

**Comparative Analysis of Bhutan's Legal Framework and ADB Safeguard Policy Statement:
Indigenous Peoples**

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions	(C) Extent of Equivalence ¹	(D) Recommended Gap-filling Measures
Scope and Triggers: (Definition of Indigenous Peoples) The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region.A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.			
Key Element (1) Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others	Constitution 2008 First Schedule The National Flag and the National Emblem of Bhutan The National Flag ... The white dragon symbolizes the undefiled thoughts of the people that express their loyalty, patriotism and great sense of belonging to the Kingdom although they have different ethnic and linguistic origins. Land Act 2007 Definitions 319 In this Act, unless the context requires otherwise, the term:... 12) Community for social and religious purposes means indigenous communities in whose name landholdings are traditionally registered for the use of social and religious purposes to preserve and sustain their tradition and culture.	Partial equivalence The only reference in the Constitution to ethnic and linguistic differences among Bhutanese citizens is in the explanation of the symbols on the national flag. A government website (http://www.tourism.gov.bt/about-bhutan/people) explains that Bhutanese people can be generally categorized into three main ethnic groups -- Tshanglas, Ngaloops and Lhotshampas –and describes nine minority ethnic groups. The national legal regime does not appear to recognize these groups. The English translation of the Land Act 2007 uses the term 'indigenous communities' in a definition, but not in the text of the law. Otherwise, Bhutanese law does not appear to use the term 'indigenous peoples'.	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the EIA process must include a social impact assessment that identifies minority ethnic groups in a proposed project area that self-identify as members of a distinct indigenous cultural group and that are so recognized by others.
Key Element (2) Collective attachment to geographically distinct habitats or ancestral	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for

¹ "Full Equivalence" denotes that DMC legal requirement(s) are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that the DMC legal requirement is in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no DMC legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element.

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territories in the project area and to the natural resources in these habitats and territories			Application for Environmental Clearance, and all sectoral ECOP to stipulate that the EIA process must include a social impact assessment that identifies minority ethnic groups in a proposed project area that have a collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories.
Key Element (3) Customary cultural...institutions that are separate from those of the dominant society and culture	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the EIA process must include a social impact assessment that identifies minority ethnic groups in a proposed project area that have customary cultural institutions that are separate from those of the dominant society and culture.
Key Element (4) Customary... economic.... institutions that are separate from those of the dominant society and culture	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the EIA process must include a social impact assessment that identifies minority ethnic

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			groups in a proposed project area that have customary economic institutions that are separate from those of the dominant society and culture
Key Element (5) Customary... social, institutions that are separate from those of the dominant society and culture	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the EIA process must include a social impact assessment that identifies minority ethnic groups in a proposed project area that have customary social, institutions that are separate from those of the dominant society and culture.
Key Element (6) Customary... political institutions that are separate from those of the dominant society and culture	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the EIA process must include a social impact assessment that identifies minority ethnic groups in a proposed project area that have customary political institutions that are separate from those of the dominant society and culture.
Key Element (7) A distinct language, often different from the official language of the country or region	See Scope and Triggers, Key element 1.	Partial equivalence See Scope and Triggers, Key element 1.	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the EIA process must include a

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			social impact assessment that identifies minority ethnic groups in a proposed project area that have a distinct language, different from the official language of the country or region.
Key Element (8) A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the EIA process must include a social impact assessment that identifies minority ethnic groups that have lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance.
Policy Principle 1: Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely.			
Key element (1): Early screening to determine whether Indigenous Peoples are present in, or have collective attachment to, the project area.	Environmental Assessment Act 2000 (EA Act 2000) 6.23. Screening means the determination by the Secretariat or the competent authority of how the environmental assessment process under Chapter III of this Act shall be applied to a project. General procedure 11. Any person who seeks to carry out a project that requires a development consent shall include in the application to the competent authority a description of the potential environmental effects of the project. 12. The competent authority may accept the	Partial equivalence The EA Act 2000 provides for early screening, but only for potential environmental impacts, not social impacts, and does not require a project proponent to identify minority ethnic groups living in or with an attachment to the project area. The indicators the sectoral Guidelines provide for a project's "social environment" do not require social impact assessment at the level required by the ADB Safeguards Policy. The sectoral ECOP for Highways & Roads is the only one that mentions screening. In Section 2.1.1, it provides that socio-ecological assessment is to be	Amend the EA Act 2000 to require that screening must include potential social impacts as well as environmental impacts, including impacts on minority ethnic groups in the project area or which have an attachment to the project area. Amend all of the sectoral Guidelines for Application for Environmental Clearance and all sectoral ECOP to explicitly incorporate social indicators

