OPERATING GUIDELINES

INDIGENOUS PEOPLES POLICY (IPP)

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This document was prepared by an interdepartmental working group consisting of: Anne Deruyttere (SDS/IND), Elizabeth Brito (PRI), Kristyna Bishop (RE3/SO3), Vera Lucia Vicentini (RE3/FI3), Fernando Bretas (RE3/EN3), Carmen Albertos (RE1/SO1), Emma Naslund (RE2/SO2), Trond Norheim (RE2/EN2), Diego Belmonte (RE2/FI2), Joseph Milewski (SDS/ENV), Dana Martin (LEG), and Maria da Cunha (SDS/IND).

CONTENTS

ANNEXES

NOTES ON THE FORMAT OF THESE GUIDELINES

In these Guidelines: (a) references to text taken from the PIP are italicized; (b) bold face text denotes titles or emphasis; and (c) underlined terms are defined in part II of these Guidelines. Electronic and hard-copy versions of these Guidelines will be available. The electronic version will contain links to the definitions in part II of these Guidelines. Annex 1 presents a list of additional information sources and technical guidelines, which in the electronic version will contain links to the corresponding documents and pages.

I. INTRODUCTION

A. Content

1.1 The Operating Guidelines ("Guidelines") for Implementation of the Indigenous Peoples Policy OP-765 ("IPP") instruct Bank staff on how to apply the IPP.[1] The Guidelines contain the following:

B. Procedures for implementing the IPP

1.2 **Section A: Strategic measures for country strategy and programming processes.** This section describes the measures that will be applied by the country divisions within the Regional Operations Departments[2] to complete the necessary studies and consultation to support the Bank's **best efforts** to identify opportunities for actively promoting the **inclusion of development with identity** of indigenous peoples in national development agendas and in the Bank's project pipeline. This could occur through: (a) specific operations; (b) mainstreaming of indigenous issues in the design of certain projects; or (c) strategic measures that help improve the frame of reference for Bank-financed operations that could require safeguards for indigenous peoples and their rights.

1.3 **Section B: Operational measures for the socioenvironmental review during the project cycle.** This section provides guidance to the appropriate Bank staff[3] on procedures for applying the IPP during the project cycle. In the first stage of these procedures, the impacts and benefits are identified and initially described, in order to determine the applicability of the IPP and identify the indigenous issues to be investigated. This is followed by the sociocultural evaluation and the required consultation and negotiation or agreement processes, depending on the nature of the issues identified. Based on the results of those processes, the agreed measures are adopted to **enhance the benefits (mainstreaming)** or to **mitigate the adverse impacts** and make the project socioculturally feasible, that is to implement the policy's **safeguards**.

C. Definitions

1.4 The definitions clarify the scope of concepts used in the IPP in the context of the Bank's operations.

1. Consistency with other Bank policies

1.5 The Bank's application of the IPP will be consistent with all relevant Bank policies, strategies, and guidelines, particularly other safeguard policies, such as the

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[1] As supplemental information, see also Indigenous Peoples Development Strategy, document GN-2387-5.

[2] In the event of organizational or administrative changes in the Bank as a result of the realignment process, these Guidelines will apply to the administrative units assigned responsibility for the country strategy and programming process. If necessary, these Guidelines will be updated to reflect those changes.

[3] Management is currently considering alternatives for a safeguards compliance system. Once that system is approved, these Guidelines will be updated accordingly.

Involuntary Resettlement (OP-710) and Environment and Safeguards Compliance (OP-703), as well as applicable sector policies. In case of conflict, the standard that offers the highest degree of protection of indigenous peoples and their rights will take precedence.

2. Review

1.6 The Programming Committee will periodically review application of the Guidelines to determine whether they need to be revised to enhance their effectiveness, incorporate lessons learned, and update their structure and terminology.

3. Additional information sources

1.7 Sources of additional information and good practices guidelines, partially listed in Annex I and available on the Bank's intranet, will support application of the IPP and provide links and references on good practices, guidelines, sample terms of reference (TOR), and other relevant documents.[4]

1.8 In order to facilitate access by Bank staff to information derived from application of the IPP and the dissemination of lessons learned, the Bank will create a IPP reference page on its intranet and an information center where studies, reports, and other documents relevant to application of the policy will be available. The confidentiality of the documents included in the database will be protected.

[4] See Annex I.

II. PROCEDURES FOR IMPLEMENTING THE IPP

A. Strategic measures for country strategy and programming processes (paragraph 5.2 of the IPP)

2.1 **Applicability.** The Regional Operations Department country divisions[5] will apply the procedures described below *for countries with indigenous populations of significant size, diversity, or vulnerability*[6] (see flowchart 1). All the countries of Latin America and the Caribbean are included, except Jamaica, Haiti, Trinidad and Tobago, Barbados, the Bahamas, and Uruguay.

2.2 **Preliminary analysis and technical study on indigenous issues.** At the beginning of the dialogue and country strategy process, the country division will complete or commission a *preliminary analysis* of indigenous issues. This analysis will be conducted in coordination with the Social Programs Division in collaboration with experts in indigenous issues (internal or external). The result of this analysis will be the preparation or updating of a technical note on indigenous issues ("technical note"), which will include the following aspects and considerations:

a. *the identification of priorities for development with identity and the challenges and opportunities involved;*

b. *normative and institutional conditions;*

c. *the experience of the Bank and of other multilateral agencies;*

d. *the setting of strategic priorities for the Bank;*

e. *country policies with respect to this matter;*

f. *inputs from a sample of affected or knowledgeable parties, including particularly specialized government agencies and indigenous organizations, groups, and experts;*

g. *information sources used, including the inputs described in (f).*

2.3 **Interdepartmental review.** The technical notes will be subject to an internal interdepartmental technical review by a Management Review Committee ("CRG").

2.4 **Country dialogue. The country division will include indigenous issues in the country dialogue**, using the technical study for such purposes, as well as other special studies (when appropriate) and relevant information on indigenous issues. The dialogue paper will include a summary of the technical note. The supporting documents for the dialogue, strategy, and programming processes will include the

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[5] This Section does not apply to the Bank's Private Sector Department (PRI), since it relates to the Bank's dialogue process with the governments. However, it covers the aspects of PRI operations that are subject to that dialogue.

[6] Italicized text was taken from the IPP.

necessary information and documentation to internalize indigenous issues. When warranted by the national indigenous issues, the corresponding country division may invite an expert on indigenous issues to participate in the process. Based on this background, *the Bank will discuss with the government the strategic objectives and possible actions to address priority issues for the development with identity of indigenous peoples in the country,* in accordance with the policy's provisions, particularly those concerning:

a. *Mainstreaming specifically indigenous issues in the development agenda* and in the Bank's project pipeline in the country: **Independent projects for indigenous peoples**;

b. Mainstreaming of indigenous specificity in projects with a general approach, i.e. activities and operations not specifically targeting indigenous peoples but of potential benefit to them: **Mainstreaming projects**; and

c. Considerations for projects proposed for Bank financing during the programming cycle that could have adverse impacts on indigenous peoples and need to comply with the safeguards established in the policy and "applicable legal norms": **Projects with safeguards**.

2.5 **Documentation.** The country division will document the execution and conclusion of this process and disseminate the results through: (i) early inclusion of indigenous issues in technical dialogue and strategy documents; (ii) inclusion of a summary of agreements with the government on indigenous issues in the strategy and/or programming documents; and (iii) technical inputs from the process, particularly the technical study, made available for use by the Bank's operations staff through IDBDOCS and the intranet. The country division may also agree with the government to publish the technical note or a summary thereof on the Bank's internet.

B. Operational measures for the socioenvironmental review during the project cycle (paragraph 5.3 (a)-(d) of the IPP)

2.6 In general, project teams will apply the policy's requirements to operations[7] financed by the Bank during the project cycle as described in paragraphs 2.8 to 2.44 below (section 1, see flowchart). The policy's requirements include: (i) best efforts to mainstream opportunities for development with identity, for which inclusion is optional and seeks to increase the additionality of certain projects; and (ii) the necessary processes and measures to mitigate adverse impacts, for which inclusion is mandatory and seeks to ensure the sociocultural feasibility of projects that could adversely affect indigenous peoples.

2.7 For technical cooperation operations, policy based loans (PBLs), sector-wide approach programs (SWAps), conditional credit line for investment projects

[7] Underlined terms (except titles and subtitles) are defined in part II of these Guidelines.

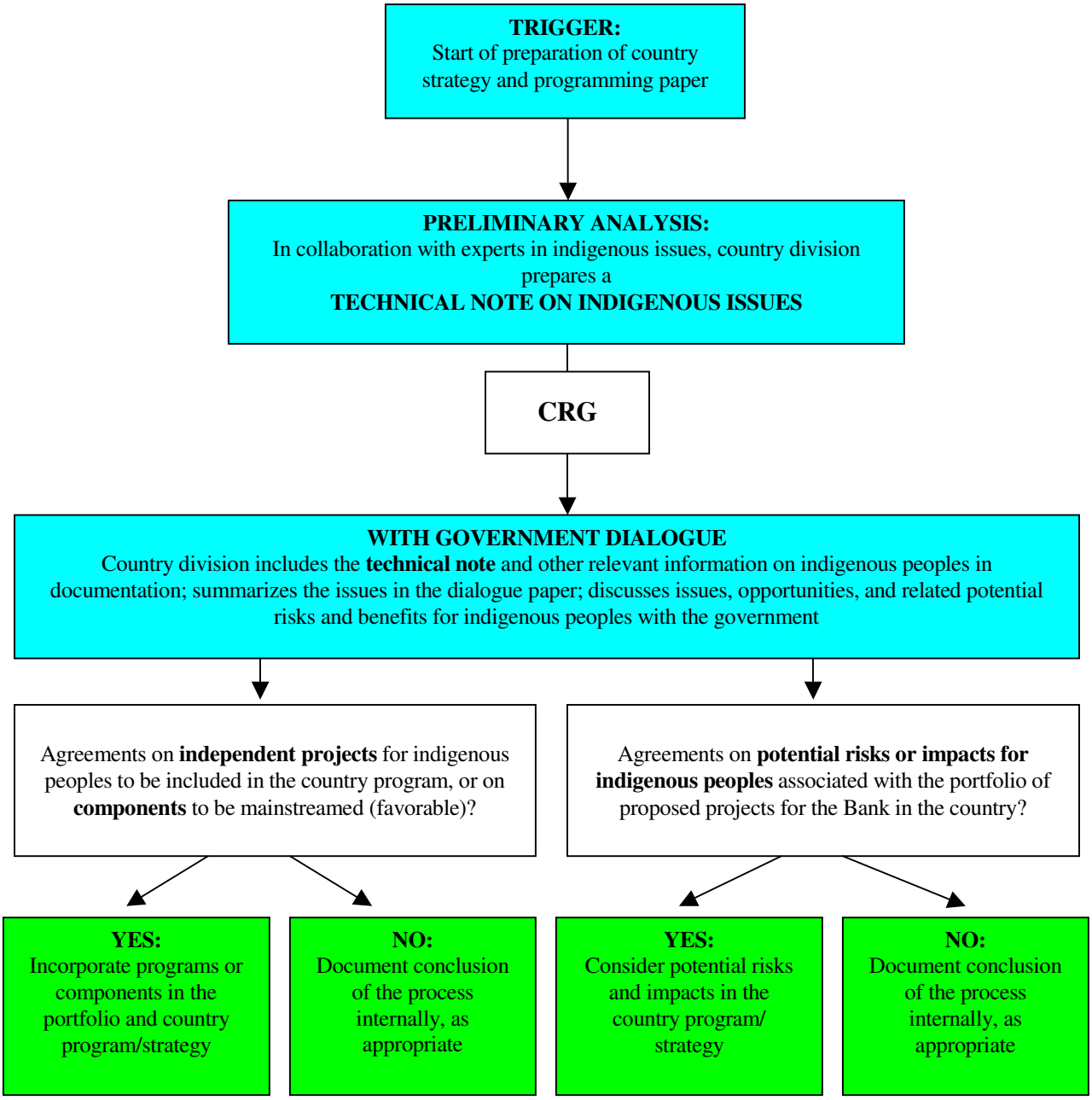
(CCLIPs), financial intermediation operations or investment funds (FIOs), performance-driven loans (PDLs), repeated or multiphase projects, projects in construction, or cofinancing, these Guidelines include adjustments that seek to apply requirements that are substantially equivalent to the general IPP requirements, provided they are consistent with the processing timetable, the availability of information, and the nature of the risks and impacts for these types of operations. Those adjustments, which are particularly applied to analysis processes, are described in paragraphs 2.45 to 2.52.

