

This Guidance Note 7 corresponds to Performance Standard 7. Please also refer to the Performance Standards 1-6 and 8 as well as the corresponding Guidance Notes for additional information. Bibliographical information on all reference materials appearing in the text of this Guidance Note can be found in the References Section at the end.

Introduction

- 1. Performance Standard 7 recognizes that Indigenous Peoples, as social groups with identities that are distinct from dominant groups in national societies, are often among the most marginalized and vulnerable segments of the population. Their economic, social and legal status often limits their capacity to defend their interests in, and rights to, lands and natural and cultural resources, and may restrict their ability to participate in and benefit from development. They are particularly vulnerable if their lands and resources are transformed, encroached upon by outsiders, or significantly degraded. Their languages, cultures, religions, spiritual beliefs, and institutions may also be under threat. These characteristics expose Indigenous Peoples to different types of risks and severity of impacts, including loss of identity, culture, and natural resource-based livelihoods, as well as exposure to impoverishment and disease.*
- 2. Private sector projects may create opportunities for Indigenous Peoples to participate in, and benefit from, project-related activities that may help them fulfill their aspiration for economic and social development. In addition, this Performance Standard recognizes that Indigenous Peoples may play a role in sustainable development by promoting and managing activities and enterprises as partners in development.*

Objectives

- To ensure that the development process fosters full respect for the dignity, human rights, aspirations, cultures and natural resource-based livelihoods of Indigenous Peoples*
- To avoid adverse impacts of projects on communities of Indigenous Peoples, or when avoidance is not feasible, to minimize, mitigate, or compensate for such impacts, and to provide opportunities for development benefits, in a culturally appropriate manner*
- To establish and maintain an ongoing relationship with the Indigenous Peoples affected by a project throughout the life of the project*
- To foster good faith negotiation with and informed participation of Indigenous Peoples when projects are to be located on traditional or customary lands under use by the Indigenous Peoples*
- To respect and preserve the culture, knowledge and practices of Indigenous Peoples*

G1. IFC recognizes that the rights of Indigenous Peoples are being addressed under both national and international law. Under international law, key UN human rights conventions (see the References section below) form the core of international instruments that provide the rights framework for the world's indigenous peoples. In addition, some countries have passed legislation or ratified other international or regional conventions for the protection of Indigenous Peoples, such as [ILO Convention 169](#), ratified by 17 countries (see [ILO 169 and the Private Sector](#), IFC's practical guide for IFC clients who operate in countries that have ratified ILO 169).

While such legal instruments establish responsibilities of states, it is increasingly expected that private sector companies conduct their affairs in a way that would uphold these rights and not interfere with states' obligations under these instruments. It is in recognition of this emerging business environment that IFC expects that private sector projects financed by IFC foster full respect for the dignity, human rights, aspirations, cultures and customary livelihoods of Indigenous Peoples.

G2. The objectives of Performance Standard 7 also underscore the need to avoid adverse project impacts on Indigenous Peoples' communities living in the project's area of influence, or where avoidance is not feasible, to minimize, mitigate or compensate for such impacts through mechanisms that are tailored to their specific cultural characteristics and expressed needs of the Indigenous Peoples, in a manner commensurate with the scale of project risks and impacts.

G3. The client and the affected communities of Indigenous Peoples should establish an ongoing relationship throughout the life of the project. To this end, Performance Standard 7 requires the client to engage in a process of free, prior and informed consultation and informed participation. In the high risks scenarios described in the paragraphs 11 through 15 of Performance Standard 7, the client's engagement process will include a good faith negotiation (see paragraph G24 below) and documentation of the successful outcome of such negotiation. Taking into account the Indigenous Peoples' understanding of the changes brought about by a project helps to identify both positive and negative project impacts. Similarly, the effectiveness of impact avoidance and mitigation and compensation measures is enhanced if the points of views of affected Indigenous Peoples are taken into consideration and form part of the decision-making process.

G4. Many Indigenous Peoples' cultures and identities are inextricably linked to the lands on which they live and the natural resources on which they depend. In many cases, their cultures, identities, traditional knowledge and oral histories are connected to, and maintained through the use of and relationships with, these lands and natural resources. These lands and resources may be sacred or have a spiritual significance. Use of sacred sites and other places of cultural significance may have important functions for the conservation and sustainable use of the natural resources upon which Indigenous Peoples rely for their livelihoods and well-being. Thus, project impacts on lands, forests, water, wildlife, and other natural resources may affect their institutions, livelihoods, economic development, and their ability to maintain and develop their identities and cultures. Performance Standard 7 sets out specific requirements when projects affect these relationships.

