



# Indigenous Peoples

Environmental and Social Standard 7 (ESS7)\*



## WHAT IS THE PROPOSED STANDARD ABOUT?

Indigenous Peoples' (IP) identities, culture, livelihood, way of life and spiritual well-being are dependent on their connection with the land and natural resources they collectively own. They are particularly vulnerable if their lands and resources are transformed, encroached upon or degraded by development projects. They do not automatically benefit from development programs which are often planned and implemented by those in the mainstream or by the dominant populations in their national societies. The proposed ESS7 builds on the Indigenous Peoples requirements under the Safeguard Policy Statement (2009).

\* The full text of ESS7 is at [Safeguard Policy Review: Draft Policy | Asian Development Bank \(adb.org\)](https://www.adb.org/who-we-are/safeguards/safeguard-policy-review/draft-policy). <https://www.adb.org/who-we-are/safeguards/safeguard-policy-review/draft-policy>. This information brochure was prepared based on the consultation draft of the proposed Environmental and Social Framework (ESF) for information purpose only. Guidance from the ADB Board of Directors will be sought on the full text of the proposed ESF as part of the Working Paper, scheduled in Q4 2023. The final ESF will be considered for approval by the ADB Board of Directors in 2024.



**SAFEGUARD  
POLICY REVIEW  
AND UPDATE**





## The objectives of this standard are to:

- ensure that IP do not suffer adverse impacts as a result of projects or, where avoidance is not possible, to minimize, mitigate, and/or compensate for such impacts;
- design and implement projects in a way that fosters full respect for IP's identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by IP themselves;
- ensure that IP receive culturally appropriate social and economic benefits and can participate actively in projects that affect them;
- promote sustainable development benefits and opportunities for IP in a culturally appropriate manner;
- ensure free, prior, and informed consent (FPIC); and
- recognize, respect, and preserve the culture, knowledge, and practices of IP where possible in a project context, and consider opportunity to adapt to changing conditions in a manner and in a timeframe acceptable to them, as appropriate.



The proposed environmental and social standard (ESS7) becomes applicable whenever IP are present in or have collective attachment to a proposed project area.

# WHAT ARE THE NEW AND IMPROVED POLICY PROVISIONS?

1



## Indigenous Peoples identification

Currently, the Safeguard Policy Statement (SPS) uses both distinctiveness and vulnerability criteria to identify and trigger the IP policy. The proposed standard no longer uses the criteria of vulnerability for IP identification, and this is in line with the comparator multilateral development banks' (MDBs) safeguard frameworks. Vulnerability will still continue to be considered when designing mitigation measures under the revised policy. Under the proposed standard, identification of IP is based on four characteristics to establish distinctiveness. These can be present in varying degrees. They are: (i) self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct areas or ancestral territories or areas of seasonal use or occupation, including nomadic and transhumance routes in the project-affected area and to the natural resources in these areas and territories; (iii) customary cultural, economic, social, or political institutions, laws, or regulations that are separate from those of the dominant society and culture; and (iv) a distinct language or dialect, often different from the official language of the country or region.

2



## Broad Community Support replaced by Free, Prior, and Informed Consent

The concept of broad community support (BCS) under SPS will be replaced by FPIC to ascertain consent of IPs for projects. The borrower/client will obtain FPIC of project-affected IPs, when a project will:

- (i) have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation;
- (ii) cause relocation of IPs' communities from land and natural resources subject to traditional ownership or under customary use or occupation;
- (iii) have significant impacts on IPs' cultural heritage that is material to their identity and culture, and/or to ceremonial and/or spiritual aspects of their lives.

FPIC does not require unanimity and may be achieved even when individuals or groups within or among project-affected IP communities explicitly disagree. The borrower/client will document the mutually accepted good faith negotiations process and the outcomes as well as dissenting views. When the FPIC of potentially project-affected IPs cannot be ascertained, the aspects of a project relevant to those affected IPs for which the FPIC cannot be ascertained will not be processed further.

3



### **Participation and meaningful consultation**

The borrower/client will establish an inclusive and participatory process and allow sufficient time for IP's collective decision-making process with special attention to disadvantaged or vulnerable.

4



### **Impact Assessment for Indigenous Peoples**

The proposed standard strengthens the social impact process and requires the assessment of physical and tangible and intangible cultural impacts, contextual risks, biodiversity and ecosystem services linkages.

5



### **Indigenous Peoples Living in Voluntary Isolation**

The proposed standard recognizes that IP communities could prefer to live in voluntary isolation. The borrower/client will establish appropriate measures to recognize, respect, and protect the lands, territories, culture of such IPs and avoid all undesired contact with them that could result from a project.

6



### **Indigenous Peoples who are not the sole or overwhelming beneficiaries in projects**

The proposed standard covers both instances where the IPs are and are not the sole or overwhelming beneficiaries of a project, and set out respective requirements.

7



### **Indigenous Peoples Plan**

The Indigenous Peoples Plan (IPP) will be prepared based on the impact assessment and meaningful consultation, proportionate to the assessed project impacts and risks on IP communities.



8



### Budget

The borrower/client will ensure that adequate resources will be provided for the mitigative, and beneficial measures that will be included in the IPP.

9



### Grievance Mechanism

The borrower/client will establish a grievance mechanism that integrates of IP customary dispute settlement mechanisms where appropriate, and that ensures complainants are protected from reprisals.

10



### Monitoring and reporting

This should be proportionate to the project's risks and impacts. In the case of projects with significant adverse impacts qualified and experienced external monitor will be engaged.

#### ASIAN DEVELOPMENT BANK

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