1. General application of IPP requirements

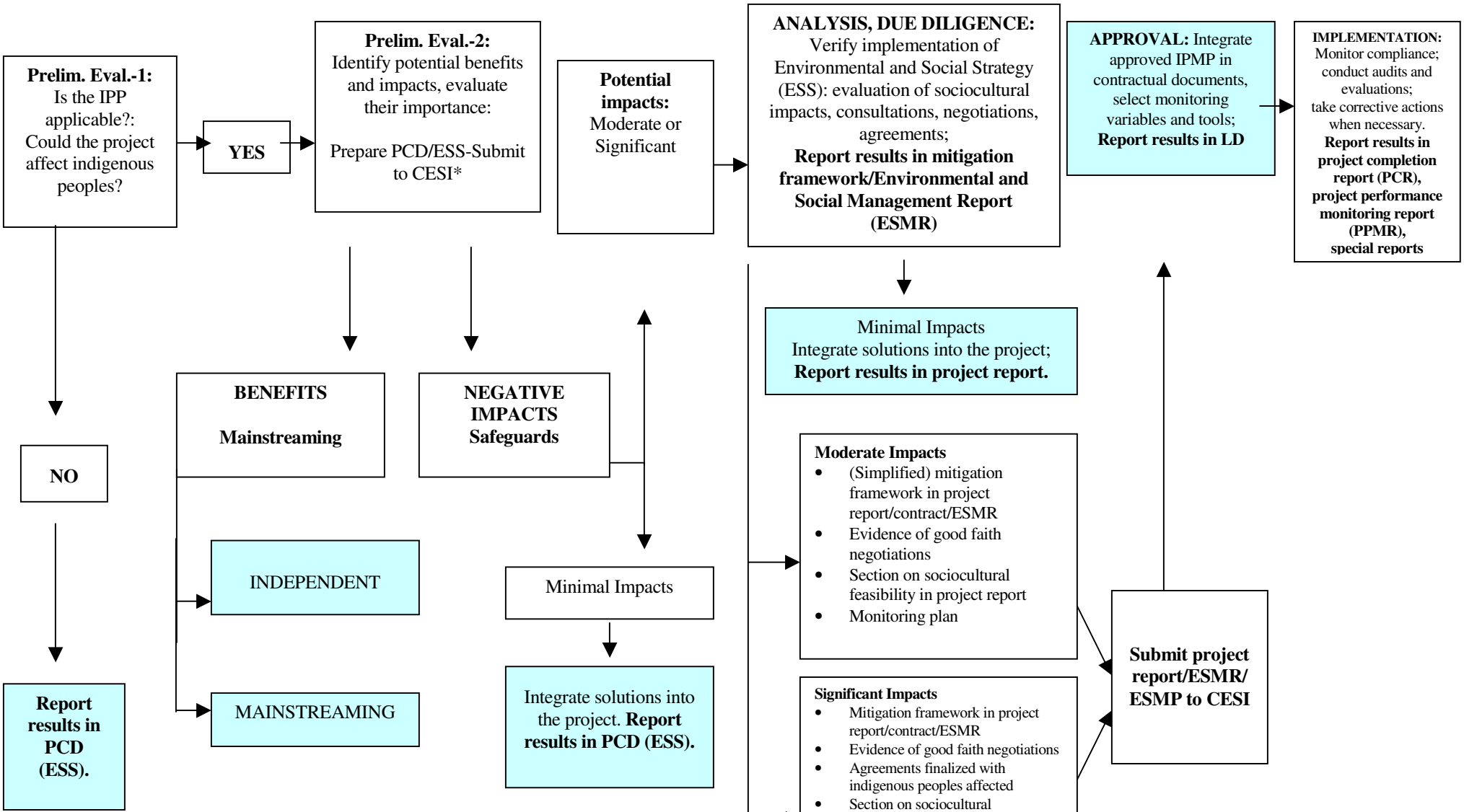
Preliminary evaluation of all operations: inputs for the project concept document (PCD)

2.8 **Objective.** The project teams *will perform a technical review of all operations submitted for the Bank's consideration* to **determine whether the IPP is applicable and, if necessary, recommend additional investigations.**

Flowchart 1
Application of the IPP in the
country strategy/programming process



Flowchart 2. Application of the IPP in the project cycle



* Technical cooperation operations, SWAps, CCLIPs, FIOs, policy reform loans (PRLs), etc. follow a modified analysis procedure.

2.9 **Information**. To perform the technical review, the project team will obtain **sufficient information on the project and the indigenous context in the project area to support the team's judgment on whether the policy's requirements are applicable**, and to prepare the terms of reference for the corresponding sociocultural evaluation, consultation, and negotiation processes, or to review processes previously carried out by the project proponents.[8] This information will include, where applicable: (a) the project background and its area or sphere of influence; (b) additional information obtained from the project proponent; (c) existing Bank reports, including the technical note on indigenous issues and the Bank's country strategy; (d) information requested from government agencies in the respective country[9] (particularly agencies that are specialized or have technical knowledge of indigenous issues and agencies responsible for the project); (e) information obtained from appropriate secondary sources, including indigenous organizations,[10] publications, universities, and nongovernmental organizations (NGOs); and (f) other sources the project team considers relevant. *If the project so warrants,* given the moderate or significant nature of the adverse impacts or potential benefits, *the project team will rely on experts (internal or external)* with specific knowledge of the issues related to the project. For PRI projects, where applicable, preparation of the PCD will be based on the information described in (a), (c), and (f), and whenever possible, on the information included in (d) and (e), limited to data that can be obtained from publicly available sources.

2.10 **Perspectives of affected peoples**. The project team will *take into account the perspectives of the indigenous peoples* affected, relying on suitable information obtained from primary or secondary sources identified by the project team based on its sound judgment. *Whenever possible, the team will obtain inputs from the indigenous peoples that might be affected by the project.* Such inputs will preferably include interviews with selected individuals, or other methods of obtaining information directly from those affected. Failing that, or to supplement information acquired directly, suitable secondary information sources can be used to obtain a range of opinions from the affected peoples *as early as possible in the project cycle.* Given the special characteristics of PRI operations, during the PCD preparation stage, this information will mainly be derived from suitable secondary sources.

2.11 **Is the IPP applicable to the project?** As a first step, the project team will determine whether there is an **indigenous presence within the project's area** and

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[8] For projects presented to the Bank in advanced stages of preparation or implementation, the project team can fulfill the policy's requirements by reviewing processes previously carried out by the project proponent. If necessary, the team will require that the proponent complete additional processes. See also paragraph 2.49, (Projects in construction).

[9] For additional information, see Annex 1.

[10] For additional information, see Annex 1.

whether the project could **affect those peoples (benefits or negative impacts)**. In making the determination, the following questions will be considered:

a. Is the project located in a geographical area that is in close proximity to indigenous lands or territories?

b. Is the project located in a geographical area or socioeconomic environment where indigenous peoples have a presence or where there may be physical, social, cultural, or economic interactions with indigenous groups?

c. Are indigenous groups among the potential beneficiaries of the project or might they be affected by it?

d. If the project involves legislative, regulatory, or administrative changes, could those changes potentially affect indigenous rights?[11]

e. Does the project deal with issues that are typically of interest to indigenous peoples, such as access to social services, the rural economy, land and natural resources, and traditional knowledge?[12]

f. Does the project have the potential to cause adverse or direct or indirect or cumulative impacts on indigenous peoples, or their individual or collective rights or assets?[13]

g. Does the project have related facilities or installations with risks of adverse impacts on indigenous peoples, or their individual or collective rights or assets, that could affect the sociocultural feasibility of the project?[14]

2.12 **The IPP is not applicable**. **If the answers to these questions are negative**, the team can conclude that the IPP is not applicable and summarize the relevant information for future inclusion in the Environmental and Social Strategy (ESS) section of the PCD.

2.13 **The IPP is potentially applicable**. **If one or more answers are positive or inconclusive, the IPP is applicable or potentially applicable**. In this case, the project team will conduct a preliminary evaluation of the impacts and benefits with a view to proposing an analysis strategy in the ESS and the PCD that fulfills the relevant IPP requirements. At a minimum, the ESS will include the actions required to review the sociocultural feasibility of the project and to satisfy the requirements of the policy's relevant safeguards. Actions related to the inclusion of benefits will

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[11] In general, not applicable to PRI projects.

[12] Id.

[13] For additional information, see illustrative Impact Matrix in Annex 1.

[14] The adverse impacts of related installations are considered under the policy as risks managed in accordance with the specific applicable provisions of these Guidelines (e.g. see paragraphs 2.15, 2.35, 2.37, 3.4, 3.9, 3.12, and 3.27).

be incorporated into the ESS when applicable, but they are proactive in nature and are not part of the project's sociocultural feasibility requirements.

2.14 **Preliminary evaluation of impacts and benefits**. The preliminary evaluation is an initial review of the negative impacts and potential benefits of the project to: (a) identify priority issues that require an in-depth investigation; (b) classify the operation under the policy (see paragraph 2.17); and (c) identify the sociocultural evaluation and consultation methodologies and, where applicable, the negotiation and agreement methodologies, that must be applied as part of the socioenvironmental analysis for the operation to fulfill the policy's process and quality requirements, based on the scope, intensity, and complexity of the potential impacts and the circumstances of the indigenous peoples affected.

2.15 **Identification of priority issues**. In this stage of the review of the potential impact on indigenous peoples, the project team gives preliminary and broad consideration to the possible implications for indigenous peoples that might be affected by the project, with a view to eliminating irrelevant issues and focusing on priority ones, **in accordance with the nature and scope of each project**. As a result of this process, the project team will identify aspects of the IPP that require specific additional attention in the analysis stage, and will propose a strategy for application of the policy as part of the ESS for the project. Information available at this stage is understood to be preliminary. When in doubt, the team will include the pending issues in subsequent analysis stages. In this context, in order to facilitate identification of priority issues, the team considers relevant questions for the project that illustrate the key areas of IPP application, such as:

a. What opportunities does the project offer in terms of **potential benefits**?[15] (For PRI projects, application of these opportunities to (iv), (vi), (ix), and (x) is limited.): (i) Could the project help improve the visibility or understanding of indigenous issues, including settlement patterns, dynamics of migration, indigenous needs and demands, or develop programs that geographically target rural and urban indigenous settlements, neighborhoods, or communities?; (ii) Does the project offer opportunities to develop socioculturally appropriate solutions to increase the availability and quality of social services, particularly health and education for indigenous peoples (such as bilingual intercultural education, linkages with medical systems, etc.)?; (iii) Does the project present opportunities to recognize, articulate, and implement indigenous rights in accordance with the applicable legal norms or to improve normative frameworks?; (iv) Could the project support the culture, identity, language, traditional arts and techniques, cultural resources, and intellectual property[16] of indigenous peoples?; (v) Could the project

[15] For additional information, see illustrative Benefits Matrix in Annex 1. The inclusion of potential benefits is not required to make the project socioculturally feasible. See paragraph 2.13.

[16] The definitions of "indigenous knowledge", "cultural resources", and "intellectual property" in applicable national and international law will be used as a reference standard.

potentially strengthen titling and physical management processes for territories, lands, and natural resources that have been traditionally occupied or used by indigenous peoples, in accordance with applicable legal norms?; (vi) Does the project include the management or extraction of natural resources or management of protected areas? If so, does the project have the potential to promote appropriate mechanisms for consultation, participation in natural resources management, and benefit sharing by the indigenous peoples on whose lands and territories the projects are conducted?; (vii) Could the project support socioculturally appropriate initiatives for better access by indigenous peoples to labor, production, and financial markets, technical assistance, and information technology?; (viii) Does the project have the potential to support indigenous peoples governance by strengthening capacity, institutions, and processes for management, decision-making, and territorial and land administration at the local, national, and regional levels, in accordance with applicable legal norms?; (ix) Could the project support the participation and leadership by, and protection of, women, the elderly, youth, and children, and the promotion of equal rights?; (x) Does the project offer opportunities to strengthen the institutional capacity of indigenous peoples, government entities, the private sector, civil society, and the Bank itself, to address indigenous issues in the areas affected by the project (such as project management capacity, communication, and effective participation in negotiation processes, etc.)?; (xi) Could the project promote or encourage the participation of indigenous candidates and companies in the supply of services for the project?

b. What potential does the project have to cause direct or indirect **adverse impacts** on indigenous peoples?:[17] (i) Could the project adversely affect physical and food security, lands, territories, resources, society, rights, the traditional economy, way of life, and the identity or cultural integrity of indigenous peoples?; (ii) Would the project adversely affect the legal status, possession, or management of territories, lands, or natural resources that have been traditionally occupied or used by indigenous peoples?; (iii) Are there factors in the context of the project that would discriminate against indigenous peoples by preventing or hindering their access to the project's benefits, i.e. exclude indigenous peoples from the project benefits on the basis of ethnicity?; (iv) Could the project adversely affect the culture, identity, language, and traditional knowledge of indigenous peoples?; (v) Does the project involve the commercial development of indigenous cultural and knowledge resources? If so, does the project have the consent and established frameworks to permit participation by the affected peoples in its benefits?; (vi) Would the project affect cross-border indigenous peoples?; and

[17] For additional information, see illustrative Impact Matrix in Annex 1.