Scope of Application

3. The applicability of this Performance Standard is established during the Social and Environmental Assessment process, while implementation of the actions necessary to meet the requirements of this Performance Standard is managed through the client's Social and Environmental Management System. The assessment and management system requirements are outlined in Performance Standard 1.

4. There is no universally accepted definition of "Indigenous Peoples". Indigenous Peoples may be referred to in different countries by such terms as "Indigenous ethnic

minorities,” “aboriginals,” “hill tribes,” “minority nationalities,” “scheduled tribes,” “first nations,” or “tribal groups.”

5. *In this Performance Standard, the term “Indigenous Peoples” is used in a generic sense to refer to a distinct social and cultural group possessing the following characteristics in varying degrees:*

- *Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others*
- *Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories*
- *Customary cultural, economic, social, or political institutions that are separate from those of the dominant society or culture*
- *An indigenous language, often different from the official language of the country or region*

6. *Ascertaining whether a particular group is considered as Indigenous Peoples for the purpose of this Performance Standard may require technical judgment.*

G5. Over the past 20 years, “indigenous peoples” has emerged as a distinct category of human societies under international law and in the national legislation of many countries. However, there is no internationally accepted definition of “indigenous peoples.” For this reason, Performance Standard 7 does not define “Indigenous Peoples” but the applicability of Performance Standard 7 is determined on the basis of the four characteristics presented in paragraph 5 of Performance Standard 7. Each characteristic is evaluated independently, and no characteristic weighs more than the others. In addition, Performance Standard 7 applies to groups or communities, rather than individuals.

G6. Clients will need to exercise judgment in determining whether a group or communities should be considered Indigenous for the purpose of Performance Standard 7. In making this determination, the client may undertake a number of activities, including ethnographic and archival research, participatory approaches with the affected communities of Indigenous Peoples, assessment of the traditional institutions, and investigation of the applicable national laws and regulations, including customary laws, and laws reflecting host country obligations under international law. The client should retain qualified social scientists to carry out this work.

G7. As part of its social and environmental review process, IFC will form its own professional judgment on the applicability of Performance Standard 7 on the basis of evidence presented by the client and its own due diligence. IFC will consult with the World Bank from time to time on developments in national and international law and the consistent application of the definition of Indigenous Peoples to particular group or community of people.

G8. Clients should be aware that Performance Standard 7 may apply to communities of Indigenous Peoples who have lost collective attachment to lands and territories in the project area of influence as a result of forced severance that occurred within the Indigenous Peoples’ lifetime, because of conflict, involuntary resettlement programs by governments, dispossession from their lands, or natural calamities, if they are expected to be adversely affected by the project.

G9. Performance Standard 7 applies to communities of Indigenous Peoples who no longer live on the lands affected by the project, but who still retain ties to those lands through customary usage, including seasonal or cyclical use.

G10. Performance Standard 7 addresses vulnerabilities pertinent to Indigenous Peoples. Other vulnerable groups affected economically, socially or environmentally by project impacts are addressed through the process of Social and Environmental Assessment and management of social and environmental impacts set out in Performance Standard 1 and Guidance Note 1.

Requirements

General Requirements

Avoidance of Adverse Impacts

7. The client will identify through a process of Social and Environmental Assessment all communities of Indigenous Peoples who may be affected by the project within the project's area of influence, as well as the nature and degree of the expected social, cultural (including cultural heritage¹), and environmental impacts on them, and avoid adverse impacts whenever feasible.

8. When avoidance is not feasible, the client will minimize, mitigate or compensate for these impacts in a culturally appropriate manner. The client's proposed action will be developed with the informed participation of affected Indigenous Peoples and contained in a time-bound plan, such as an Indigenous Peoples Development Plan, or a broader community development plan with separate components for Indigenous Peoples consistent with the requirements of paragraph 9.²

¹ Additional client requirements on protection of cultural heritage are set out in Performance Standard 8.

² The determination of the appropriate plan will require technical judgment. A community development plan may be appropriate when Indigenous Peoples are integrated into larger affected communities.

G11. The screening phase of the Assessment should identify the existence of communities of Indigenous Peoples in the project's area of influence (as defined in paragraph 5 of Performance Standard 1) that may be potentially affected by the client's project. If the screening indicates potentially adverse impacts on Indigenous Peoples, further analysis should be undertaken to collect baseline data on those communities, covering key socio-economic and environmental aspects that may be impacted by the project. The analysis should also identify positive impacts and potential benefits of the project to Indigenous Peoples and consider ways to enhance them. The breadth, depth and type of analysis should be proportional to the nature and scale of the proposed project's potential impacts on these communities. Qualified social scientists should be retained to carry out such analysis as part of the project's Assessment. Such analysis should use participatory approaches and reflect the views of the affected communities of Indigenous Peoples on expected project risks, impacts and benefits. Further guidance on possible social impacts and mitigation approaches is provided in IFC [Good Practice Note: Addressing the Social Dimensions of Private Sector Projects](#) and guidance on the conduct of cultural, environmental and social impact assessments is available in the [Akwé: Kon Guidelines](#).

