic family, comprising groups such as the Tampuan, Kui, Kreung, Kavet, Brao, Stieng, and Lun (sources differ on the spelling, numbers, and make-up of these groups). The Jarai and the Rhade belong to the Austronesian linguistic family. Indigenous minorities in Cambodia practice traditional farming techniques of semi-nomadic, shifting cultivation as well as hunting and gathering, although many have also begun to cultivate lowland paddy rice, often alongside their traditional practices. There are significant pressures on their traditional lands from Khmer immigration, commercial agriculture, forestry, and land concessions and policies to sedentarize IP and modify their agricultural practices from shifting cultivation.

99. In 2001, the government passed the Land Law, which provides for indigenous minority communities to gain title to their land, under either individual or communal title. Under this law, indigenous communities’ land can be defined as residential land, agricultural land, and land kept in reserve as part of the traditional rotational cultivation system. The law also recognizes the rights of IP to collective ownership of their land. Article 23 defines the communities to which the law applies, specifically: “An indigenous community is a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social, cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possession according to customary rules of collective use.”

100. The Forestry Law of 2002 also provides recognition of “customary user rights for the purpose of traditions, customs, religious and livelihood” for communities living within the permanent forest reserves (Article 40). A Sub-Decree on Community Forestry Management (2003) has also provided some opportunities to secure IP use and management of forest areas.

101. The National Assembly adopted a National Policy on Ethnic Minority Development in April 2009. The policy aims to “promote understanding and respect of cultural diversity as well as to ensure that indigenous minority people gain benefit in the frame of the Constitution and to protect their traditional land and forest use rights. The Department of Ethnic Minority Development (DEMD), under the Ministry of Rural Development, is the lead government agency working on IP issues and will be responsible for the implementation of the national policy. The DEMD is mandated to coordinate all development efforts targeted at the mountainous, plateau and plain zones, and to monitor, evaluate and report all implementation of ethnic minority development programs and projects. As good practice, therefore, the project planner coordinating with the DEMD for IP safeguards and planning will ensure ownership for IP planning.

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102. Cambodia is party to international conventions, such as the Covenant on Economic, Social and Cultural Rights, the Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Racial Discrimination, which all provide for protecting the rights of ethnic minorities. Cambodia voted for UNDRIP. While IP in Cambodia are poorly organized and have encountered difficulties in exercising their rights, they are supported by local and international NGOs that lobby for their rights and support the emerging Highland Peoples Association in the northeast.

103. The SPS is applied to social groups in the Cambodian category of indigenous minorities. Some ethnic minorities may not necessarily be in the indigenous category, which include the Khm, Chinese, Lao, and in certain cases the Cham. However, it is good practice to include these groups in assessing and designing appropriate development measures through meaningful consultation, especially when the ASI finds them vulnerable in a project.

2. Indonesia

104. Indonesia is one of the most ethnically and culturally diverse countries in the world. There is no conclusive number of ethnic groups or languages spoken and no agreement on use of the term IP. Conservative estimates list about 500 ethnic groups speaking as many languages, while other sources estimate up to 2,000 ethnic groups. This ethnic diversity is an asset of cultural resources supporting state unity, reflected in the national slogan, Bhinneka Tunggal Ika—Unity In Diversity. During the New Order period (1966–1998), tunggal ika (unity)—which was understood as unified, standardized effort—was more strongly emphasized than bhinneka (diversity). Many efforts were made to limit the expression of ethnic identity through policies and programs on development emphasizing uniformity. Raising ethnic identity was considered dangerous to state unity. With the fall of President Suharto from power in 1998, public acceptance of diversity was reintroduced into social and cultural affairs.

105. Traditionally the term associated with the concept of IP in Indonesia is masyarakat terasing, referring to remote and vulnerable communities. This was often used in a derogatory way and government programs were designed to empower and uplift these communities from their isolation and "backward practices," with little respect for their cultural traditions and identity. To remove the negative connotations of masyarakat terasing the Department of Social Affairs changed it to masyarakat adat terpencil "remote traditional communities," including six characteristics to define such groups: small, closed homogenous groups; kinship-based social institutions; geographic remoteness in areas difficult for outsiders to access; possessing simple technology; high dependence on the environment and natural resources; and limited access to social, economic, and political services (Presidential Decree No. 111 of 1999). While difficult to estimate, the number of people included under this rather narrow category is around 1.5 million, mainly in West Papua, Kalimantan, Sulawesi, Sumatra, and the outer islands such as Sumba, Sumbawa, and Maluku.

106. The term remote adat communities combines the previous masyarakat terasing with emerging legislation that recognizes the more neutral and less exclusive term Masyarakat Adat ("customary law communities" or "legal communities"), which refers to communities that establish their own regulations and social control based on traditions. This legislation recognizes the status of adat communities and includes some provisions for their protection and rights, including that over ulayat (communal) land (although this is open to multiple interpretations). Examples include both the Human Rights Act (Act No. 36 of 1999) and the Local Government Act (Act No. 22 of 1999), as well as agrarian legislation (Regulation No. 5 of 1999: Guidance for Resolution of Problems of Ulayat Right of Adat Law Communities). The Forestry law (Act No. 41
Appendix 2 of 1999), however, does not provide the same level of protection of adat communities and ulayat land, which is classified as a subcategory of state forest. Indonesia voted for UNDRIP.

107. Using the more inclusive term Masyarakat Adat, some adat communities in 1999 established the national alliance Aliansi Masyakarat Adat Nusantara (AMAN) to uphold their traditional law, cultural life, and control over their lands and natural resources. AMAN’s definition of adat is “a community living together based on their origins inter-generationally in adat land, who have sovereignty over the land and the natural resources, sociocultural life regulated by adat land and adat institutions which manage the sustainability of the communities’ lives.” Based on this definition, AMAN estimates that there are about 50 million–70 million people living in such communities.

108. With the establishment of AMAN, and the changes in government policy, the number of communities identifying themselves as adat may very well increase. Some are location-based and may encompass several ethnic groups of that particular location. Thus, similar to the remote adat communities term, the term Masyarakat Adat is not fully consistent with the characteristics used in the SPS. Although there is no government agency charged with overall responsibility for adat communities, different departments deal explicitly with them, such as the Department of Social Affairs, the Department of Justice and Human Rights, and the Forestry Department.

3. Lao People’s Democratic Republic

109. About 30%–35% of the population belongs to the dominant ethnic Lao group. This group is categorized in the Tai-Kadai ethno-linguistic group, which also includes Tai-speaking minorities. The remaining national population is categorized as belonging to the Austroasiatic (23%), Hmong-Mien (7.4%), and Sino-Tibetan (2.7%) ethno-linguistic groups.

110. The term IP is not used in the Lao PDR. The 1991 constitution recognizes that the country is a multiethnic society with many ethnic groups, around which are considerable ambiguity in terminology and categorization. The national census in 1995 listed 47 main ethnic groups and 149 subgroups, including the Lao, but these are not always recognized locally—some sources estimate the number of ethnic groups to be 236. Today the official number of ethnic groups is 49. With the adoption of the 1991 Constitution, the government abolished the previous official distinction—which had negative connotations—between highlanders (Lao Soung) living on the mountain tops, uplanders (Lao Thoeng) living on the mountain slopes, and lowlanders (Lao Loum). However, these terms are still used by many people in the country, adding another layer of complexity.

111. General distinctions—social, economic, and ecological—can be made between Tai-Kadai and other ethno-linguistic groups (with exceptions, of course, such as some Tai ethnic groups in the highlands). The SPS is usually applied to “non-Tai-Kadai” groups; that is, Austroasiatic, Hmong-Mien, and Sino-Tibetan ethno-linguistic groups—for simplicity here referred to as ethnic minorities. Most of the ethnic minorities depend on forest resources for their subsistence. Many of them practice swidden agriculture, and a few are hunter-gatherers. Most are animists, although some have adopted Buddhism, the religion of the Lao, or Christianity, often combining it with their traditional beliefs. Most Tai-Kadai groups are settled cultivators with a farming system based on permanent cropping patterns or live in urban areas. The ethnic minorities live throughout the country, with concentrations in highland areas along the borders in the north, east, and south.
112. The constitution and the 1992 ethnic minority policy, Resolution of the Party Central Organization Concerning Ethnic Minority Affairs in the New Era, are ambiguous on ethnic minorities. They acknowledge and promote their rights and equal status, but stipulate the need to build a strong and relatively homogeneous nation-state with prescriptions that often imply inferiority of ethnic minorities. The resolution, for instance, calls for forceful relocation in attempts to alter traditional farming systems of shifting cultivators and for efforts to eradicate “backward traditions which are reflected in production and lifestyles.”

113. Legislation pertaining to land tenure and forest use is similarly ambiguous, recognizing some forms of traditional use of forest land and resources while at the same time imposing restrictions on villagers’ customary access. Prime Ministerial Decree No. 169 on Management and Use of the Forest Land of 1996 stipulates that land cannot be left fallow for more than 3 years—far shorter than the normal cycle of shifting cultivation. The government can claim such land for reforestation or plantations. The 1996 decree also entrenches state allocation of land rights to households for permanent agriculture only. The land and forest allocation program has had significant adverse impacts as it provides for inadequate land to meet subsistence needs of ethnic minorities practicing shifting cultivation (sometimes with adverse environmental impacts as well).

114. The Ethnic Minorities Committee under the National Assembly is responsible for drafting and evaluating proposed legislation on ethnic minorities, and lobbying for its implementation. Ethnic minority research is the responsibility of the Institute for Cultural Research under the Ministry of Information and Culture. The lead institution for ethnic affairs is the mass organization, the Lao Front for National Construction, which has an Ethnic Affairs Department. There are no ethnic minority organizations. However, the Hmong are somewhat organized and their relationship with the government is at times confrontational. Many Hmong migrated overseas in the wake of the many Indochinese wars of the 1970s and have well-established international ethnic organizations to advocate Hmong interests both at home and abroad. The Lao PDR voted for UNDRIP.

4. Philippines

115. IP safeguard policies have been enshrined in the constitution of 1987, and Republic Act 8371 (the Indigenous Peoples Rights Act [IPRA] of 1997). The constitution specifies that the state must recognize, respect, and protect the rights of indigenous cultural communities and promote and develop their cultures, traditions, and institutions. These rights were the basis for the formulation of national plans and policies. Further protection of the rights of IP to their ancestral lands as well as maintenance of their economic, social, and cultural well-being is specified by the IPRA. Furthermore, legislation also provides for the recognition of customary land tenure and sets out regulations determining the ownership and extent of ancestral domains. IPRA also calls for indigenous communities participating in designing development plans for their own communities, the Ancestral Domain Sustainable Development and Protection Plans.

116. The presence of IP in the Philippines has been recognized, under changing terms, since the Spanish colonial period. In the 1987 constitution the term “indigenous cultural communities” was adopted, and in 1997 the term “Indigenous Peoples” was added, so that the official term today is “Indigenous Cultural Communities/Indigenous Peoples”. This term is used in the IPRA and includes a wide variety of groups that share certain conditions that set them apart from mainstream society.

117. IP live in most areas of the Philippines, but the majority are in Mindanao (about 61%) and North-Central Luzon (about 33%). There are no accurate census data on their number, but
the National Commission on Indigenous Peoples estimates them at about 14 to 17 million (of a total population of over 92 million in 2010) among 110 officially recognized ethno-linguistic groups.\footnote{16}{UNDP. 2010. *Fast Facts.* Manila}

118. In Luzon, most of the IP are in the northern mountain ranges of the Cordillera area—Tinggian, Ifugao, Kalinga, Ilocos, Ibaloy, Kankanay, Gaddang, and Ilongot. Ethnic groups outside this area are the Agta, Dumagat, Yogad, Ikalogan, Kalanguy, and Itawis, who inhabit the foothills and narrow valleys of the Sierra Madre mountain ranges. Other IP groups in Luzon (in Zambales, Pampanga, Tarlac, Quezon Province, Pollilo Island, and the Bicol Peninsula) are the Agtas (also known as Ayta, Ati, and Dumagat). Mindanao has about 15 major IP groups.

119. The level of political organization among IP is high, particularly in the Cordillera (e.g., the Cordillera Peoples Alliance) and parts of Mindanao. In addition, several NGOs work to support IP, such as Tebtebba Foundation (advocacy), the Philippines Association for Intercultural Development and Anthrowatch (both working on ancestral domain claims), and the Upland NGO Assistance Center (technical and academic support).