(vii) Could the project affect isolated, uncontacted, or recently contacted indigenous peoples?

c. With respect to the **environment and operational context**: (i) Does the project involve related facilities or installations not financed by the Bank that have potential impacts on indigenous peoples?; and (ii) Does the project have potential risks or impacts that are outside and potentially beyond the scope of the mitigation framework to be developed and that could affect its sociocultural feasibility?

d. With respect to **other applicable norms and policies**: (i) Does the project comply with the relevant requirements of clauses dealing directly with impacts on indigenous peoples in the Involuntary Resettlement Policy (OP-710); (ii) Does the project meet the requirements of clauses dealing directly with impacts on indigenous peoples in the Environment and Safeguards Compliance Policy (OP-703)?; (iii) Does the project comply with clauses dealing directly with impacts on indigenous peoples in the sector policies relevant to the project?; and (iv) Does the project meet the relevant requirements of **applicable legal norms**?[18]

2.16 **Supplemental information**. Given the preliminary nature of information available to the project team at this stage, when necessary in view of the importance of the project in terms of application of the IPP, the project team may: (a) for public sector projects, collaborate with the proponent to obtain additional information in the preliminary evaluation stage, including the use of technical cooperation resources, when feasible, to conduct investigations or preliminary consultation processes; and/or (b) include issues pending verification in the investigation requirements for the project's socioenvironmental analysis stage, and when these issues involve possible and potentially significant adverse impacts, assume the applicability of the policy's strictest safeguards as a precaution. For PRI projects, issues pending verification will be included in the ESS for consideration in the project analysis or due diligence stage.

2.17 **Project classification under the policy**. Based on this preliminary identification of possible benefits and adverse impacts, the project team characterizes the operation using the IPP categories described below:

a. **Independent projects for indigenous peoples**: **Operations or projects for which the direct beneficiaries are exclusively or principally indigenous peoples, irrespective of the sector. This type of operation does not apply to the PRI.**

b. **Mainstreaming projects**: **Operations or projects in any sector that offer the possibility of targeting indigenous peoples (have positive impacts or**

[18] Additional information: Data bank on indigenous legislation: See Annex 1.

benefits for indigenous peoples), through specific actions or components and without significant potential adverse impacts for those peoples.

c. **Projects with safeguards**: **Operations or projects in any sector that might have adverse impacts on indigenous peoples and their rights (have negative impacts on indigenous peoples). These projects could have potential side benefits for the affected peoples that the teams could try to include, although this is not required for the sociocultural feasibility of the project.**

2.18 **Determination of the analysis methodology**. Based on the preliminary evaluation, the project team will select the sociocultural evaluation and consultation (negotiation and agreement, as appropriate) methodologies that fulfill the policy's process and quality requirements, based on the nature of the project, the scope, intensity, and complexity of the impacts, and the circumstances of the indigenous peoples affected. For PRI operations or public sector projects presented to the Bank in advanced stages of preparation, the preliminary evaluation for development of the PCD consists of reviewing the potential impacts on indigenous peoples of the project *prepared* and presented by the proponent. If the proposed project has potential adverse impacts, the team will review the quality of the studies and consultation processes to verify that the project fulfills the policy's requirements and to determine the need to conduct complementary studies, consultations, or negotiations during the analysis or due diligence stage. Likewise, if applicable, the project team identifies possible opportunities to include potential benefits for indigenous peoples and incorporates them into the ESS.

2.19 **Preparation of the ESS**. The project team will incorporate in the ESS and summarize in the corresponding section of the PCD[19] the results of the preliminary evaluation under the policy, which will include, where applicable:

a. **In general: (i) Determination of applicability of the policy** and, if appropriate, definition of the type of project: independent, mainstreaming, safeguards. This section will include references to the information sources and technical knowledge used by the project team for the preliminary evaluation; (ii) **Description of the potential negative impacts** and **risks** associated with the project identified in the preliminary evaluation; (iii) Where applicable, **description of opportunities to include potential benefits**; (iv) If identified, a **description will be included of the alternatives or changes in the project design** that the team proposes for consideration to avoid negative impacts on indigenous peoples or to enhance the benefits for them; and (v) Issues that have been identified for which additional information is needed to establish an effective strategy in accordance with paragraph (b).

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[19] Or its equivalent for operations with other documentation requirements (PRI and MIF projects, technical cooperation operations, SWAps, CCLIPs, etc. See paragraphs 2.45 to 2.52, part B.2).

b. **Specific information based on the type of project (independent, mainstreaming, safeguards).** This information will encompass the strategy proposed by the team to fulfill the policy's requirements, and to demonstrate the project's sociocultural feasibility, with an emphasis on the required actions and work to be done in the analysis or due diligence stage.[20]

2.20 **Committee on Environment and Social Impact (CESI)**.[21] The project team will submit the PCD and ESS, as appropriate, to CESI for approval. Once approved by CESI, the PCD and ESS will be disseminated in accordance with the Bank's Information Disclosure Policy (OP-102). For PRI projects, the team needs to obtain authorization from the project proponent to disseminate the PCD and ESS.

Analysis, approval, and differentiated implementation, based on classification of the project under the IPP

a. Independent projects:[22]

2.21 **Origin**. Independent projects emerge from the country strategy and programming process. These projects are conceptualized to generate benefits for indigenous peoples.

2.22 **Analysis strategy**. Given their conceptualization, independent projects tend to consider all aspects of indigenous issues in the analysis and preparation process, which pursuant to the IPP includes:

a. *Participatory diagnostic studies* to carry out the specific activities of the proposed operation in consultation with the beneficiaries;

b. *Socioculturally appropriate processes of consultation with the indigenous peoples concerned (...) carried out in a manner appropriate to the circumstances, with a view to reaching agreement or obtaining consent.*

2.23 **Documentation**. In general, these operations do not require specific safeguards, assuming that if any potentially negative impacts are identified, they will be addressed during the process of designing the project and obtaining consent from the community. General project documentation (PCD, project report, contractual documents) by definition covers indigenous issues. Where applicable, the ESS will describe concerns related to the project's potential adverse impacts. In these cases, the ESS will indicate how it is proposed that these impacts will be considered in preparing the project. In the section on sociocultural feasibility in the project report, the project team will document the processes of consultation and agreement or consent that support the project, including, where necessary, aspects related to the

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[20] Pursuant to the specific guidelines in paragraphs 2.21 to 2.40.

[21] See supra note 3.

[22] The PRI does not handle this type of projects.

treatment of negative impacts, the corresponding mitigation measures, and the relevant contractual documents.

b. Mainstreaming projects[23]

2.24 **Origin**. **Mainstreaming projects** arise from the identification of opportunities to mainstream indigenous issues in public and private Bank operations with different target populations and objectives. The Bank's efforts to incorporate indigenous issues into these projects can occur during the programming process or the technical review of the applicability of the IPP in the preliminary evaluation stage. Mainstreaming does not refer to safeguards and, therefore, is not mandatory, but seeks to increase the additionality of the Bank's projects, as described in further detail in paragraph 2.26.

2.25 **Promotion of mainstreaming under the IPP**. When these opportunities are identified, the projects will seek to *promote and support the implementation by borrowing member countries or project proponents of the appropriate adjustments to address the needs and development opportunities of indigenous peoples*, mainly with regard to: *(a) respect for traditional knowledge, cultural heritage, natural assets, social capital, and systems specific to indigenous peoples with respect to social, economic, linguistic, spiritual, and legal systems; and (b) adapting services and other activities to facilitate access to them by indigenous beneficiaries, including equitable treatment and, whenever feasible, adequate procedures and criteria, and programs for capacity-building and compensation of exclusion factors.*

2.26 **Additionality**. When a project does not present potential adverse impacts and does not discriminate against indigenous peoples or groups, inclusion of specific measures to enhance the benefits of the project for those groups is not mandatory. However, the IPP requires that best efforts be made to include specific measures for indigenous peoples to help maximize the positive impacts of the projects, achieve or increase additionality, increase efficiency in the use of the development resources, and promote greater attention to the needs of one of the poorest segments of the population. These aspects contribute to the Bank's strategic objectives and can mobilize additional resources from other donors to expand the scope of the programs and facilitate the achievement of the proponent's development objectives. Furthermore, in certain cases (e.g. educational reform, health, or safety net projects, etc.), specific measures may be needed to overcome the discriminatory effect of cultural or geographical barriers to equitable access by indigenous peoples to the project's benefits.[24]

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[23] In general, the PRI will manage mainstreaming components when they are associated with projects with safeguards.

[24] In these cases, the team should consider the relevance of the policy's safeguard with respect to *ethnically-based exclusion*.

2.27 **Analysis strategy or due diligence**. Once the project team has agreed with the project proponent (either from the public or private sector) to evaluate possible adjustments to strengthen the project's benefits for indigenous groups, studies and consultation and negotiation processes will be carried out in order to: *(1) identify and target indigenous peoples that could potentially benefit; (2) implement socioculturally appropriate and effective consultation processes with these peoples; and (3) design complementary measures and activities through a process of good faith negotiations with affected indigenous communities.* I**n the case of public sector projects**, during identification and orientation missions, the project team and proponent will jointly prepare the terms of reference for the sociocultural evaluations and other studies necessary to design effective components and improve the delivery of benefits to indigenous groups. The PCD/ESS will include a summary of the mainstreaming strategy and/or the terms of reference for consultation processes and studies. **For components of PRI projects**, agreements on mainstreaming measures can only be discussed with the private proponent during the Environmental and Social Analysis stage (due diligence). Where applicable, the PRI project team will identify in the ESS the mainstreaming aspects that it considers should be analyzed, as well as the sociocultural evaluations, consultations, or other specific studies deemed necessary.

2.28 **Results of the analysis or due diligence**. During this stage, the team will assess the results of the studies and agreed consultation processes, and will discuss with the project proponent the measures or specific components that can be integrated into the project to strengthen or enhance the delivery of benefits to indigenous groups.

2.29 **Project report or Environmental and Social Management Report (ESMR)**. The description of the project in the project report or ESMR will detail the activities or specific components agreed with the proponent, as well as the budget and corresponding execution mechanism. Based on the results of the analysis and due diligence process, the project report or ESMR will include a brief description of crosscutting issues, consultation processes with indigenous beneficiaries, and the additionality achieved in the project as a result of inclusion of indigenous issues.

2.30 **Contractual documents**. The project's contractual documents will include the necessary clauses to implement the specific agreed measures, as well as the corresponding monitoring and tracking mechanisms, including, wherever feasible, *socioculturally appropriate mechanisms for the participation of affected indigenous peoples in the monitoring and evaluation of those measures.*

c. Projects with safeguards

2.31 **Origin**. **Projects with safeguards** are projects proposed for Bank financing that have potential direct or indirect adverse impacts on indigenous peoples, their rights, or assets. These projects are identified as a result of the preliminary evaluation.

2.32 **Analysis strategy or due diligence.** As a result of the preliminary impact evaluation, the project team *determines* the actions to be recommended in the PCD and ESS to *prevent or mitigate direct or indirect adverse impacts on indigenous*

peoples or their individual or collective rights or assets. These actions must be *commensurate with the nature, scope, and intensity of the impacts identified*. In accordance with the policy, these actions are to include:

a. sociocultural impact evaluations;

b. consultation processes (all adverse impacts);

c. mitigation measures, monitoring, and fair compensation (all adverse impacts);

d. good faith negotiation processes (moderate and significant adverse impacts);

e. agreements (significant adverse impacts).