G12. Because projects can adversely impact Indigenous Peoples' identity, natural resource-based livelihoods, food security and cultural survival, the priority should be to avoid such

impacts. Clients should explore viable alternative project designs, consult the affected communities of Indigenous Peoples, and seek advice of social scientists, in an effort to avoid such impacts.

G13. If adverse impacts are unavoidable, the client should prepare an Indigenous Peoples Development Plan outlining the actions to minimize, mitigate or compensate for adverse impacts in a culturally appropriate manner. Depending on local circumstances, a free-standing Indigenous Peoples Development Plan may be prepared, or it may be a component of a broader community development plan where communities of Indigenous Peoples exist in the same area with other similarly affected communities or where the Indigenous Peoples are integrated within a larger affected population. These plans should detail actions to minimize, and mitigate, and compensate for adverse social and economic impacts, and to identify opportunities and actions to enhance positive impacts of the project on the Indigenous Peoples. Where appropriate, the plan may also include measures to conserve and manage the natural resources on which they depend on a sustainable basis, consistent with Performance Standard 6. These plans become part of the Action Plan (as outlined in Performance Standard 1 and its accompanying Guidance Note) to be implemented by the client, and should include a clear statement of roles and responsibilities, funding and resource inputs, a time-bound schedule of activities and a budget. Recommended contents of an Indigenous Peoples Development Plan can be found in Annex 1. Further guidance on community development programs is provided in [IFC's Community Development Resource Guide: Investing in People: Sustaining Communities through Improved Business Practice](#).

Information Disclosure, Consultation and Informed Participation

9. The client will establish an ongoing relationship with the affected communities of Indigenous Peoples from as early as possible in the project planning and throughout the life of the project. In projects with adverse impacts on affected communities of Indigenous Peoples, the consultation process will ensure their free, prior, and informed consultation and facilitate their informed participation on matters that affect them directly, such as proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues. The process of community engagement will be culturally appropriate and commensurate with the risks and potential impacts to the Indigenous Peoples. In particular, the process will include the following steps:

- ***Involve Indigenous Peoples' representative bodies (for example, councils of elders or village councils, among others)***
- ***Be inclusive of both women and men and of various age groups in a culturally appropriate manner***
- ***Provide sufficient time for Indigenous Peoples' collective decision-making processes***
- ***Facilitate the Indigenous Peoples' expression of their views, concerns, and proposals in the language of their choice, without external manipulation, interference, or coercion, and without intimidation***
- ***Ensure that the grievance mechanism established for the project, as described in Performance Standard 1, paragraph 23, is culturally appropriate and accessible for Indigenous Peoples***

G14. The client should engage with the affected communities of Indigenous Peoples within the project's area of influence through a process of information disclosure, consultation and

informed participation. The general characteristics of engagement with affected communities are described in Performance Standard 1 and the accompanying Guidance Note, and are further described below as they apply to Indigenous Peoples. Further guidance on engagement processes is provided in [Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets](#).

G15. During the process of information disclosure, consultation and informed participation, the client should engage with the affected communities of Indigenous Peoples in a process of “free, prior, and informed consultation,” which entails consultation that occurs freely and voluntarily, without any external manipulation, interference or coercion, and without intimidation. In addition, the affected communities of Indigenous Peoples should have access to relevant project information prior to any decision making that will affect them, including information on potential adverse impact on them at each stage of project planning, implementation and operation and decommissioning.

G16. Clients should adopt free, prior, and informed consultation approaches that rely on existing customary institutions and collective decision making processes utilized by Indigenous Peoples. In many cases, community elders or leaders, who are not necessarily the elected officials of these communities, play a key role. However, clients should also keep in mind that the communities of Indigenous Peoples are not necessarily homogeneous and that some segments of the community, such as women, youth and the elderly, may be more vulnerable than others. The consultation should take into account the interests of these segments in the community while being cognizant of traditional cultural approaches that may exclude segments of the community from the decision-making process. In some cases, the affected communities of Indigenous Peoples may require communication or consultation within their communities consistent with their traditional or customary practices.

G17. Free, prior, and informed consultation with and within affected communities of Indigenous Peoples may span over a period of time. Adequately informing the members of the indigenous community about the project’s potential adverse impacts and proposed mitigation measures may involve an iterative process over time with various segments of the community. Thus, (i) consultation should start as early as possible in the assessment stage; (ii) project information should be made available in understandable format, using the indigenous languages where appropriate; (iii) the communities should have sufficient time for consensus building and developing responses to project issues and options that benefit their community; and (iv) clients should allocate time to fully consider and address concerns and suggestions about the project into the project design and implementation.