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	<p>application when it determines that the information provided is sufficient for screening and environmental assessment of the project under this Act.</p> <p>13. Except for listed projects under Article 33.1, the competent authority shall forward the application and related information regarding the project to the Secretariat for screening.</p> <p>14. The Secretariat shall screen the project when it determines that the information provided in the application is sufficient to identify the potential environmental effects of the project.</p> <p>15. If the Secretariat cannot, on the basis of the information provided by the applicant, identify the potential environmental effects of the project, or if the information provided is not sufficient to demonstrate that the project satisfies the terms in Article 18, the competent authority shall ask the applicant to prepare environmental assessment documents according to terms of reference approved by the Secretariat.</p> <p>When development consent is not required</p> <p>19. Any agency that seeks to carry out a project that does not require a development consent shall submit an application to the Secretariat for an environmental clearance. The application shall include a description of the potential environmental effects of the project.</p> <p>20. The Secretariat shall screen the project and may issue an environmental clearance when it determines that the information provided in the application is sufficient to identify the potential environmental effects of the project, and that</p>	<p>done at the screening phase.</p>	<p>that require project proponents to determine the presence of minority ethnic groups in, or with an attachment to, a proposed project area.</p>

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	<p>the project satisfies the conditions in Article 18.</p> <p>21. If the Secretariat cannot, on the basis of the information provided by the applicant, determine that the project satisfies the terms in Article 18, it shall ask the applicant to prepare environmental assessment documents according to terms of reference approved by the Secretariat.</p> <p>33. The National Environment Commission may:</p> <p>33.1. Adopt a list of projects for which the competent authority shall screen and issue the environmental clearance;...</p> <p>There are eight sectoral Guidelines for Application for Environmental Clearance, all issued in 2004:</p> <ul style="list-style-type: none"> ▪ Forestry Activities ▪ Highways and Roads ▪ Hydropower ▪ Mines ▪ Preparation of Industrial Project Reports ▪ Tourism ▪ Transmission and Distribution Lines ▪ Urban Development. <p>Each sectoral Guideline explains that “the purpose of the Application is to assist the CA [Competent Authority] or the NEC [National Environment Commission] review the project and to determine the level of environmental assessment required”, which is screening.</p> <p>Each sectoral Guideline contains definitions of two terms that refer to social impacts:</p> <ul style="list-style-type: none"> ▪ Monitoring: a program of systematic measurement or observation of environmental and social parameters.... ▪ Project area: The area that includes the 		

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	<p>immediate and the proximate area of a project that the project may have an environmental or social impact on</p> <p>Each sectoral Guideline has a section on the “Project Social Environment”. The information required about the project social environment is:</p> <ul style="list-style-type: none"> ▪ Land tenure (Hydropower Guideline only) ▪ Water use conflicts (Hydropower Guideline only) ▪ Population to be benefitted by the project (all Guidelines except Hydropower) ▪ Impacts on Services, Houses, Infrastructure, Cultural and Heritage Sites (all Guidelines) ▪ Aesthetics (all Guidelines) <p>In 2000 and 2004, Bhutan also issued four sectoral Environmental Codes of Practice (ECOP):</p> <ul style="list-style-type: none"> ▪ Highways & Roads 2000 ▪ Installation of Underground and Overhead Utilities 2004 ▪ Storm Water Drainage Systems 2004 ▪ Tourism Activities 2004 		
Key element (2): Early screening to determine whether project impacts on Indigenous Peoples are likely.	See Policy Principle 1, Key element 1.	Partial equivalence See Policy Principle 1, Key element 1.	See Policy Principle 1, Key element 1.
Policy Principle 2: Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.			