2.33 **PCD contents**. The contents of the PCD must be commensurate with the severity of the adverse impacts:

a. For projects with **minimal impacts**, the PCD will describe the mitigation measures to be included in the project, on the understanding that because those measures are simple, well-known, and easily implemented, they do not require specific additional studies. Given the uncontroversial nature of these measures, consultations with the indigenous peoples affected may be included, if necessary, in the project's general consultative process.

b. For projects with **moderate or significant** adverse impacts, the PCD and ESS will describe the appropriate strategy selected by the project team to prepare the **mitigation framework** for impacts on indigenous peoples. For projects presented at a sufficiently early stage (generally the case for the public sector), such a strategy will include a summary of the terms of reference for the sociocultural evaluations and consultation, good faith negotiation, and, where applicable, agreement processes. These studies are to be conducted during analysis and preparation of the project in order to comply with the policy's requirements. For projects presented to the Bank for which the sociocultural evaluation and consultative processes were completed previously by the proponent (generally the case for PRI projects), the ESS will include a strategy for evaluating the impacts on indigenous peoples, including a review and, where applicable, complementation, of the processes carried out and the proposed mitigation framework required during the project's socioenvironmental analysis and due diligence to comply with the policy's requirements.

2.34 **Project analysis (due diligence for the PRI)**. Once the PCD and ESS are approved, **the team will support, where possible and necessary, and verify implementation by the project proponent of the sociocultural evaluation, consultative, negotiation, and agreement processes (where applicable)**, with a view to preparing the inputs necessary to satisfy the applicable IPP requirements for approval and eventual implementation of the project. The basic objective of the results of those processes is to verify that the project is **socioculturally feasible**

with respect to its impacts on indigenous peoples. This process includes the following elements and characteristics:

a. ***The sociocultural evaluation*** generates the necessary technical information on **direct, indirect, and cumulative impacts** to definitively classify impacts as **significant or moderate**, propose alternatives and mitigation measures, and analyze and control the related risks and impacts, in order to enforce the safeguards established in the IPP. This technical **information** ***serves as input for the loan document, analysis mission, and the socioenvironmental review process***. When the project requires an environmental evaluation (environmental impact assessment (EIA) or environmental assessment (EA)), the sociocultural evaluation may be integrated or coordinated with that process, without affecting its technical quality, as set forth in paragraph 2.41.

b. ***Consultation and good faith negotiation processes with the affected indigenous peoples*** that permit a genuine exchange to achieve a satisfactory level of support for the project and the related mitigation and compensation measures from the affected indigenous peoples. These processes *(which are to be duly documented)* must *be socioculturally appropriate and encompass the project design, analyses of alternatives, preparation, due diligence, and execution. They must also be consistent with the legitimate decision-making mechanisms of affected indigenous peoples or groups.*

c. **Agreements with the indigenous peoples affected**. *Projects with particularly significant potentially adverse impacts on indigenous peoples or groups* must obtain agreements with the affected peoples or groups by the end of the consultation and negotiation processes referred to in paragraph 2.34.b above. *The agreements must demonstrate, in the Bank's judgment, the sociocultural viability of the operation.*[25] *The project proponent must provide, by the date of approval of the operation by the Bank's Board of Executive Directors, evidence duly verified* by the project team and *to the Bank's satisfaction* that those agreements are sufficient to fulfill the policy's requirements. The IPP includes specific scenarios with respect to the timing of presentation and the content of the required agreements that allow evidence of agreements to be presented in certain exceptional cases: *(a) before the first disbursement for operations when the proponent can demonstrate that the affected indigenous peoples agreed that the circumstances of the operation justify additional rounds of negotiations in order to finalize said agreements; and (b) throughout operations with investments not specified a priori, provided there is a plan for consultation and negotiation agreed with the affected indigenous peoples identified in the early stages of project processing*

[25] The judgment as to sociocultural feasibility may be preliminary when the agreements include provisions for additional negotiations. Sociocultural feasibility will be one of the factors used to evaluate the acceptability of the final agreements.

that also provides for inclusion of any indigenous peoples identified in later stages.

2.35 **Conclusion of the analysis process**. Based on the information obtained from these processes, the project team *requires and verifies that the project proponent incorporate the design and implementation of the measures necessary to minimize or prevent such adverse impacts* identified in those evaluations. In order to do this, at the end of the analysis stage, the project team will consider: (a) the sociocultural evaluation report (which may form part of the EIA or EA); (b) sufficiently advanced consultation and negotiation processes that indicate an adequate level of support from the indigenous peoples affected; (c) a draft of the set of proposed measures or plans to mitigate the adverse impacts on indigenous peoples, i.e. a proposed mitigation framework; and (d) when agreements are required, drafts or minutes of negotiations with the affected peoples. Information available should allow the team to answer the following questions, where applicable:

a. Based on the results of the studies and consultation processes, how significant are the impacts? Is the IPP classification valid? Is it necessary to supplement the socioenvironmental analysis?

b. What IPP safeguards or other Bank policies are applicable?

c. Does the project comply with applicable legal norms?

d. Are lower impact alternatives feasible?

e. What mitigation measures are required to make the project socioculturally feasible?

f. Are there external risks to the project or from related facilities or installations that cannot be mitigated? If so, do those risks affect the sociocultural feasibility of the project?

g. What level of support is required from the affected peoples? Is this level obtainable?

h. Do the necessary resources, capacity, and conditions exist to implement the mitigation measures?

2.36 **Final preparation and approval of the mitigation framework**. Once the analysis stage is concluded, the project team prepares the documentation for the approval stage, demonstrating compliance with the policy's requirements and the sociocultural feasibility of the project. This generally includes: (a) inputs for the project report or ESMR; (b) definition of the mitigation framework agreed with the project proponent and evaluated and verified to the project team's satisfaction; (c) evidence that good faith negotiations will be carried out and, where applicable, agreements reached with the indigenous peoples affected; and (d) the substantive

content of the corresponding clauses for the *project's* *contractual documents*.[26] During the approval stage, the project team completes verification and documentation of the quality of the processes and *incorporates into the project the enforceable actions and measures for mitigation, restoration, and compensation reflected in the content of the loan document and project* *contractual documents* *(loan contract, operating regulations, bidding documents,* and other*, in accordance with the provisions of the project report. These measures and/or actions will be detailed in plans for indigenous protection, compensation, and development or in other instruments in a timely manner.*

2.37 **Information for the risk and feasibility sections of the project report (or ESMR in the case of the PRI)**. This information, which may form part of the ESMR, will consist of:

a. A summary of the project's adverse impacts on indigenous peoples confirmed by the analysis processes, and of how the proposed mitigation measures fulfill the policy's requirements and sustain the sociocultural feasibility of the project. This summary establishes the scope, intensity, and complexity of the impacts and context of implementation of the corresponding measures. The mitigation framework must be adapted to these characteristics. If benefits for indigenous peoples have been identified or proposed for inclusion in the project, they will be briefly described;

b. A summary and evaluation by the project team of the process of socioculturally appropriate consultation, good faith negotiations, and agreements reached or required, as appropriate, in terms of IPP compliance.[27]

c. A description of the operation's residual risks, if any, either substantive[28] or procedural.[29] In such cases, the team will provide its judgment as to how these risks affect the sociocultural feasibility of the project and will recommend additional risk management measures where appropriate. In order to be considered in the evaluation of the sociocultural feasibility of the project, the additional measures should be linked to the project through appropriate instruments.

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[26] The final wording of the clauses may be subject to additional negotiation.

[27] In addition to the technical data, the project team's conclusions on the quality of the processes will necessarily include value judgments. The main criteria to be considered by the teams are described in the definitions provided in part III. The team will retain the documentation in the project files that it deems necessary to support its judgment on the quality of the processes pursuant to the policy. For additional information, refer to the sample TOR in Annex 1.

[28] For example, risks of related facilities, the potential difficulty of implementing certain agreements or mitigation measures, etc.

[29] For example, unresolved conflicts on the quality of preparation processes, the scope of impacts, whether or not certain groups are affected, etc.

d. When necessary, a justified waiver request for cases in which the project does not fulfill certain IPP requirements, but where **the team considers that the departures would not affect the sociocultural feasibility of the project or could be corrected within a reasonable timeframe.** When necessary to make the project socioculturally feasible, these requests will include an action plan to correct the substantive noncompliance with the policy during implementation of the project (preferably tied to the first disbursement or to another effective and significant point of control in project implementation).

2.38 **Mitigation framework**. In the mitigation framework, the team must specify the mitigation and/or compensation measures for addressing the project's negative impacts on indigenous peoples. The content of such framework can range from specific and known measures that are easily implemented for certain moderate impacts, to complex mitigation plans that constitute a component or subproject. The scope of each framework must correspond to the scope and intensity of the impacts, to the sociocultural complexity and vulnerability of the indigenous peoples affected, and to the complexity of the context of implementation of the mitigation measures. This framework can be included as a component of the ESMR (particularly in the case of the PRI) or of the Environmental and Social Management Plan (ESMP)[30] when the project has such a plan.

2.39 **Clauses for contractual documents**. The team will include in the project (and will present as part of the project report, ESMR, or mitigation framework) the substantive content of the contractual clauses to establish:

a. The obligations of the parties with respect to implementation of the ESMP and the mitigation framework;

b. Where applicable: (i) procedures to complement consultation and negotiation processes, when necessary and appropriate based on the exceptions provided for in the IPP (see paragraph 2.53); or (ii) measures proposed as part of specific waiver requests to be presented to the Board of Directors;

c. Supervision instruments (e.g. monitoring, incentives, sanctions, complaint adjudication mechanisms) that allow the project team, and the Country Offices in the case of the public sector, *to verify that the project proponent fulfills, to the Bank's satisfaction, the agreed to measures to meet the requirements of this policy and to take the corrective actions necessary for the project proponent to correct the problems identified within an acceptable timeframe*;

d. *Socioculturally appropriate* and technically feasible *mechanisms for the participation of affected indigenous peoples in the monitoring and evaluation*

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[30] Where applicable, the ESMP forms part of, or is annexed to, the project report, and compliance therewith is a requirement of the loan contract.

of those measures.[31] These mechanisms may be included in the mitigation framework.

2.40 **CESI review of the mitigation framework**. Projects with significant adverse impacts will be submitted to CESI by the project teams for a second review.[32] For projects with moderate impacts, CESI will determine the need for a second review on a case-by-base basis. The documentation that must be presented to CESI in these cases consists of the risk and feasibility sections of the project report or ESMR, and the mitigation framework (included in the ESMP where appropriate). These requirements are applicable even when the project does not have an ESMP and has not been subject to an EIA or environment assessment. Documentation approved by CESI will be disseminated in accordance with OP-102.

Quality considerations for IPP processes

2.41 **Quality requirements.** The processes of sociocultural evaluation and consultation, as well as good faith negotiations and agreements (where applicable) provided for in the IPP will include the following considerations:

a. Technical quality. The sociocultural evaluation processes must involve the participation of the indigenous peoples affected. Likewise, the results of the evaluations must be subject to consultation processes and serve as input for the final stages of the good faith negotiations, as well as report the content of the agreements reached or required. To that end, iterative consultation processes are required that comply with the ESS. For projects with potential negative impacts (either moderate or significant), these consultation processes include a minimum of two consultation/negotiation stages that are not necessarily formal. The first is an early stage to identify the impacts and individuals or groups affected, and to establish the decision-making mechanisms and consultation methodology. The second is a conclusion stage to report the results of the impact assessments, and to consult with the indigenous peoples affected regarding the mitigation frameworks and measures necessary to manage the impacts the project might have on those peoples. The processes must have the necessary budget, time, and human resources to ensure good technical quality. When the project team considers it necessary, the Bank may complement the sociocultural evaluation process carried out by the project proponent with its own studies and evaluations.

b. Sociocultural adaptation. In order to be socioculturally appropriate, the sociocultural evaluation, consultation, negotiation and agreement, and monitoring and evaluation processes required by the IPP are to take into

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[31] This requirement is not feasible for uncontacted peoples, in which case the project team must propose an appropriate independent review mechanism with the participation of organizations with knowledge of the issues of those peoples.

[32] CESI's own procedures allow it to waive this requirement.

account the particular characteristics of the indigenous peoples (such as vulnerability, marginalization, different languages spoken by the peoples affected, geographical isolation, beliefs and values of the affected groups, risks of disease and loss of the resources necessary for physical or cultural subsistence, institutional isolation, and the legal or socioeconomic status that prevents or inhibits them from accessing information and benefiting from the projects or from defending their interests). This means that the processes should incorporate the necessary measures to: (i) adapt to internal time, without making the project unfeasible, and to the linguistic, cultural, and procedural (including decision-making processes) preferences of the groups consulted; (ii) neutralize vulnerabilities; (iii) if necessary, support training to overcome the weaknesses of indigenous representatives so they can effectively participate in the processes;[33] and, (iv) if necessary, provide instruments, mechanisms, and resources that support the negotiation capacity of indigenous peoples. Based on the context of each project, the project team will determine the need to establish mechanisms that seek to ensure the quality of the processes to build confidence and create legitimacy. In the most complex cases, these mechanisms could include neutral facilitation, supervision or independent audit, external consultation panels, and conflict resolution mechanisms.