G18. The client may consider effective communication and capacity building programs to enhance the effectiveness of the process of free, prior and informed consultation with Indigenous Peoples and their informed participation in key aspects of the project. For example, the client should seek active participation of the affected communities of Indigenous Peoples throughout the key stages of the process of Assessment on matters that pertain to them. Enabling Indigenous Peoples’ access to legal advice about their rights and entitlements to compensation, due process, and benefits under national law is an effective way of building knowledge and capacity within the affected communities. In cases where no established decision making process or leadership exists within the affected communities, the client may need to facilitate a culturally appropriate decision-making process for such communities, with

the participation of the communities. Further capacity building and involvement in areas such as participatory monitoring and community development may prove useful to enable Indigenous Peoples to fully participate in, and benefit from, private sector developments.

G19. When financing projects with adverse impacts to affected communities of Indigenous Peoples, IFC will review the client's documentation of its community engagement process. Before presenting the project for approval to its Board of Directors, IFC will ascertain that:

- the client's community engagement has involved free, prior and informed consultation with affected communities of Indigenous Peoples
- this process has enabled the informed participation of affected communities of Indigenous Peoples; and
- this process has led to broad community support for the project among the affected communities of Indigenous Peoples

Broad community support is a collection of expression by the affected communities, through individuals and/or their recognized representatives, in support of the project. There may be broad community support even if some individuals or groups object to the project. Additional guidance on broad community support can be found in Guidance Note 1 and IFC's Environmental and Social Review Procedure.

G20. The client's general grievance mechanism for the project in accordance with the requirements of Performance Standard 1 or a grievance mechanism dedicated to Indigenous Peoples matters that meets the requirements of Performance Standard 1 should enable the affected communities of Indigenous Peoples to raise and receive response to grievances and complaints. Such grievance mechanism should be culturally appropriate and should not interfere with any existing processes or institutions within the affected communities of Indigenous Peoples to settle differences among them. As part of the engagement process, affected communities of Indigenous Peoples should be informed of the client's grievance mechanism. The grievance mechanism should provide for fair, transparent, and timely redress of grievances at no cost, and if necessary provide special provisions for women, youth and the elderly.

Development Benefits

10. The client will seek to identify, through the process of free, prior, and informed consultation with and the informed participation of the affected communities of Indigenous Peoples, opportunities for culturally appropriate development benefits. Such opportunities should be commensurate with the degree of project impacts, with the aim of improving their standard of living and livelihoods in a culturally appropriate manner, and to fostering the long-term sustainability of the natural resource on which they depend. The client will document identified development benefits consistent with the requirements of paragraphs 8 and 9 above, and provide them in a timely and equitable manner.

G21. Private sector operations may provide unique opportunities for Indigenous Peoples' own development. In general, these development opportunities are offered as part of an overall approach to mitigate and compensate for adverse impacts of a project, and in proportion to the potential adverse impacts on Indigenous Peoples. In large scale projects, the client should be able to offer a more comprehensive set of development benefits, as part of its regional or

community development effort or effort to stimulate local enterprises and economy. The client may also look for opportunities to support existing programs tailored to deliver development benefits to Indigenous Peoples, such as bilingual educational programs, maternal and child health and nutrition programs, employment generation activities, and the arrangement for micro-credit schemes.

G22. The scale and nature of appropriate development opportunities will vary. It is important to identify, plan and implement development programs in close consultation with affected communities of Indigenous Peoples. Activities to realize development opportunities for Indigenous Peoples can be effectively delivered as an integrated program either through an Indigenous Peoples Development Plan or a Community Development Plan. The latter may be more appropriate where Indigenous Peoples live alongside other affected groups who are not indigenous, but share similar vulnerabilities and related livelihoods.

Special Requirements

11. Because Indigenous Peoples may be particularly vulnerable to the project circumstances described below, the following requirements will also apply, in the circumstances indicated, in addition to the General Requirements above. When any of these Special Requirements apply, the client will retain qualified and experienced external experts to assist in conducting the Assessment.

Impacts on Traditional or Customary Lands under Use

12. Indigenous Peoples are often closely tied to their traditional or customary lands and natural resources on these lands. While these lands may not be under legal ownership pursuant to national law, use of these lands, including seasonal or cyclical use, by communities of Indigenous Peoples for their livelihoods, or cultural, ceremonial, or spiritual purposes that define their identity and community, can often be substantiated and documented. Paragraphs 13 and 14 below specify the requirements that the client will follow when traditional or customary lands are under use in a manner described in this paragraph.