120. The IPRA, and its supporting guidelines, makes the Philippines a pioneer in the provision of state recognition for IP. The IPRA addresses four key indigenous concerns: rights to ancestral lands; self-governance and empowerment; the right to cultural integrity; and social justice and human rights. It also emphasizes preservation and development of indigenous culture, traditions, and institutions, and commits the government to consider their rights in formulating national laws and policies. The IPRA also establishes an implementation mechanism—the National Commission on Indigenous Peoples.

121. While many government agencies deal with IP issues, the IPRA established this commission as the primary government agency to oversee the law’s implementation. It is an independent commission under the Office of the President, who appoints seven members representing IP from different ethnographic areas. It has 13 regional offices, 46 provincial offices, and 106 service centers—throughout the country with a total of 1,500 staff members. The commission has suffered from inadequate budgets, and political and legal attempts to invalidate the IPRA (settled in 2001 by the Supreme Court in its favor).

122. Despite the institutional problems, the National Commission on Indigenous Peoples and its field offices are the appropriate source for discovering what local consultations have already been carried out regarding a proposed project as well as whether any official agreements have been made or drafted. Official legislation calls for “free, prior, and informed consent” to be granted by local communities for projects and for the processing of claims to customary lands or areas (“ancestral domains”). Therefore, knowledge of what has already occurred on the government’s side is critical to the preparation of documents to satisfy SPS application. The commission also issues certificates of precondition or certification that a project area does not overlap with any ancestral domain through conduct of consultations with IP communities in the project area. Without such a certificate, the commission or the IP, or both, will have the right to stop or suspend any project that has not satisfied the requirement for consultation.

123. Other relevant legislation includes (i) Presidential Decree 1151 (Philippine Environment Policy of 1977), Republic Act 7952 (Philippine Mining Act of 1995), and Republic Act 7586 (the National Integrated Protected Areas System) of 1992. These provide for essential mechanisms for the protection of the IP through their participation in environmental protection processes, and
through the management of resources, including having royalty rights when resources are used for commercial purposes. The country voted for UNDRIP.

5. Viet Nam

124. The official categorization in Viet Nam identifies 53 separate ethnic groups that constitute the category “ethnic minority” vis-à-vis the majority Kinh group. “Ethnic minority” is recognized by the government, but not the term IP. Ethnic minorities make up about 14% of the population, and number more than 11 million. Most minority groups, and especially those most vulnerable, live in the northern mountainous regions and the central highlands. The Khmer, Hoa (Chinese), and Cham are ethnic minorities living in the lowlands, along the central coast and the Mekong Delta, and groups such as the Tay, Thai, and Muong live mainly in valleys, and practice lowland rice cultivation.

125. The government’s definition of ethnic minorities is generally compatible with the SPS. However, the official categorization is somewhat arbitrary and some of the ethnic minorities include groups that differ significantly in culture, agricultural practices, and adaptation to the environment. Also, there are small groups locally recognized under separate names, which are not included in the list of the officially recognized groups. Thus the official list is only a starting point for applying the SPS, with further assessment required in each particular project area.

126. Ethnic minorities are characterized by significant variation in language, culture, social organization, production systems, and interaction and integration with mainstream society. There are marked differences in the relationship between the government and ethnic minorities in the northern and central highlands, reflecting historical relationships with the government in Hanoi. For example, certain areas in the central highlands have seen civil unrest over issues of land and religious freedom. In this context, development strategies should be tailored to the various ethnic minorities and possibly to different communities within officially designated groups.

127. The constitution recognizes the traditional cultures, languages, and beliefs of ethnic minorities, and government policies and programs favor development in areas with them. However, as with similar policies in the region, policies on ethnic minorities are ambivalent, promoting both cultural maintenance and assimilation. Principles include “promoting the policy of equality, solidarity, and mutual help among ethnic groups,” and “creating favorable conditions for ethnic groups to develop and advance toward mainstream society, progress, and the common development of all Viet Nam’s ethnic groups.” The ministerial-level Committee on Ethnic Minorities is charged with monitoring and supervising implementation of all programs and policies involving ethnic minorities.

128. Although ethnic minorities have benefited from government programs and legislation, they are often stereotyped as backward and primitive. Some programs have had adverse impacts on them, particularly concerning “sedentarization” and stabilization of shifting cultivation. In addition, the government has promoted organized migration of lowland Kinh into the uplands since the 1950s, at times to support state forest and agricultural enterprises.

129. The Kinh are now the majority population in many areas where ethnic minorities were traditionally the majority. For example, the Kinh now account for more than 70% of the population in the central highlands, up from 5 percent in 1945. Also, land classification under the

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17 Research by the Institute of Ethnology, which concluded in 2007, intended to provide a more accurate classification system and to expand the numbers of ethnic minorities. The results of the research have not been published.
1993 Land Law does not always reflect actual land use of the ethnic minorities and significant parts of their assets are not titled. Together these policies and programs have led to environmental degradation, pressures on land and natural resources, and insufficient land security in areas where ethnic minorities reside.

130. Viet Nam voted for UNDRIP.
APPENDIX 3: REGIONAL RESOURCES: LIST AND LINKS

A. Country Indigenous Peoples and Poverty Profiles

1. The following publications were prepared in conjunction with a 2001 ADB regional technical assistance (RETA) project on Capacity Building for Indigenous Peoples/Ethnic Minority Issues and Poverty Reduction (RETA 5953), covering four developing member countries (DMCs) in the region, namely, Cambodia, Indonesia, Philippines, and Viet Nam.

2. The project aimed at:
   
   (i) strengthening national capacities to combat poverty; and
   (ii) improving the quality of ADB’s interventions as they affect Indigenous Peoples (IP).

3. The publications comprise four country reports—on Cambodia, Indonesia, Philippines, and Viet Nam, respectively, a regional report covering these four countries, and the proceedings of the regional workshop, which resulted in recommendations for a regional action plan for IP/ethnic minorities. In addition, a regional report on the subject in Pacific DMCs was prepared under a separate consultancy.

   (i) Proceedings of a Regional Workshop [.PDF]
   (ii) Regional Report [.PDF]
   (iii) Cambodia [.PDF]
   (iv) Indonesia [.PDF]
   (v) Pacific Region [.PDF]
   (vi) Philippines [.PDF]
   (vii) Viet Nam [.PDF]

B. Key Legal Indigenous Peoples Documents (by country alphabetical order)

Bangladesh

CHT Peace Accord of 1997


CHT Regulation of 1900 (Bengal Act I of 1900)

Cambodia

Forestry Law of 2002

Land Law of 2001

National Policy on Ethnic Minority Development (the latest version of the national policy has been submitted to the Ministers of Council in November 2007 by the Ministry of Rural Development)
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<th>Law</th>
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<tr>
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<td>The Fiji Affairs Act (Chapter 120)</td>
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<td>Constitution of India (Protection, Representation and Special Provisions for Scheduled Tribes; Fifth and Sixth Schedule)</td>
<td><a href="http://lawmin.nic.in/coi/coiason29july08.pdf">http://lawmin.nic.in/coi/coiason29july08.pdf</a></td>
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<td></td>
<td>Constitutional Provision for Panchayats</td>
<td><a href="http://hppanchayat.nic.in/73rd%20Amendment%20Act.htm">http://hppanchayat.nic.in/73rd%20Amendment%20Act.htm</a></td>
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<td></td>
<td>Panchayat Extension to Scheduled Areas Act (PESA)</td>
<td><a href="http://hppanchayat.nic.in/pdf%20files/Pesa.pdf">http://hppanchayat.nic.in/pdf%20files/Pesa.pdf</a></td>
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<td></td>
<td>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006</td>
<td><a href="http://forestrightsact.com/the-act">http://forestrightsact.com/the-act</a></td>
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Nepal
(
)

Pakistan
Constitution of Pakistan, Provisions on the Tribal Areas (Chapter 3)
(
)

Philippines
Indigenous Peoples Rights Act of 1997 (Republic Act 8371*)
(
)
Philippine Mining Act of 1995 (Republic Act 7942)
(
)
National Integrated Protected Areas System Act of 1992 (Republic Act 7586)
(
)
Local Government Code of 1991 (Republic Act 7160)
(
)
Organic Act for the Autonomous Region in Muslim Mindanao (ARMM), 1989 (Republic Act 6734 as later amended with Republic Act 9054)
(
)
(
)

Viet Nam
Constitution of the Socialist Republic of Viet Nam
(
)
Socio-Economic Development Programme for Extremely Difficult Communes in Ethnic Minority and Mountainous areas in the Period 2006—2010 (Phase II of Programme 135)
(
http://www.cema.gov.vn/modules.php?name=Content&op=details&mid=4405
)
Circular No.41/UB-TT of January 8, 1996 of regulating and guiding the materialization of zone identified criteria in the ethnic minority and mountainous areas
http://www.cema.gov.vn/modules.php?name=Content&op=details&mid=8636#ixzz2Db1ObAf1
### C. Regional Partners (by country, in alphabetical order)

#### Bangladesh

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<tr>
<th>Government ministries</th>
<th><strong>Ministry of Chittagong Hill Tracts Affairs</strong> (MoCHTA)</th>
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Chittagong Hill Tracts Regional Council

- **chtrc@yahoo.com**

Special Affairs Division, Office of the Prime Minister

- Dhaka
- **Bangladesh Indigenous Peoples/Adivasis Forum**
  - 62 Prabal Housing, Ring Road
  - Mohammadpur, Dhaka-1207, Bangladesh
  - +88-02-8122881
  - Email: **sanjeebdrong@gmail.com** (Sanjeeb Drong, General Secretary)

ActionAid Bangladesh

- House #8, Road#136, Gulshan 1
- Dhaka-1212, Bangladesh
  - +88 288 15991/2 (Tel); +88 28815087 (Fax)

Unnayan Onneshan

- [http://www.unnayan.org](http://www.unnayan.org)
  - 16/2 Indira Road, Farmgate
  - Dhaka-1215, Bangladesh
  - G.P.O. Box No: 2251
  - + 88 02 8158274, 9110636 (Tel); +88 02 8159135 (Fax)
  - Email: [info@unnayan.org](mailto:info@unnayan.org) This e-mail address is being protected from spambots. You need JavaScript enabled to view it.

Maleya Foundation

- Khagrapur, Khagrachari, Chittagong Hill Tracts
- Tel: +880 155 6772657
  - tripura_mk@yahoo.co.uk

#### International organizations (multilateral/bilateral institutions/international NGOs)

United Nations Development Programme—Rangamati Office

- (Chittagong Hill Tracts Development Facility)
  - [http://www.un-bd.org/undp](http://www.un-bd.org/undp)
  - Rajbari Road, Rangamati 4500, Chittagong Hill Tracts
  - Tel: +880-351-61801 to 61805

#### Cambodia

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Department of Ethnic Minority Development

- Ministry of Rural and Development (MRD)

Indigenous

Development and Partnership in Action (DPA)
Peoples Organizations (POs/national NGOs/CSOs)

Tel: (855-23) 216 369 / 216 495
Email: mam.sambath@everyda.com.kh

Cambodia Indigenous Youth Association
Tel: +855 11 400076
Email: nokven.ipunciya@gmail.com

NGO Forum on Cambodia
Tel: (855-23) 214 429 ; Mobile: (855-12) 235 211
http://www.ngoforum.org.kh
For list of International and Local NGO members of the NGO Forum on Cambodia please go to:
http://www.ngoforum.org.kh/About%20Us/memberlists.htm

International Cooperation Cambodia (ICC)
Tel: (855-23) 215 200 / 213 310
Fax: (855-23) 213 100
Mobile: (855-12) 407 317
Email: pawley@icc.org.kh

International Institute for Rural Reconstruction (IIRR)
http://www.ik-pages.net

United Nations Development Programme (UNDP)
www.undp.org.kh
Tel: (855-23) 221 107
Email: sopheap.yin@undp.org

Peoples Republic of China

Government ministries

State Ethnic Affairs Commission
http://www.seac.gov.cn (Chinese)
International Affairs Department
252 Tai Ping Qiao Ave, West District
Beijing 100800; People’s Republic of China
Tel: +86, 10 66083451 or 66508406
Fax: +86, 10 66024923

Indigenous Peoples Organizations (POs/national NGOs/CSOs)

China Association of Ethnic Economy
Office of the Secretary-General
Tel: 86 10 66034553
Email: caeeyf@263.net