Execution, monitoring, and evaluation of projects in accordance with the IPP

2.42 **Indicators**. In projects with significant indigenous components or activities or mitigation frameworks, the project teams will select and include monitoring frameworks and indicators that facilitate the monitoring of compliance and verification of the quality of implementation. The design of projects and mitigation frameworks will include, where applicable, identification of indicators that are socioculturally appropriate for the well-being of the indigenous peoples and their objectives for development with identity. The baseline for the evaluation will be established during the project analysis or based on data collected during the early stages of implementation.

2.43 **Monitoring**. The monitoring and evaluation frameworks will include the following, as appropriate based on the nature of each project and the significance of their impacts on the indigenous peoples: (a) instructions specific to the Country Offices for the supervision of public sector projects and, in the case of the PRI, specific measures in the operation's supervision framework; (b) to the extent applicable, inclusion in the logical framework, PPMR, and PCR of the monitoring categories and corresponding information requirements; (c) specific and independent evaluations for important components of mainstreaming or independent projects; (d) independent reviews for impact mitigation frameworks—the indicators and frameworks will consist of the project's contractual documentation; and

[33] Indigenous Development Strategy, paragraphs 6.5 (f), 7.4, 7.6, and 7.7.

(e) socioculturally appropriate and technically feasible mechanisms for the participation of affected indigenous peoples or beneficiaries.[34]

2.44 **Monitoring, evaluation, and lessons learned**. The data generated in the process of supervision and evaluation of the projects will enable the *Bank to periodically evaluate the implementation of this policy and the achievement of its objectives through independent reviews.*[35] To facilitate these processes, the project teams will transmit the data generated to the information center established by the Bank for such purposes. *The results of the evaluations will be presented to the Board of Executive Directors and disseminated in accordance with the Bank's Policy on Disclosure of Information (OP-102).*

2. Special applications of the policy's requirements

2.45 Technical cooperation operations, loans to finance nontraditional investments, and flexible lending instruments (such as financial intermediation, global credit, policy reform, or sector adjustment loans) will be subject to a preliminary evaluation under the IPP, as described in paragraphs 2.8 to 2.20 of section 1 above. When the preliminary evaluation shows the IPP is applicable, the project team will present an analysis strategy in the PCD and ESS that is designed to fulfill the applicable IPP requirements. However, given the nature of the activities involved, the IPP requirements for these types of projects, particularly with respect to the requirements for sociocultural evaluation and consultation processes (and negotiation or agreement, as the case may be), will be adapted as described below. The project reports (ESMR for the PRI) will incorporate a summary of the results of the sociocultural analysis and consultations and, based on those results, the contractual documents will include the necessary conditions to mitigate adverse impacts, or the conditions agreed with the project proponent to enhance the benefits for the indigenous peoples affected. After the policy has been in effect for 18 months, the Bank will review the policy's application to the lending instruments discussed in section 2 to determine whether it is being applied effectively to fulfill the policy's requirements and the operational characteristics of these instruments. This refers particularly to compliance with the policy's safeguards and to achievement of the sociocultural feasibility of the activities financed. Any necessary adjustments will be made.

Technical cooperation operations

2.46 Given their nature, technical cooperation operations generally do not have direct or immediate impacts or benefits on indigenous peoples or their rights or assets. However, technical cooperation operations facilitate and support processes that

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[34] See footnote 28.

[35] The first evaluation will take place within five years after the effective date of the policy, with the understanding that the Administration or the Board of Executive Directors may initiate partial evaluations prior to this date.

could potentially have implications for application of, and compliance with, the IPP. Unless the project team or CESI considers it necessary to proceed differently, the IPP will be applied to technical cooperation operations at the level of the profile and adaptation of the terms of reference to the activities supported. The sociocultural evaluation and consultative processes of the IPP, where applicable, will be included in those terms of reference. Accordingly, application of the IPP to technical cooperation operations requires the following:

a. When technical cooperation operations finance prefeasibility or feasibility studies for infrastructure or other projects that might generate risks, adverse impacts, or significant benefits for indigenous peoples, the project team will verify that those studies take relevant indigenous issues into consideration in a manner consistent with the policy's requirements. To that end, the team will evaluate the significance of the priority issues described in section 1, paragraph 2.15, for projects that generate studies financed by the technical cooperation operation.

b. When technical cooperation operations finance institutional strengthening, training, or other related activities that could benefit indigenous peoples, the project team will consider whether adjustments are necessary to facilitate access by indigenous peoples to those processes on an equal footing with other beneficiaries, or whether it is possible and necessary to include actions in the technical cooperation operation for mainstreaming those groups.

Policy-based loans (PRLs)

2.47 For this type of project, during the preliminary evaluation and design stage, and considering the technical study on indigenous issues, the Bank will analyze the results of the policy dialogue process, applicable legal norms, and the priority issues listed in paragraph 2.15 in the context of the corresponding country, in order to determine whether the specific policies and/or institutional changes supported by the operation will have significant impacts on indigenous peoples and their rights or heritage. If so, the PCD and ESS will include the necessary processes (as established in the IPP) so that the action plan corresponding to the PRL reflects the conditions required to comply with the policy's safeguards, or the conditions agreed with the government to enhance the benefits for the peoples affected. The sector analysis to develop the matrix of policies to be supported by the PRL will include a strategic analysis of the implications of those policies for the indigenous peoples affected, particularly with regard to their potential adverse sociocultural impacts, and an evaluation of the sector's installed capacity to manage those implications. This analysis will take into account the perspectives of the affected peoples, which includes *inputs from a sample of affected or knowledgeable parties, including, in particular, specialized government agencies and indigenous organizations, groups, and experts.* When the PRL has a Strategic Environmental Assessment (SEA), the issues covered by the IPP will be included in that assessment. When necessary, the matrix of PRL conditions will identify the impacts of the policy actions for indigenous peoples and the measures for mitigating adverse impacts or

mainstreaming. When a PRL includes investment components, they will be evaluated in accordance with the general procedures for compliance with the IPP included in section 1 of these Guidelines.

Financial intermediation operations and investment funds (FIOs)

2.48 The Bank finances financial intermediation operations (FIOs) in the public and private sectors. FIOs include operations with minimal or nonexistent sociocultural risks and impacts for indigenous peoples (such as business financing, mortgage securities), operations with potentially moderate benefits or impacts (such as financing for microenterprises), and operations with potentially complex or significant impacts and risks (such as second-tier operations for subloans that, in turn, finance large-scale infrastructure projects in sectors that could generate adverse impacts for indigenous peoples). During the preliminary evaluation, the project team will consider the potential impacts of the operation, taking into consideration the type of FIO and the capacity of intermediaries to manage them, including applicable legal norms and systems available to identify, analyze, and mitigate the sociocultural impacts on the indigenous peoples that might be affected or to strengthen the potential benefits for them. As a result of this preliminary evaluation, the project team will propose appropriate processes in the PCD and ESS to comply with the policy's requirements *in a manner commensurate with the nature, scope, and intensity of the impacts identified,* taking the following into consideration:

a. For FIOs with minimal risks or impacts, the operation will simply be required to comply with applicable legal norms, and no additional analysis or mitigation requirements will be enforced.

b. For FIOs with moderate or significant potential risks or impacts:

   1. The project's socioenvironmental analysis or due diligence will consider the following, in view of the **uncertainty over investments to be financed** and the consequent impossibility of identifying the peoples affected or impacts a priori:

      (i) For public sector projects, where feasible, obtain a sample to classify and assess the potential sociocultural impacts of IPP application;

      (ii) Prepare a ***consultative and negotiation plan in consultation with the affected indigenous peoples identified in the early stages of project processing,*** preferably through a sample, as indicated in (i), or, failing that,[36] in consultation with national or regional indigenous organizations. The plan establishes guidelines for consultation with the affected peoples ***in subsequent stages*** and

[36] Samples cannot normally be obtained for PRI FIO projects.

during project implementation, to the extent that the impacts and affected peoples are identified, in the context of the management plans referred to in paragraphs (2) and (3).[37] The consultative and negotiation plans must meet the minimum criteria for process quality and eligibility, mitigation and compensation categories, processes for managing disputes and conflicts, and Bank monitoring mechanisms;

(iii) The capacity of the executing agency and the intermediaries to apply the policy's requirements during program implementation.

2. For FIOs that potentially include projects with moderate risks and impacts, the mitigation framework will propose a procedure for sociocultural impact assessment and consultation and negotiation with the indigenous groups affected. That procedure should be effective for managing the types of impacts on the affected peoples potentially associated with the activities to be financed and for enforcing applicable legal norms.

3. For FIOs that potentially include projects with significant adverse risks and impacts, the mitigation framework will propose a Sociocultural Impact Management System (which may be integrated with the Environmental Impact Management System). The system will be designed to ensure that the executing agency has the necessary capacity to implement sociocultural assessment, consultation, negotiation, agreement, and impact mitigation requirements that are substantially equivalent to the policy's requirements. The mitigation framework will include the necessary provisions for the Bank to directly monitor application of the management system. This includes reports and periodic reviews of representative project samples, as well as subprojects with significant adverse impacts that have required agreements with affected peoples.

c. For FIOs that have specific guidelines for managing sociocultural impacts, the Bank will review those guidelines to align them with the policy's requirements within six months after entry into force of these general Guidelines. During the review period, the project teams will collaborate with the Indigenous Peoples and Community Development Unit of the Sustainable Development Department (SDS/IND) to generate proposals to align the requirements of those guidelines with the policy's requirements, based on the needs of each project. Those specific guidelines include:

1. *Due Diligence Guidelines on the Environmental and Social Impacts of the IDB's Microenterprise Operations* for the Social Entrepreneurship Program (SEP), and the microenterprise operations of the Multilateral Investment Fund (MIF).

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[37] See IPP, footnote on page 18.

2. *MIF/IDB Environmental and Social Guidelines for Financial Intermediation Operations of the MIF*.

d. For FIOs that present significant opportunities to strengthen benefits for indigenous peoples, the project team will discuss those opportunities with the project proponent with a view to reaching an agreement for mainstreaming specific socioculturally appropriate measures.

Projects in preparation

2.49 The Bank will only approve financing for projects in preparation when the project proponent demonstrates that the project is socioculturally feasible in accordance with the policy's requirements. The preliminary evaluation of the project will identify the applicable IPP requirements, and the PCD and ESS will include the necessary actions to verify project compliance with the policy's safeguards. If the socioenvironmental analysis identifies instances of noncompliance with the policy's safeguards, the team will propose an action plan to correct that noncompliance. The plan will include compliance with the policy's sociocultural evaluation, consultation, and where applicable, negotiation or agreement requirements, preferably before presenting the project to the Bank's Board of Executive Directors. Additionally, the project report (or ESMR for the PRI) and the corresponding contractual documents will include a mitigation framework for adverse impacts on indigenous peoples that complies with the policy's safeguards. If necessary, this framework will contain an action plan with the necessary budgets and timetable to correct the instances of noncompliance identified and not corrected during analysis and preparation of the project.

***CCLIPs*, SWAps, and PDLs**

2.50 These types of operations need to comply with sociocultural feasibility standards that are consistent with the social and environmental safeguards of their borrowers and Bank policies. With this objective, and given the special features of these operations, the socioenvironmental requirements of the instruments created under these modalities, and the policy's requirements, the analysis of these operations will include strategic evaluations of: (a) sociocultural factors related to the relevant indigenous peoples for each sector or program; (b) sector capacity for managing potential adverse impacts on indigenous peoples; and (c) the implications of those aspects for compliance with applicable legal norms and the policy's safeguards. These evaluations will be modified on a case-by-case basis, with consideration for the following:

a. For CCLIPs, the project team will include the relevant IPP considerations in the Strategic Environmental Assessment. Should the project not require an environmental assessment, the team will adapt the Strategic Environmental Assessment to the applicable IPP considerations. The results of the evaluation will be incorporated into the project for the purpose of establishing the necessary systems so that investments supported by the CCLIP operation can

comply with the applicable legal standards and with the substantive IPP requirements with respect to sociocultural feasibility.

b. In SWAp operations, lenders give preference to national systems for managing socioenvironmental impacts. When SWAp operations present potential significant risks or impacts for indigenous peoples, their rights, or heritage, the Strategic Environmental Assessment at the sector or program level will consider those impacts in consultation with the affected groups. This evaluation would identify the necessary conditions to: (i) promote the sociocultural feasibility of the sector's activities; (ii) align the policy framework for the sector with applicable legal standards; and (iii) strengthen the sector's capacity to implement those norms and to address the sociocultural impacts and risks of the sector's activities on indigenous peoples. If the strategic assessment identifies weaknesses, the government, borrowers, and main groups affected would devise a plan to support the sociocultural feasibility of the sector.

c. PDLs are investment loans for which disbursements are made once certain results are attained and the Bank has verified the expenditures incurred. This results-based orientation is consistent with the use of national systems. Therefore, when the preliminary evaluation of a PDL concludes that the IPP is applicable, the relevant IPP safeguards or the strengthening of benefits for indigenous peoples will be treated as additional results to be considered in determining the project's eligibility for disbursements. The socioenvironmental analysis of the PDL seeks to identify the results that need to be monitored during execution of the PDL to ensure mitigation of significant impacts on indigenous peoples and the sociocultural feasibility of the program as established in the IPP. To that end, the analysis will include: (i) evaluation of the potential sociocultural impacts on indigenous peoples; and (ii) consultation and negotiation processes with the affected peoples. Likewise, when the team has agreed with the project proponent on targets for development with identity or mainstreaming for the PDL, the operation will include the corresponding performance standards or indicators.