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<p>Key element (1): Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples.</p>	<p>National Environment Protection Act 2007 (NEPA 2007) 111. In this Act, unless the context otherwise requires:...</p> <p>(17) Environment - means the physical factors of the surroundings of human beings including the earth, soil, water, atmosphere, climate, sound, odors, tastes and the biological factors of animals and plants of every description including the complex web of interrelationships between the abiotic and biotic components which sustain life on earth.</p> <p>(19) Environmental assessment means all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way...</p> <p>(22) Environmental impact assessment report means a written analysis of the predicted environmental developmental activity and containing an environmental cost-benefit analysis</p> <p>EA Act 2000 6.9. Environment means the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the social, health and cultural aspects of human beings. 6.10. Environmental assessment means all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.</p> <p>Regulation for the Environmental Clearance of Projects 2001 (EC Regulation 2001) Definitions 5. For the purpose of this regulation:...</p> <p>5.9 Environment means the complex web of</p>	<p>Partial equivalence</p> <p>The only reference to social impact assessment is in the annex to the Regulation for the Environmental Clearance of Projects 2001.</p> <p>The definition of 'environment' in the NEPA 2007 does not include the social aspect and the definition of 'environmental assessment' does not include ensuring that project activities are socially, as well as environmentally, sound. The NEPA 2007 does not mention social impacts at all, however.</p> <p>The definitions of 'environment' in the EA Act 2000 and the EC Regulation 2001 include the social aspect. The EA Act 2000 does not otherwise mention social impacts or social impact assessment at all.</p>	<p>Amend the NEPA 2007 to harmonize the definition of 'environment' with the definitions in the EA Act 2000 and the EC Regulation 2001.</p> <p>Amend the definitions of 'environmental impact assessment' in the NEPA 2007, EA Act 2000, and EC Regulation 2001 to specify that the process ensures that project activities are socially, as well as environmentally, sound.</p> <p>Amend the EA Act 2000 to require culturally appropriate and gender-sensitive social impact assessment.</p> <p>Amend all of the sectoral Guidelines for Application for Environmental Clearance and the sectoral ECOP to explicitly incorporate social impact assessment and to include guidelines on how to carry it out in culturally appropriate and gender-sensitive ways.</p>

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	<p>interrelationships between the abiotic and biotic components which sustains life on earth, including the social, health and cultural aspects of human beings.</p> <p>5.10 Environmental Assessment means all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.</p> <p>Annex 3 Environmental Assessment Report Format Unless the Secretariat or Competent Authority has indicated otherwise in agreed terms of reference, the minimum requirements for an environmental assessment report are listed below. In general, the level of detail and analysis required in an environmental assessment report should reflect the potential...social impacts of the proposal.</p> <p>7) Existing Environment. A description and analysis of the...social conditions of the project site...</p> <p>i) rare or unique features (including...social conditions) of the project site and its immediate surroundings.</p> <p>See Policy Principle 1, Key element 1 concerning the sectoral Guidelines for Application for Environmental Clearance and the sectoral ECOP.</p>		
<p>Key element (2): Assessment process gives full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures.</p>	<p>No corresponding legal provision.</p>	<p>No equivalence</p>	<p>Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the assessment process must give full consideration to</p>