13. If the client proposes to locate the project on, or commercially develop natural resources located within, traditional or customary lands under use, and adverse impacts³ can be expected on the livelihoods, or cultural, ceremonial, or spiritual use that define the identity and community of the Indigenous Peoples, the client will respect their use by taking the following steps:

- ***The client will document its efforts to avoid or at least minimize the size of land proposed for the project***
- ***The Indigenous Peoples' land use will be documented by experts in collaboration with the affected communities of Indigenous Peoples without prejudicing any Indigenous Peoples' land claim⁴***
- ***The affected communities of Indigenous Peoples will be informed of their rights with respect to these lands under national laws, including any national law recognizing customary rights or use***
- ***The client will offer affected communities of Indigenous Peoples at least compensation and due process available to those with full legal title to land in the case of commercial development of their land under national laws, together with culturally appropriate development opportunities; land-based***

compensation or compensation-in-kind will be offered in lieu of cash compensation where feasible

- ***The client will enter into good faith negotiation with the affected communities of Indigenous Peoples, and document their informed participation and the successful outcome of the negotiation***

³ Such adverse impacts may include impacts from loss of access to assets or resources, or restrictions on land use, resulting from project activities.

⁴ While this Performance Standard requires substantiation and documentation of the use of such land, clients should also be aware that the land may already be under alternative use, as designated by the host government.

G23. If issues related to land use as described in paragraph 13 of Performance Standard 7 are identified in the screening phase, the client will engage qualified and experienced external experts to carry out the Assessment with active participation of the affected communities of Indigenous Peoples. The Assessment should describe the Indigenous Peoples' customary land and resource tenure system within the project's area of influence. The Assessment should identify and record all customary use of land and resources, including cultural, ceremonial or spiritual use, and any ad hoc, seasonal or cyclical use of land and natural resources (for example, for hunting, fishing, grazing, or extraction of forest and woodland products), and any potential adverse impacts on such use. Customary use of land and resources refers to patterns of long-standing community land and resource use in accordance with Indigenous Peoples' customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the state. Cultural, ceremonial and spiritual uses are an integral part of Indigenous Peoples' relationships to their lands and resources, are embedded within their unique knowledge and belief systems, and are key to their cultural integrity. Such uses may be intermittent, may take place in areas distant from population centers, and may not be site specific. Any potential adverse impacts on such use must be documented and addressed within the context of these belief systems. Any information from the client's Assessment that identifies the existence of critical habitats and critical cultural resources consistent with Performance Standards 6 and 8 within the project area of influence will be relevant in the analysis and should be taken into account. Indigenous Peoples' claims to land and resources not legally owned under national law should also be documented as part of the Assessment process. No documentation of land claims (or absence of land claim) should prejudice existing or future legal proceedings of Indigenous Peoples to establish legal title.

G24. The priority objective of the Assessment process is to identify measures to avoid adverse impacts on these lands and resources. Where avoidance is not feasible, mitigation or compensation measures should be developed to ensure the availability of land and natural resources necessary for the livelihood and cultural survival of the affected communities of Indigenous Peoples. The client should offer at least the same level of compensation and due process that it will offer to those with full legal title in the jurisdiction. Land-based compensation should be preferred, provided that suitable land is available. In addition, the client should observe due process, such as appropriate notification and responses to inquiries, for the affected communities of Indigenous Peoples. In some cases, land under Indigenous Peoples' claim may already be designated by the host government for alternate uses, which may include nature reserves, mining concession areas, or as individual land users who have obtained title to the land. In this case, the client should seek to involve the relevant government agency in any consultation and negotiation with the affected communities of Indigenous Peoples.

G25. Whether the project should proceed with the potential adverse impacts on these lands should be subject to good faith negotiation with the affected communities of Indigenous Peoples. Good faith negotiation generally involves: (i) willingness to engage in a process and availability to meet at reasonable times and frequency; (ii) provision of information necessary for informed negotiation; (iii) exploration of key issues of importance; (iv) mutual acceptable procedures for the negotiation; (v) willingness to change initial position and modify offers where possible; and (vi) provision for sufficient time for decision making. The client should document the process of negotiation with the Indigenous Peoples, including their informed participation in the negotiation process, and the successful outcomes of such negotiation. Impacts on vulnerable groups within the affected communities of Indigenous Peoples should be adequately addressed in the negotiation and documentation. Examples of such documentation include a memorandum of understanding, a letter of intent, a joint statement of principles, and written agreements. It may be appropriate to recite or reflect the contents of a Community Development Plan or an Indigenous Peoples Development Plan in such documents or agreements to confirm and clarify the responsibilities of involved parties with respect to the relevant plan.

G26. In cases involving good faith negotiation, IFC will both review the client's documentation for the negotiation process and its outcomes and verify that the affected communities of Indigenous Peoples are broadly in support of the project.