Multiphase or "repeated loan" operations

2.51 For this type of project, the team will apply the usual IPP requirements, with the following additional considerations:

a. In the case of a repeated loan (the same borrower, for the same general objective, within three years after approval of the PCR for the original project), the project analysis will include a review of compliance with the requirements for mitigation of the sociocultural impacts of the original operation on indigenous peoples to determine whether there are significant liabilities. If such liabilities are identified, the proponent must correct them or agree with the Bank on a remediation plan to be included in the mitigation framework for the new loan.

b. In the case of a multiphase project, the review of indicators that trigger the subsequent stages of the operation should include an evaluation of compliance with the policy's requirements for each phase. The project team is responsible for performing that review and recommending approval by the Board of financing for subsequent phases. When there are significant requirements in accordance with the IPP, CESI will review the corresponding documentation presented by the project team and will send the Loan Committee the relevant recommendations on compliance with the applicable IPP requirements in the previous phase, as well as additional recommendations for subsequent phases.

c. In both cases, applicable standards will be those in effect as of the date of execution of the corresponding loan contracts.

Cofinancing operations

2.52 In these operations, the Bank will collaborate with the borrowers and participating financial institutions to try to adopt uniform procedures with respect to the sociocultural evaluation, consultation (negotiation and agreement, where applicable), documentation, and dissemination processes, consistent with sociocultural feasibility requirements that are substantially equivalent to the policy's requirements.

3. Exceptions to the policy's consultation requirements

2.53 The IPP provides for the following exceptions to its consultation requirements and, consequently, its negotiation and agreement requirements:

a. **When the indigenous peoples who might be affected by a project show no interest** in participating in the consultation processes, *the project proponent may satisfy this requirement by presenting evidence of the following: its good faith efforts to consult with the affected peoples; the fact that there are no enabling conditions to carry out the consultation along with an analysis of the reasons and circumstances for this situation and the basis for both; and the alternative means used to identify necessary and socioculturally appropriate mitigation measures.* In these cases, partial noncompliance with the processes represents a minor or moderate risk for the project, and the Loan Committee may grant a waiver of the relevant IPP consultation requirements in accordance with the aforementioned exceptions. The **widespread express refusal** by the indigenous peoples affected to participate in the consultation process as an expression of their opposition to the project will not be considered a "lack of interest". **Widespread express refusal** means that it is impossible to satisfy the policy's consultation and negotiation or agreement requirements due to the opposition of the affected peoples, thus representing a significant risk for the project. In these cases, project approval will require a waiver of those requirements from the Bank's Board of Executive Directors.

b. **Cases in which the project proponent, in consultation with the project team, and the indigenous peoples affected agree on the need to extend the**

consultation and/or negotiation process beyond the date of project approval by the Board. Of special interest is the possibility of using project resources to carry out more thorough consultation and negotiation processes during implementation. The agreement with the affected peoples will include minimum criteria of process quality and eligibility, mitigation and compensation categories, and dispute and conflict management processes. The project team will propose the additional mechanisms to verify the satisfactory conclusion of the processes and inclusion of the results in the project, in a manner substantially equivalent to the policy's requirements, including monitoring processes supported in the loan contract and associated with activities for which conclusion of the processes is relevant.

c. Isolated **indigenous peoples** for whom issues are governed by the terms of the specific safeguard established in paragraph 4.4(g) of the IPP, in which case the consultations must include experts and specialized national and international entities.

d. Cases that do not fit the exceptions included in these guidelines, for which the project team has considered it appropriate not to apply the policy's consultation requirements to a project, may only be considered through a request for a **waiver** from the Bank's Board of Executive Directors, and will require justification of the sociocultural feasibility of the project.

III. DEFINITIONS

A. For application of the IPP and in the context of that policy, Bank staff should refer to the following definitions, in addition to those included in paragraphs 1.1-1.4 of the IPP:

3.1 **Bank activities** include loan and technical cooperation operations, as well as studies, seminars, and nonoperative and nonfinancial products. The term "activities" is used in the generic sense in the context of specific projects to describe actions included in a project, assuming that the contextual differentiation is obvious.

3.2 **Agreement(s)**. The set of commitments between the project proponent and the indigenous peoples affected by a project that results from the good faith negotiation process and establishes a mutual understanding of the conditions that the parties consider necessary for the proposed project to be socioculturally feasible and acceptable for the indigenous groups affected. The agreement will include measures to manage the impacts on indigenous peoples (mitigation framework), when required in accordance with the policy's safeguards. The concept of agreement used is sufficiently broad to include, where justified, criteria and procedures acceptable to the parties and the Bank for the negotiation and finalization of additional agreements on specific issues, such as the exact final amount of individual compensation, the definitive schedule of activities, etc. This clarification is applied especially to projects that enter the Bank's pipeline in the preparation phase and to programmatic projects, where investments to be made have not been identified at the time the loan is approved by the Bank's Board of Executive Directors. In view of potential circumstantial changes, including political ones, it would be good practice to include conflict management provisions in the agreements. Agreements on processes that would be used to resolve differences in the course of implementing the agreement would offer tools so that once the agreement is freely adopted, it could not be arbitrarily violated by the project proponent or repudiated by the community. In general, agreements should be: (i) free of coercion and consistent with the internal decision-making processes of the affected peoples; (ii) reached prior to approval of the project by the Bank's Board of Executive Directors;[38] and (iii) informed, i.e. reached based on suitable processes whereby the indigenous peoples receive complete and updated information on the operation, its nature, scope, purpose, duration, location, benefits and impacts, and potential direct and indirect risks (economic, social, cultural, environmental), on who would implement the project, and the implementation procedures and processes. This information should be presented in an accessible language and format and be made available during the advance period required for an independent technical and deliberative review of the project. The agreements would be evidenced through

[38] Except in the exceptional circumstances listed in the IPP (refer to Guidelines_____).

verification by the project team of the existence of documentary and factual evidence, and may be formalized in one or more documents signed by the parties, or in administrative acts, independent reports, or other formalization mechanisms acceptable to the parties and the Bank. The project team will determine whether the documentation is acceptable based on the results of the sociocultural evaluation and the opinions of the parties, and consult with the Bank's Legal Department.

3.3 **Affected peoples**. The individuals affected by and referred to in the IPP are the indigenous peoples who meet the criteria listed in paragraph 1.1 of the IPP and are covered by the project's sphere of influence.

3.4 **Sphere of influence** of a project or operation, in addition to goods, services, and actions financed by the project or program per se, includes: (a) the physical, geographical, institutional, cultural, and socioeconomic context into which the project is introduced; and (b) the set of essential factors for the technical and economic feasibility of the project, considering the risks of related facilities or installations that will be considered in accordance with the specific provisions of these Guidelines for such purposes (see footnote 14). For the IPP, the size of the sphere of influence is defined in terms of the relevance of the context for generating **sociocultural impacts** on indigenous peoples or for influencing those peoples regarding the project.

3.5 **Consent**. This is the term preferred by indigenous peoples to express their right to control development investments in their own territories and to determine the goals, priorities, and processes relating to their own development. In the IPP, this concept only applies directly in the context of independent projects for the indigenous peoples referred to in paragraph 4.2 (a) of the IPP. Where applicable, consent should be freely given in advance, be informed, and be documented as in agreements.

3.6 **Fair compensation**. Refers to full and equitable compensation for all significant losses and damages, tangible or otherwise, occurring as a consequence of a development project. In the context of the IPP, the term "compensation" is used in the broadest sense to refer to all the necessary factors to restore the living conditions of indigenous peoples affected to conditions equivalent to or better than those that existed prior to the project, including opportunities and options for future development. This means that the project's mitigation framework should include implementation of the measures to restore the functional capacity of the affected groups to operate as an economic and social unit. In addition to economic compensation, this includes measures agreed with the indigenous groups affected to restore other aspects of their life systems, including their sociocultural integrity. Based on the nature of the projects and their impacts, socioculturally appropriate and fair compensation should include the following elements:

a. Replacement of the assets of property, possession, or use by the affected peoples, with options for compensation in kind or monetary compensation with assistance in obtaining similar assets;

b. Means to reestablish strategies for subsistence, wealth, or income-generating capacity, including formal and informal employment;

c. Compensation for the use, degradation, or loss of access to natural resources that belong to indigenous peoples, including, where applicable under the relevant norms in the country, their interest in subsurface resources;

d. Protection, restoration, or replacement of intangible goods and assets, especially nonmonetary ones, such as those related to social, cultural, and spiritual aspects of the life systems of the affected peoples;

e. Compensation for negative impacts that cannot be mitigated;

f. Restoration, replacement, or substitution of services and opportunities lost by the affected peoples;

g. Reconstruction or replacement of social safety nets and support mechanisms that sustain the subsistence, production, services, and mutual assistance of the affected peoples.

3.7 **Consultation**. This is a process of exchanging information and opinions between the project proponent and the indigenous peoples who might be affected, whereby: (a) the indigenous peoples that might be affected by the project access proper information on the project, its benefits, risks, and impacts, and have the opportunity to express their points of view on the projects and their concerns and aspirations with respect to the opportunities for indigenous participation in the benefits, risks, and impacts that could affect the indigenous peoples and the prevention or mitigation measures; and (b) the project proponent informs the affected groups about the project, responds to questions and concerns, listens to the opinions and preferences of the individuals and groups affected, and tries to internalize the perspectives and demands of these groups in decisions on the project's design, implementation, mitigation and compensation measures, and sociocultural evaluation.

A socioculturally appropriate consultation process under the IPP includes the following elements, in a manner *commensurate with the nature, significance, and intensity of the potential impacts:*[39] [40] (a) early initiation in the project cycle and iterative nature to permit its relevance in the project's identification, design, analysis, implementation, and evaluation stages; (b) identification of the indigenous peoples affected as social agents, stakeholders and their rights, agendas, aspirations, expectations, degree of influence, and potential for conflicts; (c) identification and recognition as spokesmen of the *legitimate representatives* of those peoples or the entity they designate; (d) identification of *their internal decision-making processes*

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[39] See table on application of the policy's consultation, negotiation, and agreement requirements in Annex 2.

[40] See also the principles listed in the **Bank's consultation strategy**: inclusion, pluralism, opportunity to supply inputs, transparency, efficiency, and cultural sensitivity.

to design negotiation and decision-making processes for the project in collaboration with the indigenous leaders; (e) identification of the special characteristics and vulnerabilities to adapt the consultative processes to internal time, without making the project unfeasible, and to the linguistic, cultural, and procedural preferences of the groups consulted, as well as to implement training mechanisms that help overcome the weaknesses of the indigenous representatives in internalizing information, formulating issues and proposals, negotiating solutions, and effectively participating in all IPP processes; (f) appropriate mechanisms for identifying and supporting the effective representation or participation of differentiated groups (including more isolated groups, children, women, and elderly with disabilities); (g) identification and application of consultation requirements established in applicable rules of law;[41] (h) a **methodology** that defines the roles of the stakeholders, rules of the game, scope of the process, and possible and expected results as the process begins; (i) an inclusive, transparent, and effective **organization** that prevents manipulation or coercion of the affected indigenous peoples by third parties; (j) availability of *proper* **information** *to the affected groups as to the nature, scope, and impact of the proposed activities* with sufficient content, an appropriate and accessible format, and sufficient time to adequately evaluate the project; (k) **continuity** and recognition of the iterative nature of the process and of the need to revisit the processes when additional information is discovered, particularly the impacts and risks, or when significant changes are introduced to the project; (l) ongoing **communication** and both prompt and careful attention to concerns expressed, as well as **effective mechanisms for documenting and disseminating results, and for accountability** vis-à-vis the participants in the process through representatives designated by the indigenous peoples affected and by the participants of the consultation and negotiation processes, in the language and format agreed with them; (m) inclusion of a mechanism for **conflict management** when justified by the analysis of stakeholders, the nature of associated impacts and interests, or development of the process; (n) conclusion of the consultation process in accordance with the applicable IPP requirements with respect to **good faith negotiations** or **agreements**. The consultation processes must have the necessary human resources, time, and budget to ensure access to the process by the affected groups and their good technical quality in general.