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			options for mitigating project impacts and providing project benefits that project-affected people, including all affected minority ethnic groups, prefer.
Key element (3): Assessment process identifies social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to stipulate that the assessment process must identify social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive for project-affected people, including all affected minority ethnic groups.
Key element (4): Project preparation process develops measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.	<p>EA Act 2000 Definitions 6. Under this Act:...</p> <p>6.9. Environment means the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the social, health and cultural aspects of human beings.</p> <p>28. When a decision on the environmental clearance has been taken, the Secretariat or the competent authority shall make a public announcement of the decision and make the following information available to the public:...</p> <p>28.3. A description of measures to avoid or mitigate potential adverse impacts and enhance positive impacts of the project;...</p> <p>EC Regulation 2001 Purpose</p>	<p>Partial equivalence</p> <p>The EA Act 2000 defines 'environment' to include the 'social aspects of human beings', so environmental impacts should include social impacts. But the EA Act 2000 makes only one reference to avoiding or mitigating a project's potential adverse impacts. It says that the authority that approves an environmental clearance must, after the decision to grant an environmental clearance has been made, to make public information on measures to avoid and mitigate potential adverse impacts. It does not require a project proponent to develop such measures.</p> <p>The EC Regulation 2001 defines 'environment' to include the 'social aspects of human beings' and requires project proponents to specify measures to avoid, minimize and mitigate impacts.</p>	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly stipulate that the project preparation process must develop measures to first avoid or minimize adverse social impacts, including those on affected minority ethnic groups, and to mitigate the impacts that cannot be avoided or minimized.

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	<p>2. This regulation defines responsibilities and procedures for the implementation of the Environmental Assessment Act, 2000 concerning the issuance and enforcement of environmental clearances for individual projects and:...</p> <p>2.5 To ensure that all feasible means to avoid or mitigate damage to the environment are implemented;...</p> <p>Definitions</p> <p>5. For the purpose of this regulation:...</p> <p>5.9 Environment means the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the social, health and cultural aspects of human beings.</p> <p>28.2 Minimum Contents of Environmental information: The environmental information shall contain a short and concise description of the following elements:...</p> <p>c) How the impacts of the project will be avoided, minimized or reduced;...</p> <p>Annex 3 Environmental Assessment Report Format</p> <p>9) Mitigation Measures. ...The environmental assessment report shall specify in detail: the measures to be taken by the proponent to avoid, minimize, and mitigate potential environmental impacts;...</p> <p>Environmental Codes of Practice Highways and Roads 2000</p> <p>The sectoral ECOP for Highways & Roads specifies many types of impacts that must be avoided and mitigated at all phases of project operation. It also specifies that social impacts must be minimized:</p>	<p>The sectoral Guidelines for Application for Environmental Clearance (see Policy Principle 1, Key element 1) do not require projects to avoid or minimize adverse impacts, but do require mitigation.</p> <p>The sectoral ECOP on Installation of Underground and Overhead Utilities does not mention social impacts, does not require avoiding impacts and specifies only one requirement to mitigate.</p> <p>The sectoral ECOP for Storm Water Drainage Systems does not mention social impacts, does not require avoiding environmental impacts, and specifies only one requirement to mitigate.</p> <p>The sectoral ECOP for Tourism Activities does not mention social impacts. It lists many things that tourists should avoid doing, but does not specify any impacts that tourism development projects should avoid, minimize, or mitigate.</p>	

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	<p>1.3.2. Mitigation Measures ...If there are possibilities to minimize negative... social consequences, then the alignment [of the road corridor and the peg line] should be adapted accordingly....</p> <p>Environmental Codes of Practice (ECOP) for Storm Water Drainage Systems 2004 4.1.2. Design: Based on the information from the survey, consider the following environmental parameters into the design: _ Mitigation measures where utilities cross the drain...</p> <p>Environmental Codes of Practice for Installation of Underground and Overhead Utilities National 2004 4.1.3. Design: Based on information obtained from the survey and from the consultation process the following should be considered in the design:... Determine mitigation measures in the event the existing utility(ies) need relocation.”</p>		
<p>Policy Principle 3: Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.</p>			
<p>Key element (1): Affected Indigenous Peoples communities and organizations are consulted in a meaningful manner.</p>	<p>EA Act 2000 General Procedure 16. The applicant shall ensure that concerned people and organizations are informed and consulted before submission of the environmental assessment documents to the competent authority.</p> <p>18. The Secretariat may issue the environmental clearance when it is satisfied that:...</p> <p>18.4. Adequate attention has been paid to the</p>	<p>Partial equivalence</p> <p>The EA Act 2000 appears to be contradictory on the issue of public consultation. Articles 16, 18, 22, 39, and 47 indicate that concerned people must be adequately consulted, which implies that consultation is mandatory. Article 86 indicates that citizens are entitled to participate in decision-making processes, including EIA processes, when the Government deems it appropriate to hold public consultations, which makes it clear that consultation is at the discretion of government authorities.</p>	<p>Amend the EA Act 2000 and the EC Regulation 2001 to harmonize all provisions that govern public participation in assessment processes in both legal instruments, explicitly stipulating that public participation is mandatory and that all affected persons, including all affected minority ethnic groups, communities and</p>