Chinese Academy of Social Sciences
Institute of Nationality Studies
Beijing

China Tibetology Research Center
Bei Sihuan Donglu No. 131, Beijing
Tel: +86 10 64932940

Guangxi Academy of Social Sciences
Tel: +86 771 587-0736

Lijiang Dongba Culture Research Institute
<table>
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<tr>
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<td><strong>Ministry of Tribal Affairs</strong> (<a href="http://tribal.nic.in/index.asp">http://tribal.nic.in/index.asp</a>)&lt;br&gt;Shastri Bhavan, New Delhi-110001</td>
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<td>India</td>
<td><strong>National Commission for Minorities</strong> (<a href="http://ncm.nic.in">http://ncm.nic.in</a>)&lt;br&gt;Lok Nayak Bhavan, Khan Market, New Delhi 110003&lt;br&gt;Tel: +91 11 24618349&lt;br&gt;Fax: +91 11 24693302, 24642645, 24698410</td>
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<td><strong>National Commission for De-notified, Nomadic and Semi Nomadic Tribes</strong> (<a href="http://ncdnsnt.gov.in/">http://ncdnsnt.gov.in/</a>)&lt;br&gt;1Ind Floor, 'C' Wing,</td>
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</table>
August Kranti Bhawan, Bhikaji Cama Place
New Delhi -110066
Tel/Fax: 91-11-26184883

Asian Indigenous & Tribal Peoples Network
www.aitpn.org/about.htm
9627, Janakpuri, New Delhi-110058, India
Telefax: +91 11 25503624

Indian Confederation' of Indigenous and Tribal Peoples North East Zone (ICITP-NEZ)
http://www.icitp-nez.org/
C-9,9555, Vasant Kunj, New Delhi-70
Tel: +91-11- 626139586
Email : icitp.india@gmail.com

North East Peoples Alliance
http://nealliance.net/
Tel: +91 9862917563
Email: wramd@yahoo.com

Chin Human Rights Organization
Aizawl, Mizoram
Tel: +91 11 2346585
Email: suikhar@hotmail.com

International organizations
(multilateral/bilateral
institutions/international NGOs)

Action Aid India
http://actionaidindia.org

Oxfam Trust in India
www.oxfamint.org.in

Oxfam India
http://www.oxfamindia.org/
2nd Floor, 1 Community Centre
New Friends Colony, New Delhi 110 065
Tel: +91 11 4653 8000 / Fax: +91 11 4653 8099

Indonesia
Government ministries

Department of Justice and Human Rights

Department of Social Affairs

Forestry Department

Indigenous Peoples Organizations
(POs/national NGOs/CSOs)

Forest Peoples Programme
http://www_forestpeoples.org/

Indigenous Peoples Alliance of the Archipelago (AMAN)
http://www.aman.or.id/
National Secretariat, Jl. B No. 4 RT/RW 001/006
Komp. Rawa Bambu I, Pasar Minggu
Jakarta Selatan
Tel/Fax: +62-21-7802771
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<td>Lao Front for National Construction (LFNC)</td>
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<tr>
<td></td>
<td>Street address: Thanon Khouvieng, Ban Sisakhet, Muang Chanthaburi, Vientiane, Laos</td>
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<tr>
<td></td>
<td>Telephone: +856 21 213752, +856 21 213754</td>
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| **Oxfam Australia**                                                |

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<tr>
<td>Shreemahal Pulchowk, Lalitpur</td>
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<tr>
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| National Foundation for Development of Indigenous Nationalities       |
| Tel: +977 1 5553175, 5528370                                          |

| **Nepal Federation of Indigenous Nationalities**                      |
| [www.nefin.org.np](http://www.nefin.org.np)                           |
| Dhobighat Nayabato                                                    |
| Lalitpur, Bagmat                                                      |
| Post Box No. 8975 EPC 1851                                            |
| Tel: +977 1 5555054                                                   |
| Fax: +977 1 5554236                                                   |

| Lawyer’s Association for the Human Rights of Nepal’s Indigenous Peoples (LAHURNIP) |
| Anamnagar, Kathmandu Nepal                                             |
| P.O. Box no.: 11179                                                   |
| Tel: +977-01-4770710                                                  |
| Email: [info@lahurnip.org](mailto:info@lahurnip.org)                   |

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<tr>
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<td>National Commission on Indigenous Peoples</td>
</tr>
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</tr>
<tr>
<td>Cor. West and Quezon Avenues, Quezon City</td>
</tr>
<tr>
<td>Tel: +63 2 3739787</td>
</tr>
<tr>
<td>Cordillera Peoples Alliance (CPA)</td>
</tr>
<tr>
<td>Tel: +63 74 3044239</td>
</tr>
<tr>
<td>Fax: +63 74 4437159</td>
</tr>
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<td>Indigenous Peoples Organizations (POs/national NGOs/CSOs)</td>
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<td>Kalahan Educational Foundation (KEF)</td>
</tr>
<tr>
<td>Friendship House 4 J Luna St. San Francisco del Monte</td>
</tr>
<tr>
<td>Quezon City</td>
</tr>
<tr>
<td>Tel/fax: +63 2 3721146</td>
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<tr>
<td>Kalipunan ng Katutubong Mamamayan ng Pilipinas (KAMP) or Federation of Indigenous Peoples of the Philippines</td>
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</tr>
<tr>
<td>70-B Matahimik St. UP Teachers Village, Quezon City</td>
</tr>
<tr>
<td>Tel/fax: +63 2 9211058</td>
</tr>
<tr>
<td>Philippine Association for Intercultural Development (PAFID)</td>
</tr>
<tr>
<td>PAFID-MANILA</td>
</tr>
<tr>
<td>71 Malakas Street, Diliman</td>
</tr>
<tr>
<td>Quezon City 1101, Philippines</td>
</tr>
<tr>
<td>Tel: +63 2 9286267, 9274580, 4355408</td>
</tr>
<tr>
<td>Fax: +63 2 4355406</td>
</tr>
<tr>
<td>Tribal Development Foundation of the Philippines, Inc.</td>
</tr>
<tr>
<td>1258 Crescor Bldg, Quezon Avenue, Q.C.</td>
</tr>
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<tr>
<td>Indigenous Peoples Organizations (POs/national NGOs/CSOs)</td>
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<td></td>
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<tr>
<td>International organizations (multilateral/bilateral institutions/international NGOs)</td>
</tr>
</tbody>
</table>
# APPENDIX 4: INDIGENOUS PEOPLES IMPACT CATEGORIZATION

## A. Instructions

i. The project team completes and submits the form to the Environment and Safeguards Division (RSES) for endorsement by RSES Director, and for approval by the Chief Compliance Officer (CCO).

ii. The classification of a project is a continuing process. If there is a change in the project components or site that may result in category change, the Sector Division submits a new form and requests for recategorization, and endorsement by RSES Director and by the CCO. The old form is attached for reference.

iii. The project team indicates if the project requires broad community support (BCS) of Indigenous Peoples communities. BCS is required when project activities involve (a) commercial development of the cultural resources and knowledge of indigenous peoples, (b) physical displacement from traditional or customary lands; and (c) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual use that define the identity and community of indigenous peoples.

iv. In addition, the project team may propose in the comments section that the project is highly complex and sensitive (HCS), for approval by the CCO. HCS projects are a subset of category A projects that ADB deems to be highly risky or contentious or involve serious and multidimensional and generally interrelated potential social and/or environmental impacts.

## B. Project Data

<table>
<thead>
<tr>
<th>Country/Project No./Project Title</th>
<th>Department/ Division</th>
<th>Processing Stage</th>
<th>Modality</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>[ ] Project Loan [ ] Program Loan [ ] Financial Intermediary [ ] General Corporate Finance [ ] Sector Loan [ ] MFF [ ] Emergency Assistance [ ] Grant [ ] Other financing modalities:</td>
</tr>
</tbody>
</table>

## C. Indigenous Peoples Category

- [ ] New [ ] Recategorization — Previous Category [ ]
- [ ] Category A [ ] Category B [ ] Category C [ ] Category FI

## D. Project requires the broad community support of affected Indigenous Peoples communities.

- [ ] Yes [ ] No

## E. Comments

| Project Team Comments: | RSES Comments: |

## F. Approval

- Proposed by: Project Team Leader, (Department/Division) Date:

- Reviewed by: Social Safeguard Specialist, RSDD/RSES Date:

- Endorsed by: Director, RSES Date:

- Approved by: Chief Compliance Officer Date:

- [ ] Highly Complex and Sensitive Project
Indigenous Peoples Impact Screening Checklist

<table>
<thead>
<tr>
<th>KEY CONCERNS</th>
<th>YES</th>
<th>NO</th>
<th>NOT KNOWN</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Indigenous Peoples Identification</strong></td>
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<tr>
<td>1. Are there socio-cultural groups present in or use the project area who</td>
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<tr>
<td>may be considered as “tribes” (hill tribes, schedules tribes, tribal peoples), “minorities” (ethnic or national minorities), or “indigenous communities” in the project area?</td>
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<tr>
<td>2. Are there national or local laws or policies as well as anthropological researches/studies that consider these groups present in or using the project area as belonging to “ethnic minorities”, scheduled tribes, tribal peoples, national minorities, or cultural communities?</td>
<td></td>
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<tr>
<td>3. Do such groups self-identify as being part of a distinct social and cultural group?</td>
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<tr>
<td>4. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories?</td>
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<tr>
<td>5. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture?</td>
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<tr>
<td>6. Do such groups speak a distinct language or dialect?</td>
<td></td>
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<tr>
<td>7. Has such groups been historically, socially and economically marginalized, disempowered, excluded, and/or discriminated against?</td>
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<tr>
<td>8. Are such groups represented as “Indigenous Peoples” or as “ethnic minorities” or “scheduled tribes” or “tribal populations” in any formal decision-making bodies at the national or local levels?</td>
<td></td>
<td></td>
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<tr>
<td><strong>B. Identification of Potential Impacts</strong></td>
<td></td>
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<tr>
<td>9. Will the project directly or indirectly benefit or target Indigenous Peoples?</td>
<td></td>
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<tr>
<td>10. Will the project directly or indirectly affect Indigenous Peoples’ traditional socio-cultural and belief practices? (e.g. child-rearing, health, education, arts, and governance)</td>
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<tr>
<td>11. Will the project affect the livelihood systems of Indigenous Peoples? (e.g., food production system, natural resource management, crafts and trade, employment status)</td>
<td></td>
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<tr>
<td>12. Will the project be in an area (land or territory) occupied, owned, or used by Indigenous Peoples, and/or claimed as ancestral domain?</td>
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<tr>
<td><strong>C. Identification of Special Requirements</strong></td>
<td></td>
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<tr>
<td>Will the project activities include:</td>
<td></td>
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<tr>
<td>13. Commercial development of the cultural resources and knowledge of Indigenous Peoples?</td>
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<tr>
<td>14. Physical displacement from traditional or customary lands?</td>
<td></td>
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</tbody>
</table>
### KEY CONCERNS
(Please provide elaborations on the Remarks column)

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>YES</th>
<th>NO</th>
<th>NOT KNOWN</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>Commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of Indigenous Peoples?</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>16</td>
<td>Establishing legal recognition of rights to lands and territories that are traditionally owned or customarily used, occupied or claimed by indigenous peoples?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Acquisition of lands that are traditionally owned or customarily used, occupied or claimed by indigenous peoples?</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

D. **Anticipated project impacts on Indigenous Peoples**

<table>
<thead>
<tr>
<th>Project component/ activity/ output</th>
<th>Anticipated positive effect</th>
<th>Anticipated negative effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
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<tr>
<td>2.</td>
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<tr>
<td>3.</td>
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<td>4.</td>
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<td>5.</td>
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</table>

Note: The project team may attach additional information on the project, as necessary.
APPENDIX 5: INDIGENOUS PEOPLES SAFEGUARDS INSTRUMENT IN DIFFERENT LENDING MODALITIES

1. The Asian Development Bank (ADB) provides a variety of investment instruments, including stand-alone project loans, program loans, sector finance, multitranche financing facilities, emergency assistance loans, financial intermediary loans, and corporate finance. Requirements regarding Indigenous Peoples vary with the nature of the lending instrument.