G27. In some cases, it may be possible for the client to work with a national governmental agency to facilitate the legal recognition of lands claimed or used by affected communities of Indigenous Peoples in connection with land titling programs of the government. The client can base this work on the customary land tenure information gathered during the Assessment process and help the affected communities or members of the affected communities to pursue land titles, if the Indigenous Peoples so request and participate in such programs. Examples of such best practice in IFC financed projects are available from IFC.

Relocation of Indigenous Peoples from Traditional or Customary Lands

14. The client will consider feasible alternative project designs to avoid the relocation of Indigenous Peoples from their communally held⁵ traditional or customary lands under use. If such relocation is unavoidable, the client will not proceed with the project unless it enters into a good faith negotiation with the affected communities of Indigenous Peoples, and documents their informed participation and the successful outcome of the negotiation. Any relocation of Indigenous Peoples will be consistent with the Resettlement Planning and Implementation requirements of Performance Standard 5. Where feasible, the relocated Indigenous Peoples should be able to return to their traditional or customary lands, should the reason for their relocation cease to exist.

⁵ Where members of the affected communities of Indigenous Peoples individually hold legal title, or where the relevant national law recognizes customary rights for individuals, the requirements of Performance Standard 5 will apply, rather than the requirements under this heading.

G28. Because physical relocation of Indigenous Peoples is particularly complex and may have significant and irreversible adverse impacts on their cultural survival, the client is expected to make every effort to explore feasible alternative project designs to avoid any physical relocation of Indigenous Peoples from their communally held traditional or customary lands under use. The potential relocation may result from the project's acquisition of land, or through restrictions

or alterations on land use or resources (for example, where the communally held traditional or customary lands under use by Indigenous Peoples are designated by the relevant government agency for another use in conjunction with the proposed project, such as establishment of protected areas for resource conservation purposes). Any physical relocation should only be considered after the client has established that there is no feasible alternative to avoid relocation and the client has entered into and successfully concluded good faith negotiation with the affected communities of Indigenous Peoples building on the process of their informed participation. In addition, IFC will evaluate the client's documentation of its engagement process to establish that broad community support for the project exists among the affected communities.

G29. In case the host government has made the decision to relocate Indigenous Peoples, consultation with relevant government officials would be important to understand the rationale for such relocation, and whether a good faith negotiation based on informed participation of the Indigenous Peoples has been implemented and successfully concluded regarding the aspects of the project and the relocation affecting communities of Indigenous Peoples, prior to the decision to finance the project.

G30. Upon the successful conclusion of the process of good faith negotiation that provides for the relocation of Indigenous Peoples and consistent with the conclusion of the negotiation, the client will prepare a Resettlement Action Plan in accordance with the paragraphs 11 through 13 of Performance Standard 5. The client should be guided by paragraph 13 of Performance Standard 7 on the level of compensation for land. Such Plan should include a provision to allow the affected communities, where possible and feasible, to return to their lands when the reasons for their relocation cease to exist.

G31. The requirements under Performance Standard 7, paragraph 14, are intended for situations where traditional or customary land is held and used by Indigenous Peoples communally. Where individual members of the affected communities of Indigenous Peoples hold legal title, or where relevant national law recognizes customary rights for individuals, the requirements of Performance Standard 5 will apply. However, even where individuals within the affected communities of Indigenous Peoples hold legal title to land individually, the client should be aware that the decision of relevant individuals to cede title and to relocate may still be subject to a community-based decision making process, as these lands may be not be considered private property but ancestral lands.

Cultural Resources

15. Where a project proposes to use the cultural resources, knowledge, innovations, or practices of Indigenous Peoples for commercial purposes, the client will inform the Indigenous Peoples of: (i) their rights under national law; (ii) the scope and nature of the proposed commercial development; and (iii) the potential consequences of such development. The client will not proceed with such commercialization unless it: (i) enters into a good faith negotiation with the affected communities of Indigenous Peoples; (ii) documents their informed participation and the successful outcome of the negotiation; and (iii) provides for fair and equitable sharing of benefits from commercialization of such knowledge, innovation, or practice, consistent with their customs and traditions

G32. Knowledge, innovations and practices of Indigenous Peoples are often referred to as intangible cultural heritage in international conventions. Knowledge, innovations and practices

of Indigenous Peoples often remain in use for sacred or ritual purposes, and can be held secret by the community or designated members. Commercial development of intangible cultural heritage is the subject of current international discussions, with international standards emerging slowly. The one exception is in the commercial use of genetic resources and associated traditional knowledge of indigenous or traditional communities as reflected in the [Convention on Biological Diversity](#). Useful guidance in this area is provided by the [Bonn Guidelines](#) and the [Akwé Kon Guidelines](#) issued under the Convention on Biological Diversity (see the References section). Examples of commercial development include commercialization of traditional medicinal knowledge or other sacred or traditional techniques for processing plants, fibers or metals. Expressions of folklore, such as sale of art or music, should be treated in accordance with national law.