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	<p>interests of concerned people;...</p> <p>When development consent is not required 22. Prior to submission of the environmental assessment documents, the agency shall ensure that concerned people and organizations are informed and consulted.</p> <p>39. The competent authority shall:...</p> <p>39.2. Ensure that concerned people and agencies are adequately consulted before issuance of a development consent...</p> <p>47. The duties and powers of the Competent Authorities shall include:...</p> <p>e) Enabling public participation in environmental decisions, including assessments carried out under the Environmental Assessment Act, 2000 and its Regulations;...</p> <p>86. Citizens are entitled to participate in decision-making processes concerning the environment, when the Government deems appropriate to hold public consultations, including:...</p> <p>b) Consulting the public during environmental impact assessment process before the issuance of environmental clearance...</p> <p>EC Regulation 2001 5. For the purpose of this regulation:...</p> <p>5.20 Significant Project means a project that is grouped/defined as a category A or B type of project in sectoral guidelines issued by the NEC. Category C and D projects may also be considered significant projects if the cumulative effects of two or more projects are significant.</p> <p>Public Consultation</p>	<p>The EC Regulation 2001 stipulates that public consultation applies to significant projects only. Projects in categories C and D, which are not considered significant, may have substantial social impacts even though they may not have substantial environmental impacts.</p> <p>The sectoral ECOP for Highways & Roads calls for consulting local people on specific operational issues – quarries, spoil disposal, drainage, work/labor camp location, operation and closure, water management, and management of stone crushing plants – but does not call for general public consultation on project design, implementation and monitoring.</p> <p>The sectoral ECOP for Installation of Underground and Overhead Utilities calls for consultation during the project design phase, but not during implementation and monitoring.</p> <p>The sectoral ECOP for Storm Water Drainage Systems and Tourism Activities does not require consultation.</p>	<p>organizations must be consulted in a meaningful manner.</p> <p>Amend all sectoral ECOP to explicitly acknowledge the requirement for public consultation and provide guidelines on how to ensure that it is carried out in a meaningful manner.</p>

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	<p>31 When the applicant must inform and consult concerned people and organizations, the following procedure shall apply to significant projects only:</p> <p>31.1 Minimum procedures:</p> <p>a) Written notice to local people.</p> <p>b) Newspaper notice.</p> <p>c) Public hearings: Notice of public consultation shall be given at least a week before the meeting in the newspaper, to the head of the local people and the local authorities in writing.</p> <p>d) The local authorities shall help concerned people express their views to the applicant. The local authorities may represent the community in negotiations with the applicant and shall do their best to ensure that the applicant has paid adequate attention to local concerns. This includes, among other things, making copies of all environmental assessment documents and decisions available to the affected community and open for public inspection.</p> <p>e) The public and other agencies shall be given at least 3 weeks from the notice of availability of environmental assessment documents to submit comments.</p> <p>31.2 The Secretariat or Competent Authority may also order the applicant to submit a proposed plan for public consultation that includes public notice and review procedures beyond the minimum requirements described above. The Secretariat or Competent Authority may order changes to the proposed plan in order to ensure:</p> <p>a) That concerned people and organizations are well-informed, that they are given adequate opportunity to express their views on the project, and that their views are adequately taken into account in the project.</p> <p>b) When the Secretariat or Competent Authority is satisfied that the public consultation plan</p>		