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Indigenous Peoples Safeguards Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stand-alone Project Loan</td>
<td>• An Indigenous Peoples Plan (IPP)</td>
</tr>
<tr>
<td>Policy-based Loan</td>
<td>• Prepare a matrix of potential impacts on Indigenous Peoples associated with policy actions to be supported, together with appropriate mitigation measures, estimates of magnitude, and reasons for the judgment.</td>
</tr>
</tbody>
</table>
| Sector Loan | • An Indigenous Peoples Planning Framework (IPPF) for the project as a whole, including an outline of the assessment of social impact and meaningful consultation plan, to be submitted by the borrower/client before project approval.  
• One or two core subprojects will be identified for which IPP will be prepared and submitted prior to approval.  
• SR3 applies to all subprojects. |
| Multitranche Financing Facility | • An IPPF for the multitranche financing facility as a whole, including an outline of the assessment of social impact and meaningful consultation methodologies/approaches, to be submitted by the borrower/client before project approval.  
• SR3 applies to all subprojects at each tranche. |
| Emergency Assistance Loan | • An IPPF for the project as a whole, including an outline of the assessment of social impact, to be submitted by the borrower/client before project approval. |
| Existing Facilities | • Compliance audit of existing or in progress Indigenous Peoples safeguards to assess compliance with SR3 requirements  
• If in noncompliance, a corrective action plan, including remedial actions, budget, and timetable, to be submitted prior to ADB approval |
| Financial Intermediary Loan | • Environmental and Social Management System agreed with ADB to screen for impacts on Indigenous Peoples in subprojects.  
• Financial intermediary due diligence process refers subprojects involving impacts on Indigenous Peoples to ADB.  
• An IPP will be submitted for ADB approval for each subproject involving impacts on Indigenous Peoples. |
| General Corporate Finance | • External audit of the Environmental and Social Management System, past and current performance, against ADB’s Safeguard Policy Statement.  
• Corrective action plan as needed agreed with ADB to achieve or maintain compliance with ADB’s Safeguard Policy Statement. |
APPENDIX 6: OUTLINE OF AN INDIGENOUS PEOPLES PLAN

1. This outline is part of the Safeguard Requirements 3. An Indigenous Peoples Plan (IPP) is required for all projects with impacts on Indigenous Peoples (IP). Its level of detail and comprehensiveness is commensurate with the significance of potential impacts on IP. The substantive aspects of this outline will guide the preparation of IPPs, although not necessarily in the order shown.

A. Executive Summary of the IPP

2. This section concisely describes the critical facts, significant findings, and recommended actions.

B. Description of the Project

3. This section provides a general description of the project; discusses project components and activities that may bring impacts on IP; and identify project area.

C. Social Impact Assessment

4. This section:
   (i) reviews the legal and institutional framework applicable to IP in project context.
   (ii) provides baseline information on the demographic, social, cultural, and political characteristics of the affected IP communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
   (iii) identifies key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with IP at each stage of project preparation and implementation, taking the review and baseline information into account.
   (iv) assesses, based on meaningful consultation with the affected IP communities, the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected IP communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.
   (v) includes a gender-sensitive assessment of the affected IPs’ perceptions about the project and its impact on their social, economic, and cultural status.
   (vi) identifies and recommends, based on meaningful consultation with the affected IP communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the IPs receive culturally appropriate benefits under the project.
D. **Information Disclosure, Consultation and Participation**

5. This section:
   
   (i) describes the information disclosure, consultation and participation process with the affected IP communities that was carried out during project preparation;
   
   (ii) summarizes their comments on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;
   
   (iii) in the case of project activities requiring broad community support, documents the process and outcome of consultations with affected IP communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities;
   
   (iv) describes consultation and participation mechanisms to be used during implementation to ensure IP participation during implementation; and
   
   (v) confirms disclosure of the draft and final IPP to the affected IP communities.

E. **Beneficial Measures**

6. This section specifies the measures to ensure that the IPs receive social and economic benefits that are culturally appropriate, and gender responsive.

F. **Mitigative Measures**

7. This section specifies the measures to avoid adverse impacts on IPs; and where the avoidance is impossible, specifies the measures to minimize, mitigate and compensate for identified unavoidable adverse impacts for each affected IP groups.

G. **Capacity Building**

8. This section provides measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address IP issues in the project area; and (b) IPOs in the project area to enable them to represent the affected IP more effectively.

H. **Grievance Redress Mechanism**

9. This section describes the procedures to redress grievances by affected IP communities. It also explains how the procedures are accessible to IP and culturally appropriate and gender sensitive.

I. **Monitoring, Reporting and Evaluation**

10. This section describes the mechanisms and benchmarks appropriate to the project for monitoring, and evaluating the implementation of the IPP. It also specifies arrangements for participation of affected IP in the preparation and validation of monitoring, and evaluation reports.
J. Institutional Arrangement

11. This section describes institutional arrangement responsibilities and mechanisms for carrying out the various measures of the IPP. It also describes the process of including relevant local organizations and NGOs in carrying out the measures of the IPP.

K. Budget and Financing

12. This section provides an itemized budget for all activities described in the IPP.
## APPENDIX 7: CHECKLISTS TO ASSESS THE ADEQUACY OF AN IPP

### A. Executive Summary of the IPP
- The critical facts, significant findings and recommended actions concisely described

### B. Description of the Project
- General description of the project provided.
- Project components and activities that may bring impacts on IP described.
- Project area identified.

### C. Social Impact Assessment
- The legal and institutional framework applicable to IP in the project context reviewed.
- Baseline information on the demographic, social, cultural and political characteristics of the affected IP communities provided.
- Information on affected IP customary land and resources they depend on provided.
- Key project stakeholders identified.
- Culturally appropriate and gender sensitive process for meaningful consultation with IP at each stage of project preparation and implementation elaborated.
- Potential adverse and positive effects of the project assessed through consultation.
- Gender sensitive analysis of the affected IP vulnerability and gender sensitive assessment of IP perception on impact provided.
- Measures to avoid or minimize adverse effects, or to mitigate/compensate for such effects identified through consultation.
- Measures for ensuring culturally appropriate benefits under the project identified through consultation.
## D. Information Disclosure, Consultation and Participation

- Information disclosure, consultation and participation process with the affected IP communities carried out during project preparation described.

- Comments and feedback by IP on the results of the social impact assessment summarized.

- Concerns raised during consultation identified and how such concerns have been addressed in project designed well explained.

- In the case of project activities requiring broad community support: the process and outcomes of consultations with affected IP communities, including any agreement and safeguard measures addressing the impacts of such activities, appropriately documented.

- Consultation and participation mechanism to be used during implementation described.

- Disclosure of the information in the IPP to the affected IP communities confirmed.

- The IPP endorsed by the borrower/client and disclosed on ADB website.

## E. Beneficial Measures

- Measures to ensure IP receive social and economic benefits that are culturally appropriate specified.

- Measures to ensure gender responsive benefits specified.

## F. Mitigative Measures

- Measures to avoid adverse impacts on IP described.

- Measures to minimize, mitigate and compensate adverse impact for each affected IP groups provided.

## G. Capacity Building

- Measures to strengthen the capacity of relevant government institution to address IP issues in the project area provided.

- Measures to strengthen the capacity of IP (organizations) in the project area to enable them to represent the affected IP more effectively provided.
### H. Grievance Redress Mechanism
- Procedures to redress grievances by affected IP communities described.
- Information on how such procedures are accessible to IP and culturally appropriate and gender sensitive provided.

### I. Monitoring, Reporting and Evaluation
- Mechanisms and benchmarks appropriate to the project for monitoring the implementation of the IPP described.
- Arrangements for participation of affected IP in the monitoring of the IPP implementation described.

### J. Institutional Arrangement
- Institutional arrangement, responsibilities and mechanisms for carrying out various measures well outlined.
- The process of inclusion of relevant local organizations and NGOs in carrying out measures of the IPP described.

### K. Budget and Financing
- Itemized budget for all activities under the IPP provided.
APPENDIX 8: OUTLINE OF AN INDIGENOUS PEOPLES PLANNING FRAMEWORK

A. Introduction

1. This section briefly describes the project and its subprojects and/or components likely to be proposed for financing and explains why the Indigenous Peoples Plan (IPP) of some subprojects cannot be prepared before project appraisal.

B. Objectives and Policy Framework

2. This section

   (i) clarifies the principles and objectives governing the preparation and implementation of IPPs, and demonstrates how they are consistent with ADB requirements;

   (ii) compares applicable national laws and regulations and the safeguard policy statement, and describes measures to fill gaps, if any; and

   (iii) describes the criteria for screening and selecting components, projects, and/or subprojects.

C. Identification of Affected IP

3. This section

   (i) describes how the ADB SPS criteria for identifying groups that are considered IP will be applied in the project;

   (ii) provides information on the IPs most likely to be affected by the project or subprojects; and

   (iii) delineates the potential positive and adverse effects of the project or subprojects on IPs.

D. Social Impact Assessment and IPP for Subprojects and/or Components

4. This section sets out a plan for carrying out a social impact assessment for subprojects and/or components (see section C of Appendix 3 - SR3 of the SPS) and requirements and schedules for (i) screening and classification; and (ii) preparation of an IPP.

E. Consultation and Participation

5. This section outlines the mechanisms and strategy that will be adopted to conduct meaningful consultation with the affected IP at each stage of subproject preparation and implementation. For project activities requiring broad community support, this section will also outline the mechanisms and procedure for documentation of the consultation process that ascertains such broad support from affected IP communities.

F. Disclosure

6. The section outlines disclosure arrangements, such as the information to be disseminated and the method and form of dissemination, to both affected IP and the public.
G. **Grievance Redress Mechanism**

7. This section discusses measures to establish culturally appropriate and gender-sensitive grievance redress mechanisms for affected IP.

H. **Institutional and Implementation Arrangements**

8. This section describes institutional arrangements, including capacity building where necessary for screening and categorization, social impact assessment and preparation of IPPs, and monitoring.

I. **Monitoring and Reporting Arrangements**

9. This section identifies the steps taken to establish mechanisms and benchmarks appropriate for monitoring and reporting.

J. **Budget and Financing**

10. This section provides an indicative budget, and identifies funding sources and responsibilities for allocating, approving, and delivering funds, including contingency arrangement.
### APPENDIX 9: CHECKLIST TO ASSESS THE ADEQUACY OF AN IPPF

#### A. Introduction
- Project, subprojects and/or components likely to be proposed for financing described.
- Explanation provided as to why the IPPs for some subprojects cannot be prepared before project appraisal.

#### B. Objectives and Policy Framework
- The principles and objectives governing the preparation/implementation of IPPs consistent with ADB requirements clarified.
- Applicable national laws/regulations and the SPS compared, and measures to fill gaps described.
- Criteria for screening and selecting components, projects or subprojects described.

#### C. Identification of Affected IP
- Explanation provided as to how the SPS criteria for identifying groups that are considered IP will be applied in the project.
- Information on the IP most likely to be affected by the project or subprojects provided.
- Potential positive and adverse effects of the project/subprojects on IP described.

#### D. Social Impact Assessment and IPP for Subprojects and/or Components
- A plan for carrying out an assessment of social impact for subprojects/components outlined.
- Criteria for screening subproject/component impacts and preparation of an IPP for the subproject/component described.

#### E. Consultation and Participation
- The mechanisms and strategy to be adopted to conduct meaningful consultation with the affected IP at each stage of subproject preparation and implementation outlined.
- For project activities requiring broad community support, the mechanisms and procedure for documenting the consultation process to ascertain such
broad support provided

F. Disclosure
- Disclosure arrangements including information to be disseminated and method and form of dissemination to affected IP outlined.
- The IPPF endorsed by the borrower/client and disclosed on ADB website.

G. Grievance Redress Mechanism
- Culturally appropriate and gender sensitive grievance redress mechanism for affected IP discussed.

H. Institutional and Implementation Arrangements
- Institutional arrangement for preparing, implementing and monitoring the subproject IPPs provided.
- Capacity building measures provided.

I. Monitoring and Reporting Arrangements
- Steps to establish mechanism for monitoring and reporting described.
- Appropriate benchmarks for monitoring and reporting provided.

J. Budget and Financing
- Indicative budget provided.
- Funding sources and responsibilities for allocating, approving and delivering funds identified.
APPENDIX 10: OUTLINE OF AN ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM

INTRODUCTION

1. [This section includes an overall description of the Fund and the nature of business operations/business activities of the existing and likely future portfolio. It also discusses the nature of the investments that may be financed by the Fund using ADB's funds.]