G33. Where such resources are proposed for commercial development, the client should document the process and the successful outcome of a good faith negotiation with the affected Indigenous Peoples' communities on the proposed commercial development, in addition to any requirements pursuant to national law. Some national laws require the consent of Indigenous Peoples' communities in this regard.

G34. If the client wishes to exploit and develop any knowledge, innovation or practices of Indigenous Peoples for commercial purposes and to protect any intellectual property created from such development, the client may be legally required to disclose or publicly release the source of the materials. Examples include genetic materials proposed for medical application. Because such materials may be used for sacred or ritual purposes by communities of Indigenous Peoples, and may be held secret by such communities or designated members, the client should take care before proceeding, and in any event, enable the relevant communities to continue to use the genetic materials for customary or ceremonial purposes.

G35. Where a project proposes to exploit, develop, and commercialize intangible cultural heritage, Performance Standard 7 requires that the client share the benefits accruing from such use with the affected community of Indigenous Peoples. Benefits should be determined as part of the process of good faith negotiation. Benefits may include development benefits in the form of employment, vocational training, and benefits pursuant to community development and similar programs.

G36. Clients should be aware that use of indigenous names can be sensitive and should consult with the relevant communities before using them even for such purposes as naming project sites, pieces of equipment.

G37. Clients should refer to similar requirements and guidance available in Performance Standard 8 and Guidance Note 8 with respect to the cultural heritage of communities other than those of Indigenous Peoples.

Annex A
Indigenous Peoples Development Plan (IPDP)

The IPDP is prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific project and the nature of the effects to be addressed. In general and where appropriate, an IPDP should include the following elements:

(a) Baseline information (from Social and Environmental Assessment)

Summary of relevant baseline information that clearly profiles the affected communities, their circumstances and livelihoods, description and quantification of the natural resources upon which the Indigenous Peoples depend.

(b) Key Findings: Analysis of Impacts, Risks & Opportunities (from Social and Environmental Assessment)

Summary of key findings, analysis of impacts, risks and opportunities and recommended possible measures to mitigate adverse impacts, enhance positive impacts, conserve and manage their natural resource base on a sustainable basis, and achieve sustainable community development.

(c) Result of Consultations (during Social and Environmental Assessment process) and Future Engagement

Description of the process of information disclosure, consultation and informed participation with the affected communities of Indigenous Peoples, and how issues raised have been addressed. The consultation framework for future engagement should clearly describe the process for on-going consultations with, and participation by Indigenous Peoples, in the process of implementing and operating the project.

(d) Avoid, Minimize, and Mitigate Negative Impacts and Enhance Positive Impacts

Clearly describe the measures agreed to in the process of information disclosure, consultation and informed participation to avoid, minimize and mitigate potential adverse effects on Indigenous Peoples, and to enhance positive impacts. Include appropriate action times that detail the measures to be taken, responsibilities and agreed schedule and for implementation (who, how, where and when) (refer to Performance Standard 1 and Guidance Note 1 for more details of the contents of an Action Plan). Whenever feasible, avoidance or preventative measures should be given primacy over mitigatory or compensatory measures.

(e) Community Based Natural Resource Management Component

Where applicable, this component should focus on the means to ensure continuation of livelihood activities key to the survival of these communities and their traditional and cultural practices. Such livelihood activities may include grazing, hunting, gathering, or artisanal fishing. This component clearly sets out how the natural resources upon which the affected communities depend, and the geographically distinct areas and habitats in which they are located, will be conserved, managed and utilized on a sustainable basis.

(f) Measures to Enhance Opportunities

Clearly describe measures to enable Indigenous Peoples to take advantage of opportunities brought about by the project, and to conserve and manage on a sustainable basis the utilization of the unique natural resource base upon which they are dependent. Such opportunities should be culturally appropriate.

(g) Grievance Mechanism

Describe appropriate procedures to address grievances by affected Indigenous Peoples arising from project implementation and operation. When designing the grievance procedures, the client will take into account the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples. Affected communities must be informed of their rights and the possibilities of administrative and legal recourse or remedies, and any legal aid available to assist them as part of the process of consultation and informed participation. The grievance mechanism should provide for fair, transparent and timely redress of grievances without costs, and if necessary provide for special accommodations for women, youth and the elderly, and other vulnerable groups within the community to make complaints.

(h) Costs, budget, timetable, organizational responsibilities

Include an appropriate summary of costs of implementation, budget and responsibility for funding, timing of expenditure and organizational responsibilities in managing and administering project funds and expenditures.