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	<p>ensures that the view of concerned people and organizations are adequately taken into account in the project, it shall approve the plan.</p> <p>c) The applicant shall immediately inform the Secretariat and Competent Authority of any proposed changes to the implementation of the plan.</p> <p>d) The Secretariat or the Competent Authority may approve changes to the public consultation plan as long as the condition in this section is satisfied.</p> <p>31.3 The applicant shall carry out, at its sole expense, the public consultation requirements set forth above.</p> <p>31.4 The Secretariat or Competent Authority shall review and evaluate implementation of the public consultation process whose comments may be taken into account while taking decision.</p> <p>31.5 The Secretariat or Competent Authority shall evaluate and verify the findings of public consultation. The decision of the Secretariat or Competent Authority shall be final and binding.</p> <p>All eight sectoral Guidelines for Application for Environmental Clearance have identical text with respect to public consultation: "Provide details of public consultation held with affected people. The Applicant must explain to the affected people the expected impacts of the development, where they will occur and how they will be mitigated. Provide a record of the meetings and attach a list of the names of the affected people together with the date of consultation/s, details of their Geog and village, issues raised by the affected people and the agreement/s arrived at between the Applicant and the affected people to resolve these issues. Provide signatures or other proof of the</p>		

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	consultation/s. Describe issues that remain unresolved.” The sectoral Guideline on the Preparation of Industrial Project Report adds this: “Any expansion of an existing industry will also require the same consultative procedures.”		
Key element (2): The scope of consultations includes design, implementation and monitoring of measures to avoid or otherwise minimize, mitigate or compensate for adverse impacts.	See Policy Principle 3, Key element 1.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly stipulate that public consultation is mandatory during project implementation and monitoring as well as during the project design and assessment process.
Key element (3): The Scope of consultations includes tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner.	Biodiversity Act 2003 2. Purpose and objectives This Act shall have the following purposes and objectives:… c. To promote the equitable sharing of benefits derived from the use of genetic resources… k. …provide a means of sharing benefits derived from the use of farmers’ or traditional varieties as breeding material for commercial purposes. 7. Application for Access Permit To enable the Competent Authority to arrive at a decision to grant or refuse a permit, the applicant shall include the following information, when submitting an application for access to genetic and/or biochemical resources or associated Traditional Knowledge covered by this Act:… e. State the potential use and anticipated benefits of the accessed material and how the results will be shared....	Partial equivalence In the context of access to traditional knowledge, the Biodiversity Act 2003 gives the owners of traditional knowledge the power to decide whether to negotiate benefits and enter into an agreement to allow use of their knowledge. The EC Regulation 2001 provides that concerned people should benefit from projects, but does not require tailoring benefits for project-affected people, including affected minority ethnic groups. The NEPA 2007 and EA Act 2000 do not require that project must provide benefits for affected people. The Economic Development Policy of the Kingdom of Bhutan 2010 supports promotion of traditional knowledge: “5. b. Strategies: ...promotion of indigenous knowledge shall be pursued.”	Amend the NEPA 2007 and the EA Act 2000 to stipulate that development projects must ensure benefits that are culturally appropriate for affected people, including minority ethnic groups. Amend all sectoral Guidelines for Application for Environmental Clearance and all sectoral ECOP to specify that project benefits must be tailored for project-affected people, including minority ethnic groups, in a culturally appropriate manner.