ENVIRONMENTAL AND SOCIAL MANAGEMENT POLICY AND APPLICABLE REQUIREMENTS

A. Policy

2. The environmental and social management policy of [Name of Fund] was approved by the Board of Directors (or signed by ........... [the President], or indicate other position/designation) on ........ [date/month/year] and states that:

3. The objectives of the environmental and social management system are:

   (i) To avoid, and when avoidance is not possible, to minimize and mitigate adverse impacts of investments on the environment and affected people; and

   (ii) To maximize opportunities for environmental and social benefits.

4. [Name of Fund] continually endeavors to ensure and enhance effective environmental and social management practices in all its activities, products and services with a special focus on the following:

   (i) Ensuring that applicable environmental and social safeguard requirements, as defined in Section II (B) are met for all investments;

   (ii) Financing companies only when the investments are expected to be designed, constructed, operated, and maintained in a manner consistent with applicable environmental and social safeguard requirements, as defined in Section II (B);

   (iii) Integrating environmental and social risk into its internal risk management analysis;

   (iv) Ensuring appropriate consultation and transparency in its investee company's activities;

   (v) Working together with the investee company management to put into practice applicable environmental and social safeguard requirements; and

   (vi) Promoting investments with environmental and social benefits.

5. This policy will be communicated to all staff and operational employees of the company.

B. Applicable Environmental and Social Safeguard Requirements

6. [Name of Fund] will ensure that:

---

1 The term “investments” is used in the document to mean business activities financed in part or in full by [Name of Fund] using ADB funds.
(i) All investments are screened against the Prohibited Investment Activities List (PIAL) of the ADB Safeguard Policy Statement;

(ii) All investments with potential significant environmental and/or social impacts are reviewed and evaluated against Safeguard Requirements 1-3 of the ADB Safeguard Policy Statement (2009);

(iii) All investments are reviewed and evaluated against the national laws, regulations, and standards on environment, health, safety, involuntary resettlement and land acquisition, indigenous peoples, and physical cultural resources; and

(iv) [Optional requirement: In accordance with the Safeguard Policy Statement of ADB, ADB may set additional safeguard requirements depending on the Fund’s portfolio, its capacity in managing social and environmental risks, and the host country’s safeguard systems. In this case, the additional safeguard requirements set by ADB should be specified.] {Examples of additional requirements are: (1) Applicable Environmental and Social Safeguard Requirements (i)-(iii) apply to the entire portfolio of the Fund; or (2) investments in mining activities using ADB funds are not allowed.}

ENVIRONMENTAL AND SOCIAL MANAGEMENT PROCEDURES

A. Screening and Categorization

7. At an initial stage of identifying an investment, the Environmental and Social Safeguard Manager² (or other designated staff) will apply ADB’s PIAL. If the investment involves a prohibited activity, the investee company will be informed that the investment will not be considered. Otherwise, the staff will indicate the applicable environmental and social safeguard requirements for the investment.

8. At the investment identification stage, the Environmental and Social Safeguard Manager (or other designated officer) will work with the investee company to make a rapid assessment of the likely environmental and involuntary resettlement impacts and effects on Indigenous Peoples of an investment. The environmental assessment checklist and social safeguard screening checklist are designed to guide the deal team in the rapid assessment of impacts. The checklists are used to determine the significance of potential environmental and/or social impacts associated with the investment.

9. Once the checklists and the verification work are completed by the deal team of [Name of Fund], the investment will be classified as one of the following categories: category A (with potential significant environmental and/or social impacts); category B (with less significant environmental and/or social impacts), and category C (with minimal or no impacts).

10. The deal team of [Name of Fund] will inform the investee company of the applicable requirements as presented in Section II (B) and in Table 1. For investments with potential significant environmental and/or social impacts, the deal team will advise the investee company that (i) Safeguard Requirements 1-3 of the ADB Safeguard Policy Statement will apply, which cover the preparation of an environmental impact assessment (EIA) including environmental management plan (EMP), resettlement plan (RP) and/or Indigenous Peoples plan (IPP); and (ii) the investee company shall submit these reports to [Name of Fund] for review. [Name of Fund] will also submit these reports to ADB for review.

² The Environmental and Social Safeguard Manager (or other designated staff) can be a full time officer or a consultant of [Name of Fund].
Table 1: Safeguard Requirements

<table>
<thead>
<tr>
<th>Category (Risk Rating)</th>
<th>Environmental Safeguards</th>
<th>Involuntary Resettlement Safeguards</th>
<th>Indigenous Peoples Safeguards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category A (with potential significant impacts)</td>
<td>Comply with (i) Safeguard Requirements 1 of the ADB Safeguard Policy Statement, including EIA preparation &amp; submission, and (ii) national laws</td>
<td>Comply with (i) Safeguard Requirements 2 of the ADB Safeguard Policy Statement, including RP preparation &amp; submission, and (ii) national laws</td>
<td>Comply with (i) Safeguard Requirements 3 of the ADB Safeguard Policy Statement, including IPP preparation &amp; submission, and (ii) national laws</td>
</tr>
<tr>
<td>Category B (with less significant impacts)</td>
<td>Comply with national laws</td>
<td>Comply with national laws</td>
<td>Comply with national laws</td>
</tr>
<tr>
<td>Category C (with minimal or no impacts)</td>
<td>Comply with national laws</td>
<td>Comply with national laws</td>
<td>Comply with national laws</td>
</tr>
</tbody>
</table>

B. Due Diligence

11. The Environmental and Social Safeguard Manager (or other designated staff) of the deal team of [Name of Fund] will undertake environmental and social due diligence. Depending on the complexity of the investment, due diligence can be a desk review (for category C investments), based on a site visit (for category B investments), or a full-scale review conducted by qualified staff in charge of environmental and social safeguards, or by consultant(s) (for category A investments). The investee company must provide all requested information to the deal team, and should be able to demonstrate responsiveness with regard to the applicable environmental and social safeguard requirements. A due diligence report will be prepared for category A and B investments and the results of the due diligence will be reflected in the report to the investment committee of [Name of Fund], which will take into account these issues in approving the investment.

12. For an investment likely to be classified as category A for any of their environment, involuntary resettlement, or indigenous peoples impacts, [Name of Fund] will refer the investment to ADB and provide relevant environmental and social information to ADB early in its due diligence process, and submit the draft EIA, RP, and/or IPP to ADB for review and clearance before the investment is approved by [Name of Fund]. The draft EIA report will be made publicly available at least 120 days before the approval of the investment, and the draft RP and draft IPP will be made publicly available before the approval of the investment.

13. All investment agreements will contain appropriate environmental and social covenants requiring investments to be in compliance in all material respects with the applicable environmental and social safeguard requirements.

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3 For a category A investment involving facilities and/or business activities that already exist or are under construction, [Name of Fund] will require the investee company to undertake an environmental and/or social compliance audit, and submit the draft audit report to ADB for review and clearance before the investment is approved. The draft audit report will be made publicly available at least 120 day before the approval of the investment. A typical environmental and/or social audit report includes the following major elements: (i) executive summary; (ii) facilities description, including both past and current activities; (iii) summary of national, local, and any other applicable laws, regulations, and standards; (iv) audit and site investigation procedure; (v) findings and areas of concern; and (vi) corrective action plan that provides the appropriate corrective actions for each area of concern, including costs and schedule.
C. Compliance Monitoring and Reporting

14. After a category A or B investment is approved, the Environmental and Social Safeguard Manager (or other designated staff) (i) communicates with the investee company and confirms from time to time that the investee company is undertaking the obligations of compliance with all applicable environmental and social safeguard requirements; and (ii) [Name of Fund] will promptly report to ADB any actual or potential breach of the compliance requirements after becoming aware of it. For a category A investment, the Environmental and Social Safeguard Manager (or other designated staff) will visit the site to monitor the implementation of EMP, RP, and/or IPP.  

15. Environmental and social performance will be evaluated on an annual basis. The benchmark for performance will be the ongoing compliance against the applicable environmental and social safeguard requirements. [Name of Fund] will ensure that the investee company prepares and submits an annual environmental and social monitoring report, and will review and assess the investee company’s performance on environmental and social safeguard issues.

16. Based on the review of the annual monitoring reports for Category A and B investments prepared by the investee companies, the Environmental and Social Safeguard Manager will prepare an annual environmental and social performance report substantially and submit it to the [Name of Fund] management and ADB.

17. All investment agreements will contain appropriate environmental and social covenants requiring that investments are in compliance in all material respects with the applicable environmental and social safeguard requirements as defined in Section II (B).

ORGANIZATIONAL RESPONSIBILITIES, RESOURCES AND CAPACITY

18. Organization and Responsibilities. The Environmental and Social Safeguard Manager (or other designated staff) reports to the fund manager of [Name of Fund]. The Environment and Social Manager has oversight for environmental and social issues, ensures the resources are made available for environmental and social management, and should sign and submit the annual environmental and social performance report to ADB. S/he should ensure that the ADB is notified if and when the responsible staff has been changed or replaced with new staff.

19. Resources and Capabilities. The Environmental and Social Safeguard Manager (or other designated staff) should work with management to ensure that adequate resources have been committed to allow for the effective implementation of this ESMS policy and procedures. S/he will need to be technically qualified to be able to carry out the screening and due diligence or able to review the work carried out by consultant(s). S/he should attend ADB-sponsored or approved environmental and social safeguard training related to compliance and monitoring activities. [Name of Fund] should also maintain a pool of qualified environmental and social consultants who can be called upon to assist in conducting environmental and social reviews as appropriate.

4 For a category A investment involving facilities and/or business activities that already exist or are under construction, the Environmental and Social Safeguard Manager (or other designated staff) will visit the site to monitor the implementation of the corrective action plan, if any.
APPENDIX 11: SAMPLE TERMS OF REFERENCE FOR EXTERNAL EXPERTS FOR VERIFYING MONITORING INFORMATION OF INDIGENOUS PEOPLES PLAN IMPLEMENTATION

A. OBJECTIVES

1. The objective of this consulting service is to verify the ongoing monitoring information of the implementation of an Indigenous Peoples plan (IPP) and advise the [name of the borrower or client] on safeguard compliance issues for [name of the project], which is considered to have significant Indigenous Peoples (IP) impacts.

2. The project is supported by the Asian Development Bank (ADB) and will [a brief description of the project].

3. The [name of the borrower/client] is assisted by [name of the implementing NGO] for implementing the IPP(s). An experienced external monitoring expert or a qualified NGO will be engaged by [name of the project] to undertake the external monitoring exercise.

B. SCOPE OF WORK—GENERAL

4. This scope of work will require the expert to undertake the following general tasks, among others:

   (i) Coordinate closely with the [relevant Executing Agency authority] and [IP representative agencies] regarding the monitoring and evaluation of the situation of affected IP communities;

   (ii) Review and verify the progress in implementing the IPP through the monitoring information internally generated.

   (iii) Monitor the effectiveness and efficiency of the [name of the borrower/client] and the implementing NGO in the IPP implementation.

   (iv) Assess whether the IP objectives, particularly the mitigation of project impacts such as [examples]; and, provision of beneficial measures such as [examples] are being achieved, or have been met.

   (v) Assess whether the overall results of the IPP activities are being achieved. In particular, improvement of livelihood and living standards; and protection or enhancement of indigenous cultural integrity. Provide recommendations for improvement.

   (vi) Assess whether there are significant IP issues that are not being addressed and, if required, draw on policy and practices to advise on a corrective action plan.

C. SCOPE OF WORK—SPECIFIC

5. The expert’s work will include several specific tasks:

   (i) Visit each project location [bi-annually, annually] during the construction and operation phase to review the results of internal monitoring for the purpose of preparing a monitoring report;

   (ii) During site visits, involve the IP communities in focus groups discussions to assess the project impacts (positive and negative). Focus groups discussions will be led by locally trained facilitators, preferably, in the IP language and ensure
that women, the vulnerable and poor, and any relevant social and cultural IP subgroups are meaningfully included;

(iii) Identify the strengths and weaknesses of the IPP objectives and approaches, as well as of the implementation strategies;

(iv) Review the results of the internal monitoring reports and verify progress in IPP implementation in each subproject.

(v) Prepare a semi-annual report for the [name of the borrower/client] after the implementation of the plan begins. In particular:
   a. Verify and assess the implementation and effectiveness of the information disclosure, participation and communication strategies;
   b. Assess the grievance redress mechanism and verify the handling of grievances with the aggrieved IP.
   c. Assess the efficiency, effectiveness, impact and sustainability of the results achieved by the various IPP measures.
   d. Suggest modifications in the implementation procedures, if necessary, to achieve the principles and objectives of the IPP.