3.8 **Contractual documents** include the loan contract and annexes thereto, operating regulations, and bidding documents in accordance with the provisions of the respective project report. The project team, in consultation with the Legal Department, will determine how to incorporate the necessary conditions in those documents to comply with the applicable IPP requirements.

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[41] For additional information, see Annex 1. *In countries that have government agencies specialized in indigenous issues and in the protection of indigenous rights, the project proponent will seek to involve these agencies in all stages of the consultation process.*

3.9 **Mitigation framework**. For projects with safeguards under the IPP, this is the set of *enforceable measures for mitigation* (including prevention), *restoration, and compensation to be included in the project, reflected in the content of the loan document and of* the project contractual documents *(loan contract, operating regulations, and bidding documents, in accordance with the provisions of the project report)* to ensure the sociocultural feasibility of the project. The mitigation framework may include the preparation of other more detailed plans *(plans for indigenous protection, compensation, and development, or other instruments)* to facilitate their implementation, which should be developed according to the minimum criteria and necessary processes for the satisfactory development of those plans and their approval by the affected peoples. The mitigation framework will be prepared as a result of the sociocultural impact assessment. For projects with an Environmental and Social Management Plan (ESMP), the framework may be integrated into that plan. Based on the nature, intensity, and context of the project and its impacts, the mitigation framework should contain the following elements:

a. An **analytical description of** *the direct and indirect adverse* ***impacts*** *on indigenous peoples, or their individual or collective rights or heritage.*

b. A **summary of the results of the consultative processes** and good faith negotiations or agreements, as appropriate, with the indigenous peoples affected by the project.

c. **Mitigation** (including prevention), compensation, and restoration **measures** proposed to satisfy the requirements of paragraph 4.4 of the IPP.

d. **Designs and mechanisms to implement** the impact management measures, with sufficient specificity to permit their execution, including a **framework for associating and integrating them** with the remaining project activities.

e. The **institutional responsibilities** for implementation of the impact management measures, including, when necessary, training, supervision, and independent compliance audit.

f. The **timetable and budget for implementation** and management of the measures. Substantial changes require a procedure that includes the approval of the affected peoples.

g. A **communication program** (consultation and negotiation, as appropriate) between the representatives designated by the affected peoples and representatives of those responsible for implementing the framework.

h. A **mechanism for conflict management** that is suited to the scale, complexity, and level of conflict of the project and the framework, is socioculturally appropriate, and easily accessible by the indigenous peoples.

i. The substantive content of the contractual clauses (including incentives, penalties, and corrective measures), as well as a supervision and evaluation framework, *recommended for inclusion in the loan contract, designed to enable the Bank to verify that the project proponent complies, to the Bank's*

satisfaction, with the agreed measures to satisfy the policy's requirements with respect to the project, including socioculturally appropriate and technically feasible mechanisms for the participation of affected indigenous peoples in the monitoring and evaluation of those measures. The team can include the clauses in the loan proposal or report or in the ESMR and reference them in the mitigation framework.

j. **Where applicable, the mitigation measures for the impacts or risks of associated installations** will be summarized in the mitigation framework in cases where the project team: (a) has elected to manage sociocultural risks associated with indirect impacts from **related facilities or installations**, or to processes outside the range of control of the proponent, through complementary programs or measures and agreements or other special arrangements; and (b) considers such mitigation measures as factors to determine the sociocultural feasibility of the project in accordance with the IPP. The complementary measures should include agreements with third parties or other appropriate instruments necessary to implement measures and establish mechanisms for the project proponent and affected peoples to verify implementation of the measures and to exercise the related rights and responsibilities.

3.10 **Evaluation of sociocultural impacts** is a systematic method that identifies, analyzes, and evaluates the unplanned sociocultural effects or consequences of an investment project on the way of life of an indigenous group or community, taking into consideration the opinions and perceptions of the affected peoples. This process should encompass all the effects on indigenous peoples (benefits, direct, indirect, and cumulative impacts) that could affect the sociocultural feasibility of the project, taking into consideration the project's area or sphere of influence. The sociocultural evaluations generate the information necessary to: (i) identify the potential positive and negative risks and impacts associated with the project; (ii) propose measures to prevent or mitigate the adverse impacts and risks of a project pursuant to the requirements of section IV-B - paragraph 4.4 of the IPP to make those projects socioculturally feasible; (iii) where feasible and appropriate, strengthen mainstreaming actions in accordance with section IV-A, paragraphs 4.2 and 4.3 of the IPP; and (iv) issue an opinion on the sociocultural feasibility of the project. In a manner *commensurate with the nature, significance, and intensity of the potential impacts*, the sociocultural evaluation should include the following elements: (a) identification of the indigenous peoples affected as social agents, stakeholders and their rights, agendas, aspirations, expectations, degree of influence, and potential for conflict; (b) identification of the *legitimate representatives and internal decision-making procedures* of the affected peoples; (c) identification of the social and cultural impacts and benefits and related factors; (d) an analysis of compliance with the applicable rules of law and the project's potential impacts on the quality and compliance with those norms; (e) consideration of the special characteristics and vulnerability of the affected peoples (marginalization, use of different languages, geographical isolation, distinct values

and beliefs, institutional isolation, and economic, social, or legal status), and the implications of those factors for the evaluation of impacts and the quality and methodology of the IPP processes; (f) identification, facilitation, and implementation of socioculturally appropriate information, consultation, training, and negotiation mechanisms, including, where necessary, conflict management processes; (g) assessment of the benefits and impacts identified in terms of the policy's requirements and other Bank policies and applicable rules of law relevant to the project; (h) identification of the project's risks, including those pertaining to related facilities or installations with the relevant recommendations; (i) proposals of measures to enhance benefits; (j) a draft mitigation framework for adverse impacts; (k) a recommendation on the project's sociocultural feasibility in terms of its impacts on indigenous peoples, based on the final project design, the feasibility of implementation of the mitigation framework, nonmitigatable risks and impacts, the technical opinions of the evaluation team, and the opinions and perceptions of the groups affected. The sociocultural evaluations must have the necessary human resources, time, and budget to ensure their technical quality.

3.11 **Ethnically-based exclusion**. For purposes of the IPP, this denotes any distinction, exclusion, restriction, or preference on the basis of race, color, lineage or origin, or ethnicity that is intended to or ultimately prevents or inhibits the access and enjoyment by indigenous peoples, on equal conditions, of the benefits granted by a Bank-financed project or a program. When owing to its location or other characteristics, or based on information obtained in the process of identifying its beneficiaries, a project has potential benefits for indigenous peoples or groups, the project team must include in the consultation processes and social impact studies consideration for possible implicit discrimination factors and the need for specific measures in the projects to provide equal access to the benefits by the indigenous segments of the potential beneficiaries. When the studies effectively identify discriminatory factors, the project team must negotiate technically feasible corrective measures with the proponent and the government in the context of the project to allow access by the potential indigenous beneficiaries on equal conditions with the remaining beneficiaries.

3.12 **Related facilities or installations** in the context of the project's sociocultural evaluation and feasibility, including new or additional works and infrastructure, irrespective of their source of financing,[42] which are necessary for the operation of a Bank-funded project, such as: access roads, railroads, transmission lines, oil pipelines, gas pipelines, and other physical connections required for the project; construction camps or housing complexes for workers; generation plants required for the project; effluent or wastewater treatment facilities; collection, warehousing,

[42] It is understood that the special treatment for the impacts of related facilities or installations under the IPP refers exclusively to those facilities or installations not financed by the Bank, since Bank-funded facilities or installations will be subject to the general IPP requirements.

and transfer facilities, or ocean terminals built to manage goods produced by the project.

3.13 **Sociocultural impacts** are potential or real effects in the sociocultural environment that result from an investment project and generate positive or negative changes in the perceptions, attitudes, and/or behaviors of the individuals or groups affected at the individual or community level, and alter the way in which people live, work, relax (recreation), relate to one another in their environment, with their territorial and spiritual environment, organize to meet their needs, and, in general, survive and function as members of a society within a culture and in a given context. An impact will be considered negative or adverse when the effect of the change results in the deterioration of the sociocultural structure or weakens its functions in terms of the quality of life of the affected peoples. Given its nature, the perception of the affected peoples is a key factor in evaluating those impacts. This definition encompasses the following related concepts:

a. **Cultural impacts** are effects on values, belief systems,[43] worldviews, language(s), uses and customs, traditional economy with an emphasis on food security, cultural management of territory and complementarity, social organization, and physical manifestations of the cultural heritage of the community (sites, structures, archeological remains with architectural, historical, religious, spiritual, cultural, ecological, or aesthetic value or significance).

b. **Social impacts** are effects on the social fabric and structure, relationships between individuals and groups in the environment, the relationship of the group with its territorial and spiritual environment and surroundings, the organization of the group to satisfy its needs and, in general, to live, work, and enjoy its environment and function as members of a society within a culture and in a given context. Important elements to consider specifically include: rights with economic, social, cultural, civic, and political dimensions, the well-being, vitality, and viability of the community—quality of life measured by socioeconomic indicators, such as: income distribution, physical and social integrity and reproductive capacity, protection of individuals and the community, levels of employment and employment opportunities, health and other social benefits, education, and the quality and availability of housing.

c. **Direct impacts** are those that occur as a necessary consequence of the project without the interference of other actions, projects, or processes (e.g. the physical separation of members of the community as a result of the works).

d. **Indirect impacts** are those that occur as a project consequence, which frequently depend on factors, projects, or processes, either related or unrelated to the project (e.g. involuntary and uncontrolled acculturation of an

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[43] ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries.

indigenous community due to the arrival of other groups to a geographical area as a consequence of building a road).

e. **(Especially or particularly) significant impacts:** are adverse impacts that constitute a significant threat to the physical, cultural, economic, or social integrity of an indigenous community, people or group. The factors to consider in determining whether an impact or series of impacts is significant include: (i) their physical and geographical scope; (ii) their duration in time or permanence (iii) their intensity—degree of degradation or disturbance of the system affected; (iv) the availability and ease of implementation of mitigating measures; (v) the capacity for implementation and resilience of the affected peoples and of those responsible for their protection or service; and (vi) special circumstances that indicate that the systems or resources affected are not recoverable or replaceable. These factors should be considered as a whole such that neither the presence nor absence of any of them is a determining factor. The determination of whether an impact is significant requires a value judgment that must be supported by professional knowledge, data, and reliable and updated information on the local situation, suitable criteria applied by a professional with credentials and experience specifically relevant to this type of evaluation, and the opinion of the affected peoples on the effects, their potential consequences, and the attitude of the community towards the effects and proposed mitigating measures.

f. **Moderate (moderately significant) impacts** are adverse impacts, the effects of which are: (i) lower in intensity in terms of the level of disturbance or degradation they cause to the sociocultural systems and the ways of life and life options available to the individuals or groups affected; (ii) geographically limited in scope, facilitating their control and limiting the affected population; (iii) reversible in a relatively short period of time; and (iv) mitigatable through known measures that are relatively easy to implement.

g. **Minimal (insignificant) impacts** are temporary (e.g. during construction), of little significance to the affected population (i.e. they do not affect fundamental sociocultural functions and are not perceived as harmful or significantly inconvenient), and easily mitigated without major additional investigations.

h. **Cumulative impacts** are those that involve an effect caused by the combination or accumulation of individual impacts from various projects (financed by the Bank or otherwise) and of unrelated operations and projects of the same type or in the same sector, or in the same area or physical environment.