(i) Monitoring, Evaluation & Reporting

Describe monitoring, evaluation and reporting mechanisms (including responsibilities, frequencies, feedback and corrective action processes). Monitoring and evaluation mechanisms should include arrangements for on-going information disclosure, consultation and informed participation with the affected Indigenous Peoples.

References

The requirements set out in the Performance Standard relate to the following international convention and guidelines:

The six UN Conventions of relevance to indigenous peoples are as follows:

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Rights of the Child
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Elimination of All Forms of Discrimination Against Women

A list of the six UN Conventions and the countries that have ratified each of them is available at: <http://www.ohchr.org/english/law/index.htm>. The ratification status of each convention by country is available at: <http://www.unhchr.ch/pdf/report.pdf>

The following conventions and guidelines are also of relevance:

- *ILO Convention on Indigenous and Tribal Peoples (No. 169)* (ILO, 1989)
<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C169>
- *ILO Convention on Indigenous and Tribal Peoples (No. 169): A Manual* (ILO, 1989) provides definitions and useful guidance on ILO Convention 169 on Indigenous and Tribal Peoples.
<http://www.ilo.org/public/english/standards/norm/egalite/itpp/convention/manual.pdf>
- *Convention on Biological Diversity* (1992) - provides information on the convention, lists of signatory nations and biodiversity experts and other useful information.
<http://www.biodiv.org/default.aspx>
- *Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising Out of their Utilization* (Secretariat of the Convention on Biological Diversity, 2002) guidelines on establishing legislative, administrative or policy measures on access and benefit-sharing and/or when negotiating contractual arrangements for access and benefit-sharing.
<http://www.biodiv.org/doc/publications/cbd-bonn-gdls-en.pdf>
- *Akwé: Kon Guidelines* (Secretariat of the Convention on Biological Diversity, 2004) voluntary guidelines for the conduct of cultural environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous or local communities.
<http://www.biodiv.org/doc/publications/akwe-brochure-en.pdf>

In addition, the guidance and recommendations issued by IFC and the World Bank provide useful additional guidance:

- Operational Policy OP 4.10 - Indigenous Peoples (World Bank, 2005) - underscores the need for Borrowers and Bank staff to identify indigenous peoples, consult with them, ensure that they participate in, and benefit from Bank-funded operations in a culturally appropriate way - and that adverse impacts on them are avoided, or where not feasible, minimized or mitigated.
<http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/B52929624EB2A3538525672E00775F66/0F7D6F3F04DD70398525672C007D08ED?OpenDocument>
- *Good Practice Note: Addressing the Social Dimensions of Private Sector Projects* (IFC, 2003) – A practitioner’s guide to undertaking social impact assessment at the project level for IFC-financed projects
<http://ifcln1.ifc.org/ifcext/enviro.nsf/Content/Publications>
- *Investing in People: Sustaining Communities through Improved Business Practice* (IFC, 2001) a resource guide in establishing effective community development programs.
[http://ifcln1.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_comdev/\\$FILE/CommunityGuide.pdf](http://ifcln1.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_comdev/$FILE/CommunityGuide.pdf)
- *Handbook for Preparing a Resettlement Action Plan* (IFC, 2001) provides step-by-step guidance through the resettlement planning process and includes practical tools such as implementation checklists, sample surveys and monitoring frameworks.
[http://ifcln1.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_resettle/\\$FILE/ResettlementHandbook.PDF](http://ifcln1.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_resettle/$FILE/ResettlementHandbook.PDF)
- *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets* (IFC, 2007) explains new approaches and forms of engagement with affected local communities.
[http://ifchq14.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_StakeholderEngagement_Full/\\$FILE/IFC_StakeholderEngagement.pdf](http://ifchq14.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_StakeholderEngagement_Full/$FILE/IFC_StakeholderEngagement.pdf)
- The IFC publication *ILO Convention 169 and the Private Sector* (March 2007) is intended as a practical guide for IFC clients who operate in countries that have ratified Convention 169 on Indigenous and Tribal Peoples.
[http://ifchq14.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_ILO169/\\$FILE/ILO_169.pdf](http://ifchq14.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_ILO169/$FILE/ILO_169.pdf)

A useful treatment of the development of Free Prior and Informed Consent definitions can be found in:

- *Preliminary working paper on the principle of free, prior and informed consent of indigenous peoples in relation to development affecting their lands and natural resources* E/CN.4/Sub.2/AC.4/2004/4 (Antoanella-Iulia Motoc and Tebtebba Foundation, 2004) provides useful information on the principle of Free, Prior and informed consent.
<http://www.ohchr.org/english/issues/indigenous/docs/wqip22/4.pdf>