(vi) Make two further monitoring visits to each project location 1 and 2 years following completion to assess sustainability of IPP measures. These visits will coordinate with the internal monitoring activities with the IP and involve special attention to monitoring impacts on the women and other vulnerable groups among the impacted IP.

D. OUTPUTS

6. The outputs expected will involve the following:

   (i) A detailed monitoring report, with [number of] copies to the [name of the borrower/client] after each monitoring visit. Apart from the specific items noted above, the monitoring report will:
      a. specifically describe whether the implementation program has been successfully implemented in accordance with the IPP;
      b. outline any outstanding actions that are required to bring the implementation activities in line with the IPP and the Safeguard Requirements 3 of the Safeguard Policy Statement (2009) of ADB;
      c. describe further mitigation/beneficial measures needed to meet the needs of any IP communities judged and/or perceiving themselves to be worse off as a result of the project;
      d. provide a timetable and define budget requirements for any supplementary measures for the IPP and draft a corrective action plan or IPP update to address such issues;
      e. describe any lessons learned that might be useful for future activities.

   (ii) Attend a joint meeting with representatives of [the Project Steering committee], ADB, [and any IP-nominated representative] to present the findings, including recommendations for meaningful improvements in the implementation process.

   (iii) Ensure that the monitoring reports, corrective action plan and/or IPP updates are submitted to ADB for review and disclosed in full on the [client/beneficiary] and ADB websites.
E. QUALIFICATIONS

7. The external expert or NGO will have significant experience in monitoring and evaluation. Familiarity and work experience with the subject IP would be preferred; however good experience with other similar IP groups in the region would also suffice. Persons with a social science background will be preferred.

8. Interested agencies or consultants should submit proposals for the work with a brief statement of the approach, methodology, and relevant information concerning experience on monitoring and evaluation of IP implementation. The CV of the expert or the profile of the NGO along with full CV of key personnel proposed to be engaged must be submitted along with the proposal.

F. ESTIMATED PERSON-MONTHS

9. [Number] [domestic/international] external monitor(s) will be recruited for an estimated total of [number] person-months.

G. BUDGET AND LOGISTICS

10. The proposal—both technical and financial—should be submitted and the budget should include all cost and any other logistics necessary for the assignment.
APPENDIX 12: EXAMPLE OF MONITORING INDICATORS

1. Monitoring indicators should assist the project to assess progress of the Indigenous Peoples Plan (IPP) and whether mitigation measures are effective, resulting in desired outcomes. This enables the project to respond to any issues and manage change accordingly.

2. Indicators that show implementation progress are called process indicators and give some certainty that the project is proceeding according to plan.

3. Indicators that measure whether the IPP mitigation measures are successful are called outcome indicators and reflect the results of the process.

4. It is important that an appropriate number of indicators be included in the monitoring plan. Too few may leave gaps in critical areas. Too many may overburden the collection process, and diminish quality. Use the minimum but necessary number of monitoring indicators to ensure adequate IPP implementation and expected outcomes.

5. Some examples of process and outcome indicators are shown below. They are not an exhaustive list, and should be selected as required.

<table>
<thead>
<tr>
<th>Example of Process Indictors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demographic baseline</td>
</tr>
<tr>
<td>• The numbers of affected Indigenous Peoples (IP) by category of impact, gender, age, habitat (village etc), income, status and position</td>
</tr>
<tr>
<td>• Number of households with handicapped, elderly or invalid members</td>
</tr>
<tr>
<td>• Number of female headed households</td>
</tr>
<tr>
<td>• Number of vulnerable households (poor, elderly)</td>
</tr>
<tr>
<td>• Number of households by ethnic group</td>
</tr>
<tr>
<td>• Number of births and deaths</td>
</tr>
<tr>
<td>Consultation and participation</td>
</tr>
<tr>
<td>• Number of consultation and participation activities that occur—meetings, information dissemination, brochures; flyers, training</td>
</tr>
<tr>
<td>• Percentage of IP women as participants; number of meetings exclusively with IP women</td>
</tr>
<tr>
<td>• Percentage of vulnerable IP groups represented / attending meetings; number of meetings exclusively with vulnerable IP groups.</td>
</tr>
<tr>
<td>• Languages used at meetings</td>
</tr>
<tr>
<td>• Good faith negotiations—recording of process, participants, locations, correspondence</td>
</tr>
<tr>
<td>• Broad community support—record of processes, participants, locations and agreement obtained</td>
</tr>
<tr>
<td>• Consultation and participation progress against plan and budget</td>
</tr>
<tr>
<td>Mitigation measures</td>
</tr>
<tr>
<td>• Progress of implementation of mitigation / beneficial measures against plan</td>
</tr>
<tr>
<td>• Number of activities that occur/completed—such as construction, livelihood restoration, disbursements, training</td>
</tr>
<tr>
<td>• Percentage progress against timelines and budget</td>
</tr>
<tr>
<td>Grievance redress</td>
</tr>
<tr>
<td>• Total number of people/groups using the grievance redress procedure.</td>
</tr>
<tr>
<td>• Number of distinct people/groups. Any IP group with significantly more grievances?</td>
</tr>
<tr>
<td>• How many times has a household submitted the same grievance?</td>
</tr>
<tr>
<td>• Number of grievances resolved?</td>
</tr>
<tr>
<td>• Length of time taken to be resolved?</td>
</tr>
<tr>
<td>• Types of grievance categories and prevalence</td>
</tr>
<tr>
<td>Implementation problems</td>
</tr>
<tr>
<td>• Identified delays—(days, cost) due to personnel, capacity, insufficient funds, etc</td>
</tr>
<tr>
<td>• Number of times implementation schedule revised</td>
</tr>
</tbody>
</table>
### Example of Outcome Indicators

| Consultation and participation program | • Awareness of IP issues among implementing stakeholders in each sector  
• Awareness of IPP mitigation and beneficial measures amongst recipients  
• Awareness of project details amongst stakeholders  
• IP perception of effectiveness, cultural appropriateness and inclusiveness of consultation measures  
• Attendance at consultation and participation activities  
  Level of involvement by IP and representatives in the design and implementation of consultation and participation |
| Enhanced dignity of IP groups, integrity of traditional kinship networks and livelihood patterns | • Changes in religious/cultural practices  
• Changes in cultural governance  
• Participation in cultural governance (by gender, status)  
• Number of people (age and sex) who can speak national language and/or local dialect  
• Changes in condition of schools, community buildings, temples structures  
• Numbers of religious/cultural events and persons (monks shamans, priests etc.)  
• Participation in cultural/religious events (by gender, time/resources allocated) |
| Livelihoods and living standards | • Major asset inventory—e.g. vehicle, phone, tools, kitchen equipment  
• Changes in patterns of IP occupation, production, and resource use  
• Changes in income and expenditure patterns among IP households  
• Savings  
• Change in food used by IP—amount, nutrition source  
• Cost of living changes—market prices etc.  
• Changes in key social parameters—gender roles of production  
• Vulnerable groups—status, relative income, livelihood  
• Education—literacy and numeracy level in national/ethnic language  
• School attendance of IP children (by sex and ethnic language)  
• Key health indicators of IP (by gender, age) |
**APPENDIX 13: APPROACHES FOR OBTAINING AND REVIEWING BROAD COMMUNITY SUPPORT**

**Box 1: Borrower/client process of obtaining broad community support (BCS)**

<table>
<thead>
<tr>
<th>Aspect of Process of Obtaining BCS</th>
<th>Suggested Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Identify the appropriate communities to be involved in the BCS process</td>
<td>Assessment of social impacts identifies affected Indigenous Peoples (IP) communities and their representatives.</td>
</tr>
</tbody>
</table>

**Employ Meaningful Consultation**

| Consultations began early in the project preparation stage and were carried out on an ongoing basis throughout the project cycle; | At an early stage of the project design, borrower/client verifies whether project involves any of the following activities: (i) commercial development of the cultural resources and knowledge of IP; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of IP.  
  
Initial Meeting with affected IP communities provides:  
- an introduction to the Project as a whole  
- a discussion of the likely impacts of the project, with focus on the activities requiring their support  
- a discussion of the BCS process  
- proposed schedule and timelines. |

| Relevant and adequate information was disclosed in a timely manner and in a form understandable and readily accessible to affected people; | At later meetings provide more information and continue discussions, including suggestions for possible agreements as to benefit-sharing and mitigation measures, prior to or at different major decision-making points. |

| The process was gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; | Special outreach efforts are made to include views not only of local IP leadership but also of women, very poor and other vulnerable groups, with a particular emphasis on those most affected by the project activities |

| Ensure consultations are accessible | Local dialects, IP languages are used; special outreach methods devised to include illiterate IP community members; Means by which IP communities’ participation will not entail cost to them |

| The consultations were undertaken in an atmosphere free of intimidation and coercion | Participant anonymity is offered and ensured, if requested; permissions necessary for recording of sessions |

**Pursue Informed Participation**

| The process enabled the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues. | Design and implementation of project activities reflect stakeholder views; including the views of those IP communities who opposed and those who suffer the most |

| Project is alert to possible need for Good Faith Negotiation (GFN) | Serious differences and disagreements not readily resolved should be recognized by the Project as the trigger to undertake the GFN process, particularly if these are with those IP most affected by the project activities |

| Feedback: Keep affected IP communities informed of project responses to three project activities | Proposed mitigation measures and benefits to deal with adverse impacts of project activities requiring BCS be included in draft IPP or other documents are shared with affected IP communities |
### Box 2: ADB review of the engagement process

<table>
<thead>
<tr>
<th>Aspect of Process Review</th>
<th>Examples of Validation Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Affected IP Communities Identification</strong>&lt;br&gt;As part of the assessment of social impact process, identification of all project-affected communities, their disaggregation (numbers, locations) in terms of different levels of vulnerability to and opportunities from project impacts and risks.&lt;br&gt;<em>Have the appropriate communities been consulted?</em>&lt;br&gt;&lt;br&gt;<strong>2. Meaningful Consultation</strong>&lt;br&gt;A process of consultation that is ongoing during the project planning process, such that: (a) affected IP communities have been engaged in: (i) identifying potential impacts &amp; risks; (ii) assessing the consequences of these impacts &amp; risks for their lives; and (iii) providing input into the proposed mitigation measures, the sharing of development benefits and opportunities and implementation issues; and (b) new impacts and risks that have come to light during the planning and assessment process have also been consulted.&lt;br&gt;<em>Have the affected communities been engaged in the process?</em>&lt;br&gt;&lt;br&gt;<strong>Aspects of Meaningful Consultation</strong>&lt;br&gt;a. <em>Consultations begins early in the project preparation stage and carried out on an ongoing basis throughout the project cycle;</em>&lt;br&gt;Consultation with affected IP communities must be sufficiently early in the project planning process: (i) to allow time for project information regarding the three activities to be interpreted and comments and recommendations formulated and discussed; (ii) for the consultation to have a meaningful influence on the project design options for the three project activities; (iii) for the consultation to have a meaningful influence on the choice and design of mitigation measures, the sharing of development benefits and opportunities, and project implementation as they relate to the three project activities.&lt;br&gt;<em>Has information been shared early enough in the project planning process?</em></td>
<td>• Sections of the assessment of impacts describing selection of communities to be consulted regarding their support or lack thereof of the three project activities&lt;br&gt;• Borrower/client’s documents of community engagement (e.g., communications strategy, consultation plan, Public Consultation &amp; Disclosure Plans, stakeholder engagement plan)&lt;br&gt;&lt;br&gt;• Evidence of discussions showing the IP have been involved in the design and implementation of the C&amp;P process?&lt;br&gt;&lt;br&gt;• Borrower/client’s schedule and record of IP community engagement&lt;br&gt;&lt;br&gt;• Borrower/client’s record of discussions with recognized community representatives, respected key informants, and representatives of subgroups (e.g., women, minorities), including a summary of issues raised and opinions expressed&lt;br&gt;&lt;br&gt;• Borrower/client’s record of discussions with recognized IP community representatives, respected key informants, and representatives of IP subgroups.</td>
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</table>
### Box 2: ADB review of the engagement process