3.15 **Good faith negotiations**. This is an earnest and respectful negotiation process required by the policy to conclude the consultation processes for mainstreaming

projects or projects with moderate or significant adverse impacts,[44] which includes seeking and possibly securing agreements between the project proponents and indigenous peoples affected, with respect to the scope, design, and execution of actions included in the Bank-funded projects that have a moderate or significant impact on the indigenous peoples and their individual or collective rights or heritage. Based on standards of behavior and juridical concepts, these processes should: (a) be carried out with the actual intention of reaching agreements that can include costs and benefits (losses and gains or at least changes in the situation) for all the parties involved; and (b) demonstrate a commitment to possible arrangements of a substantive nature, rather than merely seeking formal compliance with a procedural obligation, imposing the will of one party on another, or coercing one of the parties to the detriment of its own interests or the interests of third parties. Following the negotiation process, the project team will consider the outcomes, together with other factors, to determine whether the project is socioculturally feasible and fulfills the policy's other applicable requirements. The fact that agreements are not reached is not an indication in and of itself of the absence of good faith. The project team will include the basis for its opinion on the quality of the good faith negotiation process in the project document (in the ESMR for PRI). For such purposes, the team can consider the following factors:

a. The quality and general tenor of the processes and behavior of the parties during the process;

b. The applicable rules of law and general norms and patterns of behavior in current negotiations in the country concerned;

c. Internal standards that the project proponent has adopted for its transactions with indigenous peoples or with other groups affected by its projects;

d. Respect, honesty, and transparency in communications and contacts between the parties;

e. Evidence of the intent to enter into a quid pro quo; serious offers, willingness to earnestly and genuinely consider the proposals of the other parties, designation of technically capable personnel with decision-making power to participate in meetings, demonstrated will to depart from or change its initial position, changes in position when opportunities are presented to reach agreements;

f. Availability of clear, suitable, and complete information in languages and formats that are accessible to the parties, frequent communications, and serious, relevant, and prompt responses to communications from other parties;

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[44] In the case of significant impacts, agreements are reached or consent obtained in this stage, where applicable.

g. Number of meetings and the initiative to organize them, as well as behavior during the meetings and the presence of representatives with decision-making power;

h. Absence of attempts to coerce or bribe; absence of ulterior motives, patterns of bad faith behavior in other transactions or evidence of dishonesty or disinterest; absence of plausible claims of bad faith behavior in the process;

i. Presence or absence of tendencies to exaggerate the importance of minor issues to prevent progress in negotiations;

j. Appropriate behavior outside negotiation forums, e.g. comments to the press, other interested parties, etc.;

k. Willingness to share information on significant facts and legal arguments;

l. Willingness to formalize agreements reached and to put verbal agreements in writing;

m. Willingness to agree on transparent processes and to accept independent supervision; adherence to suitable processes for conflict management.

3.16 **Applicable rules of law**.[45] The set of legal standards applicable to the indigenous peoples in the specific context of each country. A comprehensive overview and comparative analysis of legislation pertaining to indigenous peoples in all countries of the region has been prepared by the Bank and can be found at: www.iadb.org/sds/ind. In case of discrepancies between applicable rules of law, the Bank will not assume the role of arbiter or intermediary between the interested parties, but will require evidence of a satisfactory resolution before proceeding with the corresponding activity. In case of conflict between the policy's safeguards and applicable rules of law, the project team must find a viable solution that complies with both. This does not mean changing current legislation in the country, but negotiating with the government or project proponent (in the case of a private entity) to establish by contract the required complementary actions to make the project socioculturally feasible. Applicable rules of law include the following, depending on the context of each country:

a. Indigenous legislation issued by the State;

b. National legislation pertaining to indigenous peoples and their rights;

c. International laws that are applicable and in force in the country (i.e. duly adopted and/or ratified according to national law);

d. Indigenous legal systems, in accordance with the rules of national law for their recognition, or when there are no rules, provided they are not incompatible with legislation in force in the country;

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[45] IPP, 1.2.

e. Caselaw corresponding to those rules of law, including international caselaw when the country involved has accepted the jurisdiction of the body that issues the rulings. In the case of countries where the Bank operates, the international body of greatest importance as a source of caselaw is the Inter-American Court of Human Rights.

3.17 **Operation(s).** In the IPP, as well as in these Guidelines, the term "operation(s)" is used in the generic sense to indicate the Bank's operating activities, including projects, programs, technical cooperation operations, and general operating activities financed by the Bank. The term is not used to denote a broad set of projects with activities financed by other entities. See Bank activities.

3.18 **Project** is a set of goods, services, and actions financed by a Bank operation, with defined starting and ending points, and specific objectives, as well as capital investments that can be analyzed and evaluated independently. In the context of the IPP, the concept of project includes **programs**, i.e. a series of investments designed to achieve a certain result, referring, in the operational context of the Bank, to a series of projects partially financed by the Bank, as well as the special operations referred to in section 2, part I.B of the Guidelines (paragraphs 2.45 to 2.52).

3.19 **Project in construction**. A project in which the proponent has started the principal physical infrastructure works before the project enters the Bank's pipeline. Principal works exclude exploration activities and related facilities, such as access roads and power connections.

3.20 **Indigenous peoples**, for purposes of the IPP, refers to those that meet the following three criteria: (i) they are descendants of populations inhabiting Latin America and the Caribbean at the time of the conquest or colonization; (ii) irrespective of their legal status or current residence, they retain some or all of their own social, economic, political, linguistic, and cultural institutions and practices; and (iii) they recognize themselves as belonging to indigenous or precolonial cultures or peoples. (The IPP may be applicable to indigenous peoples even when they are not physically occupying their lands or territories of origin.)

3.21 **Isolated or uncontacted indigenous peoples**. "Uncontacted peoples or peoples in voluntary isolation" are those peoples who have no contact with outside society or, even on being recently contacted, wish to remain isolated. The name is problematic because these peoples, in general, isolated themselves after the traumatic experiences of initial contact, as in the case of rubber exploitation. Nor is it accurate to say they are in voluntary isolation, since their displacement to refuge areas was involuntary. To call them "peoples in isolation" is also misleading, because it could appear to include peoples that live in relative geographical isolation without wishing to remain isolated. The policy refers to peoples living in the Chaco and Amazon jungle refuge areas who do not wish to establish contact with Western civilization. Those peoples are found on the borders between Guyana, Venezuela, and Brazil (Yanomamo), and on the borders between Brazil, Peru, and northern Bolivia (in general, Pano and Arawak). There are other "pockets" of these peoples

in Colombia (Nukak) and Ecuador (part of the Huaorani). All of them are extremely vulnerable—both physically and culturally—to outside contact and are exposed to the advance of the agriculture and livestock (Brazil), mining, and hydrocarbon frontiers. In terms of physical survival, their vulnerability comes from a lack of defenses against viral and infectious diseases. Consequently, the policy proposes respect for their status and protection against contact that would threaten their physical, cultural, and territorial integrity. Although a definitive list or map cannot be made of these peoples, a partial list and map and references for obtaining additional information can be found in Annex 1.

3.22 **Cross-border indigenous peoples**. These are peoples whose lands or territories overlap the territories of two or more countries.

3.23 **Risks**. These are environmental, sociocultural, sector, or institutional factors not generated by the project but that can affect its sociocultural feasibility. These factors should be considered as part of the project's sociocultural evaluation in order to determine its feasibility. Whether or not to mitigate these risks will be considered in the final evaluation of the project's feasibility. When available, mitigation measures may form part of complementary programs associated with the project's mitigation framework through appropriate instruments that may include agreements with third parties.

3.24 **Indigenous juridical system**. Also known as internal or self-generated juridical system, includes laws of origin, customary rights, customs and uses, and indigenous justice and juridical systems. Seventeen out of 19 countries with indigenous populations in Latin America and the Caribbean recognize customary law. When collective and individual rights coexist, deference will be given to collective rights, particularly with regard to rights over land, territory, and natural resources.

3.25 **Indigenous territory**. This term refers to the area where the indigenous peoples live, which includes areas permanently and regularly possessed by indigenous communities or groups, as well as lands that, while not held in this manner, are used for social, economic, and traditional activities (i.e. sacred sites, protected areas, fishing and hunting and gathering areas, areas reserved for rotational farming, etc.), and represent the geographical space necessary for the cultural and social reproduction of the group. This definition is consistent with the scope attributed to the term "territory" in International Labour Organization (ILO) Convention No. 169. In the context of the IPP, it is important to emphasize that the applicable safeguard requires that *the project not directly or indirectly cause the deterioration of the physical integrity or legal status of the lands, territories, or resources* by the indigenous peoples, which does not require the Bank to take sides in disputes, and project activities may be undertaken that are compatible with the status quo of the territories.

3.26 **Indigenous lands**. These are lands traditionally occupied by indigenous peoples and where such peoples have property (consolidated or presumed) and exclusive possession rights.

3.27 **Sociocultural feasibility**. A project is considered to be socioculturally feasible under the IPP when:

a. It does not cause any direct or indirect impacts that **cannot be mitigated** or cause the deterioration or disintegration of the fundamental sociocultural structures of an indigenous group with respect to: (i) physical integrity (threats to life or reproductive capacity, ancestral territories due to displacement, violence, contamination, epidemiological factors, or loss of control or access to adequate and acceptable means of subsistence); (ii) social integrity (disintegration of support networks, separation of families or other subgroups that form the basic social fabric); (iii) cultural integrity, including spiritual (threats through acculturation processes, migrations, loss of access or quality of areas and resources); and (iv) economic integrity (disturbed access to natural resources, means of production, means of subsistence that sustain food security, cultural uses of lands, and the traditional economy, including complementarity systems).

b. Complies with applicable rules of law.

c. Does not cause the impoverishment or deterioration of living conditions for the indigenous communities affected and, where possible, generates a positive net flow of benefits towards those communities.[46]

d. Has an adequate level of support from the indigenous community affected.[47]

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[46] EDI 7.6(c).

[47] EDI 7.6(c).

ADDITIONAL INFORMATION SOURCES

The documents listed below are information sources, methodological guidelines, and good practices that Bank staff can refer to when carrying out activities related to indigenous peoples issues. These documents do not form part of the Operating Guidelines for Implementing the IPP. Their application depends on the circumstances of each particular case and is not mandatory. The list, as well as the reference documents, will be updated electronically by SDS/IND when necessary. The list and documents will also be revised to include user comments and recommendations on the contents of the documents or the need to add other sources to the list.

Other available information sources include, but are not limited to:

1. List of agencies specialized in indigenous issues by country.
2. List of indigenous organizations by country.
3. Illustrative matrix of potential negative impacts on indigenous peoples by sector.
4. Illustrative matrix of potential benefits for indigenous peoples by sector.
5. Data bank on indigenous legislation and applicable rules of law.
6. Terms of reference:
    a. Preparatory studies for the country dialogue/technical studies on indigenous issues.
    b. Sociocultural evaluation.
    c. Consultation with indigenous peoples affected.
    d. Mitigation frameworks.
7. List of NGOs that work with indigenous peoples.
8. Guidelines on good practices and experiences in work with indigenous peoples:
    a. Reference manual for work with indigenous peoples—World Bank, Inter-American Development Bank (IDB), and Asian Bank.[48]
    b. Examples of the Bank's experience: by country and by sector.
9. Indigenous lands and territories.
10. Ethnically-based exclusion and discrimination.
11. Peoples in voluntary isolation, uncontacted peoples, and recently contacted peoples: diagnostic of the situation in Latin America and the Caribbean (LAC).
12. List of NGOs, universities, and individual experts on indigenous issues (including indigenous experts).

[48] This Manual is in the process of preparation in the form of sector modules. The first modules should be available by the end of 2006.

SUMMARY TABLE OF THE POLICY'S CONSULTATION REQUIREMENTS

Category of operation	Consultation			Good faith negotiations	Agreement	Consent	Sociocultural feasibility
	Program.	**Identific.**	**Prepar.+**				
Positive							
Independent	5.2(f)	4.2(a)*	4.2(a)	4.2(a)	4.2(a)	4.2(a)	4.2(a); 4.4
Mainstreaming	5.2(f) 5.3(a)**	5.3(a)***	4.2(b)	4.2(b)	N/A	N/A	4.2(b); 4.4
Potentially adverse							
Minimal impacts			4.4****				
Moderate impacts	5.2(f) 5.3(a)**	5.3(a)*** 4.4 (a) (i)	4.4(a) (ii) 5.3(b) (ii)	4.4(a) (ii) 5.3(b) (ii)	N/A	N/A	4.4
Significant impacts	5.2(f) 5.3(a)**	5.3(a)*** 4.4(a) (i)	4.4(a) (ii) 5.3(b) (ii)	4.4(a) (ii) 5.3(b) (ii)	4.4(a)(iii) 5.3(c)	N/A	4.4 5.3(c)
No impact	*N/A*	*5.3(a)***	*N/A*	*N/A*	*N/A*	*N/A*	*4.4*

* Participatory diagnostic studies
** Taking into account the perspectives of the indigenous peoples
*** With input from the indigenous peoples that might be affected by the project, where possible
**** Informal consultations to verify the limited nature of the impacts. See paragraph 2.33(a) of the Guidelines.