<table>
<thead>
<tr>
<th>Aspect of Process Review</th>
<th>Examples of Validation Methods</th>
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<tbody>
<tr>
<td>b. Relevant and adequate information is disclosed in a timely manner and in a form understandable and readily accessible to affected people; Timely disclosure of project information by the borrower/client to all project-affected IP communities about the purpose, nature and scale of the project; the duration of proposed project activities; and expected risks, impacts and development benefits that directly affect them. Disclosure should be in a form that is understandable and meaningful.</td>
<td>- Borrower/client’s materials prepared for disclosure and consultation.</td>
</tr>
<tr>
<td>Has appropriate information been shared about the project activities?</td>
<td>- Borrower/client’s record of discussions with recognized IP community representatives; respected key informants; and representatives of IP subgroups.</td>
</tr>
<tr>
<td>Consultation with affected IP communities on project operations and potential adverse impacts and risks, based on adequate and relevant disclosure of project information, and using methods of communication that are inclusive, culturally appropriate, and adapted to the communities’ language needs and decision-making, such that members of these IP communities fully understand how the project will affect their lives.</td>
<td>- Borrower/client’s record of discussions with recognized IP community representatives, respected key informants, and representatives of IP subgroups.</td>
</tr>
<tr>
<td>Has information been shared in an accessible manner?</td>
<td>- Borrower/client’s record of discussions with representatives of IP subgroups (e.g., women, small minorities).</td>
</tr>
<tr>
<td>c. The consultations were undertaken in an atmosphere free of intimidation and coercion Evidence from the IP communities adversely affected by the project that the borrower/client or its representatives have not coerced, intimidated or unduly incentivized the affected IP population to give their support for specific project activities requiring BCS</td>
<td>- Borrower/client’s record of discussions with representatives of IP subgroups (e.g., women, small minorities).</td>
</tr>
<tr>
<td>Have the consultations been free of intimidation?</td>
<td>- Borrower/client’s record of discussions with representatives of IP subgroups (e.g., women, small minorities).</td>
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<tr>
<td>Box 2: ADB review of the engagement process</td>
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<td>-------------------------------------------</td>
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<tr>
<td><strong>Aspect of Process Review</strong></td>
<td><strong>Examples of Validation Methods</strong></td>
</tr>
</tbody>
</table>
| d. The process was gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; The process enabled the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues. Evidence that (i) the all relevant views have been considered when making decisions on the three project activities, (ii) individuals or groups particularly vulnerable to adverse project impacts and risks (e.g., women, people with disabilities, the very poor) have been party to effective meaningful consultation as well as informed participation, (iii) potential impacts and specific risks will be mitigated to the satisfaction of these parties, and (iv) appropriate opportunities for benefit sharing have been incorporated into the IPP and other plans.  

Have all relevant views, and particularly those of vulnerable IP groups, been incorporated into project decision-making on these three project activities? | • Stakeholder analysis as part of assessment of social impacts or socioeconomic baseline data.  
• Borrower/client’s record of IP community engagement, including record of discussions with representatives of vulnerable IP groups  
• Borrower/client’s documentation of measures taken to avoid or minimize risks to and adverse impacts on vulnerable IP groups in response to feedback received during consultation  
• Drafts of IPP, other action plans  
• Borrower/clients documentation of list of different views (opposing and supporting) from the differentially affected IP groups and list of responses to those views |
| 3. Informed Participation  
Evidence of the borrower/client’s organized and iterative consultation, leading to the borrower/client’s specific decisions to incorporate the views of the affected IP communities on matters relating to the three project activities, whether regarding mitigation efforts, benefits sharing, or project design changes.  

Have the consultations led to affected IP’ effective participation? | • Borrower/client’s schedule and record of IP community engagement  
• The borrower/client’s documentation of measures taken to avoid or minimize risks to and adverse impacts on affected IP communities in response to community feedback received during consultation.  
• Similar documentation of benefits proposed and incorporated into project planning.  
• Drafts of IPP or other action plans |
### Box 2: ADB review of the engagement process

<table>
<thead>
<tr>
<th>Aspect of Process Review</th>
<th>Examples of Validation Methods</th>
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</thead>
<tbody>
<tr>
<td><strong>When serious differences are noted:</strong></td>
<td></td>
</tr>
<tr>
<td>4. Good Faith Negotiation</td>
<td></td>
</tr>
</tbody>
</table>
| Documentation that the borrower/client carried out GFN that: (i) met at mutually agreed-on times and places, (ii) provided necessary information, (iii) explored key issues, (iv) used mutually acceptable negotiation procedures, and (v) allowed sufficient time for decision-making. | • Borrower/client’s method of announcing that GFN procedures would be followed  
• Opening statement of issues in contention  
• Borrower/client’s record of IP community GFN engagement.  
• One-to-one interviews with those involved in the negotiations. |
| 5. Feedback to Affected IP Communities | |
| Documentation that the borrower/client provided the results of consultation regarding the three project activities to the affected IP communities, and either: (i) demonstrated how the comments and recommendations made by the affected IP communities have been accommodated in the project design, mitigation measures, and/or sharing of development benefits and opportunities; or (ii) provided a rationale why these comments and recommendations have not been accommodated. | • Borrower/client’s record of IP community engagement  
• Borrower/client’s documentation of measures taken to avoid or minimize risks to and adverse impacts on affected IP communities  
• Discussions with recognized IP community representatives, respected key informants, and representatives of IP subgroups  
• Revised IPP or other action plans |

*Has feedback to affected IP communities regarding the results of consultations been effective and clear?*
## Box 3: ADB review of engagement outcomes

<table>
<thead>
<tr>
<th>Aspect of Outcome Review</th>
<th>Examples of Validation Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Formal Expressions of Support or Objection</strong>&lt;br&gt;A collective expressions of support or dissent for the three project activities that have arisen through existing, formal, institutional and/or democratic processes&lt;br&gt;Agreed on provisions or measures of the Indigenous Peoples Plan (IPP)&lt;br&gt;&lt;br&gt;<strong>What formal expressions of support or objection are there?</strong></td>
<td>• Summary of issues raised and opinions expressed during consultations.&lt;br&gt;• Minutes of meetings of elected local government, village council, council of elders, etc.&lt;br&gt;• Meeting minutes of other existing and respected IP community bodies&lt;br&gt;• Results of a formal referendum.&lt;br&gt;• Local and community elections won on popular mandates, with explicit reference in the manifesto and campaigning messages of the winning parties to a particular opinion about the project activities</td>
</tr>
<tr>
<td><strong>2. Informal Expressions of Support or Objection</strong>&lt;br&gt;A collective expression of support or dissent for the three project activities arising through discussions or negotiations undertaken explicitly in relation to the project activities with informal or customary institutions, non-elected IP community leaders or elders, and other informal representatives of the affected IP community.&lt;br&gt;&lt;br&gt;<strong>What informal expressions of support or objection exist?</strong></td>
<td>• Summary of issues raised and opinions expressed during consultations.&lt;br&gt;• Written agreements, Memorandum of Agreements, letters of Intent, Joint Statement of Principles, etc.&lt;br&gt;• Borrower/client records, photographs, media reports, personal letters or third party accounts, etc., regarding events/demonstrations/other activities for or against the project activities undertaken by project-affected IP communities, with high relative levels of participation by: (i) the affected IP community as a whole; or (ii) by IP subgroups particularly affected by the project activities</td>
</tr>
<tr>
<td><strong>3. Evidence of Good Faith Negotiation</strong>&lt;br&gt;A collective expression of support for or objection to a project that may involve any of the three project activities as a result of the good faith negotiation process&lt;br&gt;&lt;br&gt;<strong>What were the results of the GFN process?</strong></td>
<td>• One-to-one interviews with those involved in the negotiations.&lt;br&gt;• Agreements reached with affected IP households or groups.&lt;br&gt;• Written agreements, Memorandum of Agreements, Letters of Intent, Joint Statement of Principles, Community Development Plan/IPP, Benefit-Sharing Agreement, or other documents that capture the outcome of the good faith negotiation.&lt;br&gt;• Accepted offers (mitigation measures and or benefits) for IP are better than those originally offered</td>
</tr>
</tbody>
</table>
APPENDIX 14: INDIGENOUS PEOPLES IN THE ADB PROJECT CYCLE

1. Indigenous Peoples (IP) constitute an integral part of many ADB-supported projects and, therefore, should be considered throughout the project cycle. This appendix provides guidance to the ADB project officer/mission leader on how to incorporate IP safeguards in the ADB project cycle. It presents the steps to be taken at project planning phase and implementation phase. Further, Table 1 summarizes the key tasks and responsibilities of the ADB project team in the IP planning and implementation in the ADB project cycle. This appendix also provides some guidance on identifying and categorizing impacts on IP.

A. Project Planning Phase

2. In many cases, IP constitute an integral part of the project design from the earliest stage of the project cycle. Many measures must be completed during the project cycle after project identification and before approval of the investment project by the ADB Board. The key steps in the IP planning phase are briefly discussed below. A set of tasks for the ADB project officer and/or mission leader are identified at each stage. They should be followed through as outputs during project preparation.

3. An initial poverty and social assessment (IPSA) is to be undertaken for ADB-supported projects as early as possible at the initial stage of the project planning phase. An IPSA is conducted primarily to determine the scope of poverty and social issues that will need to be addressed during project design. It helps flag the overall dimensions of a proposed project as well as develop the terms of reference of project preparation consultants, including those relevant to IP. An IPSA report is prepared at this stage.

4. An initial screening is required to identify possible impacts on IP as early as possible. This is done at the project concept stage when feasible and should be completed no later than project or program preparatory technical assistance (TA), project preparatory note fact finding, or due diligence. A tentative IP impact category is assigned to the project based on the findings of this screening—category A, B, or C, depending on the significance of the IP impacts. There is an additional FI (Financial Intermediary) category. The IPSA report is prepared at this stage.

5. The screening and categorization are initiated by the operations department and then confirmed by the Chief Compliance Officer (CCO). This is based on available data and intended as a guide to identify subsequent approaches and resource requirements to address IP during project processing. Classification is an ongoing process and the IP category can be changed at any time with the approval of the CCO as more detailed information becomes available and project processing proceeds. In case of any doubt in the early stages of project preparation, an IP planning document needs to be prepared.

6. Key tasks and outputs during project identification include the classification of IP impacts as A, B, C, or FI. In the case of category A or B projects, further resources are allocated in the project preparation TA for consulting with IP, assessing impacts and Indigenous Peoples Plan (IPP) preparation work. For category C projects, no further IP-related project preparation activity is required. However, a due diligence report may be necessary for projects located where IP communities are known to live. A category FI project that is not expected to generate adverse IP impacts is treated as a category C project (i.e., the financial intermediary need not apply any
specific safeguard requirements). However, as a project progresses the categorization is reviewed and if it is assigned an A or B category, the IP impacts are treated per the project's environmental and social management system.

2. **Step 2: Project Preparation Technical Assistance and Summary Poverty Reduction and Social Strategy**

7. In most cases, the project preparatory TA and/or feasibility study is carried out by a team of consultants engaged by ADB. The task of the consultants is to assist the borrower or client in preparing the feasibility study in line with the terms of reference set out in the TA. The feasibility study addresses any IP impacts (positive or negative) that emerge from the assessment of social impacts; carries out an IP due diligence to identify any past impacts from earlier project preparations; and, examines any outstanding issues that emerge during the consultations. The results of the due diligence are incorporated in the draft IPP. The feasibility study is meant to facilitate the analysis of a project’s technical, financial, economic, environmental, and social viability.

8. A major IP-related task in this phase is preparing an IPP and/or framework. The issues addressed are summarized in the Summary Poverty Reduction and Social Strategy (SPRSS). The impact study and analysis are not necessarily final at this stage; however, the draft IPP and/or Indigenous Peoples Planning Framework (IPPF) that is prepared prior to the management or staff review meeting, needs to demonstrate that each element is addressed in a manner that satisfies ADB’s IP safeguard policy requirements. Due diligence is not itself a safeguard requirement. It is instead, an operational necessity that ensures that ADB’s safeguard requirements are met before a project is processed for ADB assistance.

9. In some cases, the project preparation TA stage may be skipped, such as when the project feasibility study is prepared by a government agency or a private sector sponsor.

10. Key tasks and outputs associated with the project preparation TA are the development of the SPRSS and an IPP or IPPF, which are based on a meaningful consultation with those affected, and an assessment of social impacts. The IPP must provide evidence that the affected IP were meaningfully consulted during the preparation of the IPP. Some projects in particular must further document the processes and outcomes of consultation with, and participation of, affected IP communities to ascertain whether they have provided broad community support. As necessary, action plans for legal recognition of customary rights to lands, territories and ancestral domains impacted by the proposed project should also be included in the IPP.

3. **Step 3: Loan Fact-Finding Mission**

11. A detailed review of the draft IPP, if available, is undertaken during the loan fact-finding mission. The ADB team and the staff of the borrower or client visit the project area for consultations with the IP likely to be impacted by the project, their representatives and other stakeholders, including nongovernment organizations and Indigenous Peoples organizations. All aspects of the project are discussed, and data gaps filled, if required. Particular attention is

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1 An Indigenous Peoples planning framework is required for sector lending projects, a multi-tranche financing facility, emergency assistance projects, or project loans whose subprojects or components are prepared after the Board approval of the loan.

2 When project activities include (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 have potential impacts on the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. SPS SR3: paras.30-36.
given to measures to mitigate negative impacts and enhance positive ones; and, the capacity and capability to action them. These are now modified or enhanced, if necessary. The ADB team reviews the findings and analysis of the assessment of social impacts, mitigation measures, and institutional and implementation issues with the borrower or client during wrap-up meetings and identifies further actions required for the management or staff review meeting for the project. For project requiring broad community support, the ADB team also ascertains whether broad community support exists.

4. **Step 4: Management Review Meeting or Staff Review Meeting**

12. The management review meeting constitutes the most critical point for a category A IP project. The ADB project team is required to obtain a safeguard policy compliance memorandum from RSES signed by the CCO. A set of actions must be completed before the meeting can be held. These are summarized in Box 1. In addition, IP activities should be reflected in the design and monitoring framework appendix of the RRP. The staff review meeting considers the IP activities of projects with category B impacts.

<table>
<thead>
<tr>
<th>Box 1: Requirements for Management and Staff Review Meetings</th>
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<tbody>
<tr>
<td>• A satisfactory Indigenous Peoples planning document must be ready for appraisal, based on the feasibility study or a more developed design. This must be reflected in the report and recommendation of the President and made available to the Environment and Safeguards Division of the Regional and Sustainable Development Department (RSDD) prior to the management review meeting.</td>
</tr>
<tr>
<td>• The draft Indigenous Peoples plan and/or framework must meet all the requirements of the SPS and must be endorsed by the borrower/client and posted on the ADB website, if no further missions for appraisal are to be undertaken.</td>
</tr>
<tr>
<td>• Relevant information from the Indigenous Peoples planning document must be disclosed to the affected Indigenous Peoples by the borrower or client.</td>
</tr>
<tr>
<td>• The draft Indigenous Peoples plan and/or framework must state whether any further planning action may be required prior to implementation, together with specific actions required during implementation.</td>
</tr>
<tr>
<td>• A confirmed budget with its financing sources—ADB or a borrower or a combination of both—must be ready.</td>
</tr>
</tbody>
</table>

5. **Step 5: Project Appraisal (if required)**

13. The verification of an IPP or IPPF is carried out during appraisal. The borrower or client is required to submit a satisfactory IPP or IPPF to ADB before appraisal, preferably together with the project feasibility study. The appraisal mission, if requested, further improves the IPP or IPPF, listing outstanding activities as conditions for further processing. If no appraisal mission is required, a satisfactory draft IPP or IPPF submitted to ADB for review and approval and web posting prior to the management review meeting is considered as being appraised.

6. **Step 6: Loan Negotiations and Agreements and Project Approval**

14. Loan agreements include specific covenants that refer to the implementation requirements described in the IPP or IPPF, including mitigation and beneficial measures, information disclosure and consultation requirements, grievance redress processes, monitoring and reporting. This is necessary to ensure that the borrower or client, contractors, and supervision consultants comply with the requirements of the Safeguard Policy Statement. The

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3 Requirements described in an Indigenous Peoples framework are only guidelines. An Indigenous Peoples plan has implementation requirements.
provisions of the IPP and/or IPPF must also be reflected fully in the project administration manual (PAM). The contract packages also need to be consistent with the IPP.

B. Implementation Phase

7. Step 7: Loan Inception Mission

15. Prior to the inception mission, the PAM is prepared\(^4\) by the ADB project team for discussion with the borrower or client. The project team ensures that sufficient guidance regarding IPP implementation is included in the PAM. For IP category A projects, the PAM should include arrangements to reassess IP planning prior to implementation.

8. Step 8: Implementation

16. A major role of the Operations Departments in project supervision of IP category A projects is to review the progress of preparatory measures and ongoing consultation and participation with IP prior to the implementation of the IPP. When detailed engineering and technical designs are completed after Board approval of the loan for tendering and/or construction contracts, finalization of the IPP with revised information may be necessary. The finalization process involves disclosure of the revised IPP to the impacted IP before its submission for approval to ADB with any new information based on the ongoing consultations such as additional mitigation/beneficial measures, more specific implementation timing, budgets and institutional requirements.

9. Step 9: Monitoring and Reporting

17. For all category A and B IP projects, borrowers or clients are required to submit semiannual monitoring reports; and quarterly monitoring reports for highly sensitive and complex projects on IPP implementation to ADB. The monitoring reports describe the progress of the IPP activities, compliance issues, and any unanticipated impacts and corrective actions.

10. Step 10: Project Completion Report

18. To ensure proper documentation of the actual implementation of IP measures, a project completion report is prepared by the operations department at the completion of the loan project. The report examines the implementation experience and includes a satisfactory rating, and recommends any additional action required by the borrower or client for any outstanding work. Broad guidance for the project completion report includes:

(i) A concise history of the IP aspects of the project and/or program to completion.
(ii) An evaluation of the implementation of the IPP and IP loan covenants.
(iii) An assessment of the borrower or client’s performance.
(iv) A summary of the monitoring reports.

C. Summary of Key Tasks in Project Cycle

19. Table 1 summarizes key tasks and responsibilities of the ADB project team in the IP planning in the ADB project cycle.

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\(^4\) In ADB’s streamlined business process, the PAM is prepared during loan fact finding (OM Section D11/OP, paras. 11-12).
<table>
<thead>
<tr>
<th>Project Cycle</th>
<th>Tasks and Responsibilities</th>
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</thead>
<tbody>
<tr>
<td><strong>Planning Phase</strong></td>
<td></td>
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</table>
| Step 1: Project Identification | - Inform borrower or client on the SPS requirements.  
- Complete Indigenous Peoples (IP) categorization and submit to RSES for comments/approval.  
- If IP impacts (positive or negative) are likely to be significant, provide adequate resources and staff months in the project preparatory technical assistance (PPTA), including terms of reference.  
- If necessary, help strengthen capacity of borrower or client to plan and implement IP safeguard requirements. |
| Step 2: PPTA | - Consult with borrower or client and PPTA IP planners and establish parameters for the IPP.  
- Supervise assessment of social impacts, consultation and participation processes and establishment of broad community support (if required) by PPTA consultants.  
- Prepare summary poverty reduction and social strategy and draft IPP or IPPF  
- Include information on the social safeguards in the RRP. |
| Step 3: Loan Fact-Finding Mission | - Visit project areas with borrower or client staff and/or IP consultants.  
- Discuss all aspects of IP impacts, including mitigation and beneficial measures, consultation and participation processes and any broad community support with affected IP  
- Review the assessment of social impacts and identify if there are any gaps.  
- Ascertain that broad community support has been obtained (if required) and the process used to obtain support was appropriate.  
- Prepare a project administration manual (PAM), and ensure key IP planning activities and implementation arrangements are included.  
- Review institutional arrangements and budgets for IPP implementation.  
- Highlight any IP issues that require borrower or client attention at wrap-up meetings. |
| Step 4: MRM / SRM | - Submit draft IPP or IPPF to RSES.  
- Reflect IP planning activities in the design and monitoring framework appendix of the RRP.  
- Obtain safeguards policy compliance memo (SPCM) from RSDD for MRM for IP category A projects. (Operations departments report to Management on the compliance of all projects).  
- List any outstanding tasks—for example, IPP updating and other actions prior to implementation. |
| Step 5: Appraisal (If required) | - Finalize and agree on IPP with the borrower or client.  
- Verify mitigation/beneficial measures, budgets, and consultation and participation processes.  
- List outstanding activities as conditions.  
- Prepare assurances on IP mitigation measures and key IPP processes. |
| Step 6: Loan Negotiation | - List outstanding activities as conditions.  
- Include the IPP in specific covenants regarding management of IP. |
| **Implementation Phase** | |
| Step 7: Loan Inception Mission | - Review PAM.  
- Prepare IP checklist for all activities for implementation and monitoring.  
- For category A projects, reassess IP planning prior to implementation, focus on ongoing consultation, disclosure and participation, institutional arrangements and budget. |
| Step 8: Indigenous Peoples Plan | - Review preparation for IPP implementation, particularly for category A projects.  
- Monitor all mitigation and beneficial measures and ongoing consultation, disclosure |
### Table 1: Project Cycle—Tasks for the Project Team

<table>
<thead>
<tr>
<th>Project Cycle</th>
<th>Tasks and Responsibilities</th>
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</thead>
<tbody>
<tr>
<td>Implementation</td>
<td>Ensure that legal recognition of customary rights to affected IP lands, territories and</td>
</tr>
<tr>
<td></td>
<td>ancestral domains has occurred or is in process.</td>
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<tr>
<td></td>
<td>Review IPP implementation in depth for category A projects at midterm review.</td>
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<tr>
<td></td>
<td>Consider improvements in implementation practices (if necessary) to meet the SPS</td>
</tr>
<tr>
<td></td>
<td>requirements.</td>
</tr>
<tr>
<td>Step 9: Monitoring and</td>
<td>Monitor IPP implementation regularly.</td>
</tr>
<tr>
<td>Reporting</td>
<td>Review monitoring reports.</td>
</tr>
<tr>
<td>Step 10: Project Completion</td>
<td>Include IPP implementation status in the report.</td>
</tr>
<tr>
<td>Report</td>
<td>Continue supervision and monitoring, if required.</td>
</tr>
<tr>
<td></td>
<td>Conduct post-implementation evaluation, particularly for category A projects and</td>
</tr>
<tr>
<td></td>
<td>document lessons learned.</td>
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</table>

### D. Identifying and Categorizing Indigenous Peoples

20. ADB is responsible for screening all ADB-supported projects at an early stage for IP impacts and risks. The SPS requirements apply to all projects, regardless of the number of persons impacted or whether the impacts are positive or negative. Current ADB practice is to classify all projects into one of the four IP categories based on the degree of their probable IP impacts (Table 2).  

21. When a project is divided into subprojects, its IP impact category is determined by the category assigned to the subproject with the greatest assessed IP impacts. The ADB project team carries out the screening for this categorization exercise with the use of an IP impact screening checklist.

### Table 2: Indigenous Peoples Impact Categories

<table>
<thead>
<tr>
<th>Category</th>
<th>Characteristics</th>
<th>Safeguard Requirements</th>
</tr>
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<tbody>
<tr>
<td>A</td>
<td>Assessment shows that magnitude of impact (^a) is high and Indigenous Peoples (IP) level of vulnerability is also high; or, magnitude of impact is low but IP’s level of vulnerability is high; or, magnitude of impact is high although IP level of vulnerability is low</td>
<td>Indigenous Peoples Plan (IPP), including assessment of social impacts, commensurate with significance. May require Indigenous Peoples Planning Framework (IPPF) prior to IPP</td>
</tr>
<tr>
<td>B</td>
<td>Assessment shows that magnitude of impact (^a) and IP level of vulnerability is limited</td>
<td>IPP, including assessment of social impacts, commensurate with significance. May require IPPF prior to IPP</td>
</tr>
<tr>
<td>C</td>
<td>No IP impacts are foreseen.</td>
<td>No further action (a due diligence report may be required)</td>
</tr>
<tr>
<td>FI</td>
<td>Has potential IP impacts; to be determined</td>
<td>Environmental and social management system</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Category</th>
<th>Characteristics</th>
<th>Safeguard Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Financial Intermediary)</td>
<td></td>
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</tbody>
</table>

*Magnitude of impact in terms of a) customary rights of use and access to land and natural resources; (b) socioeconomic status; (c) cultural and communal integrity; (d) health, education, livelihood, and social security status; and (e) the recognition of indigenous knowledge.*
BIBLIOGRAPHY AND REFERENCES