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	<p>q. The economic, social, technical, scientific, environmental or any other benefits that are intended or may be likely to be accrued to the country and an indication of the types of short, medium and long term benefits to be shared with the RGOB and other relevant stakeholders as well as the proposed mechanisms and arrangements for benefit sharing.</p> <p>9. Conditions for the Grant of Access. Competent Authority, through the Authorized Agency, may grant access [to genetic resources] if in addition to Section 10, the following minimum requirements are satisfied:...</p> <p>f. The applicant agrees to benefit sharing conditions negotiated in accordance with Section 10 below....</p> <p>10. Conditions for benefit sharing Upon fulfilment of all the conditions described above, the Competent Authority may grant access if one or more, when relevant, of the following minimum conditions for benefit sharing, which are to be included in the Material Transfer Agreement or Contract Agreement to be signed between the Competent Authority and the Applicant. These conditions may also be considered in any Material Transfer Agreement or Contract Agreement to be signed between the applicant and any other relevant stakeholder....</p> <p>38. Appraisal of application. The owners of the Traditional Knowledge must decide whether:...</p> <p>b. To accept the application and enter into negotiations for a written authorized user agreement in relation with the application containing the appropriate benefit sharing</p>	<p>All of the sectoral Guidelines for Application for Environmental Clearance, with the exception of the one for tourism activities, call for an explanation of the ways in which a project will benefit surrounding communities, but they do not call for tailoring benefits for project-affected people, including minority ethnic groups.</p> <p>The sectoral ECOP for Highways & Roads is the only one which mentions benefits.</p>	

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	<p>arrangements.</p> <p>EC Regulation 2001 Purpose 2. This regulation defines responsibilities and procedures for the implementation of the Environmental Assessment Act, 2000 concerning the issuance and enforcement of environmental clearances for individual projects and:...</p> <p>2.7 To ensure that concerned people benefit from projects in terms of social facilities;...</p> <p>28.2 Minimum Contents of Environmental information: The environmental information shall contain a short and concise description of the following elements:...</p> <p>d) The environmental benefits of the project, including how the project will benefit concerned people and use clean and sustainable technologies.</p> <p>Annex 3 Environmental Assessment Report Format 5) Project Description. A detailed description and analysis of the nature and location of the project including:...</p> <p>b) the objectives and anticipated benefits of the project;...</p> <p>9) Mitigation Measures. ...The environmental assessment report shall also discuss alternatives to the proposed mitigation measures considered by the proponent, noting the relative benefits and costs of these alternative mitigation measures.</p> <p>ECOP Highways and Roads 2000 1.2.3. Public Participation and Coordination ...the study team has a duty to inform the local</p>		

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	population in the road area of all aspects of the project for all the project stages (adverse impacts and benefits)....		
Key element (4): Enhance Indigenous Peoples' active participation in projects affecting them will provide for culturally appropriate and gender inclusive capacity development.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly stipulate that projects must enhance the active participation of affected people, including minority ethnic groups, and provide for culturally appropriate and gender inclusive capacity development.
Key element (5): Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.	<p>Dzongkhag Yargay Tshogdu Chathrim 2002 Preamble ...Whereas, in pursuant to profound vision and noble conceptions of reforms of His Majesty the King aimed at strengthening decentralisation and devolution...</p> <p>Article 8. General Functions and Powers of Dzongkhag Yargay Tshogdu As the highest forum for local policy and decision-making on matters of public interest in a dzongkhag, the Dzongkhag Yargay Tshogdu shall:...</p> <p>12. strive to resolve inter geog disputes through conciliation and mediation;...</p> <p>14. redress public grievances and suggestions brought through written petitions.</p> <p>EA Act 2000 32. The National Environment Commission shall:...</p> <p>32.7. Bring complaints to the Department of Legal Affairs for the prosecution of violations of</p>	<p>Partial equivalence</p> <p>There appears to be no provision in the legal regime that requires a project-specific grievance mechanism.</p> <p>Regulations give local government bodies the general power and responsibility to resolve disputes.</p> <p>The EA Act 2000 provides for prosecuting violations of the Act, but not for resolving project-related grievances.</p>	<p>Amend the EA Act 2000 and the EC Regulation 2001 to stipulate that project designs must incorporate the requirement to consult and coordinate with local governments, on a case-by-case basis, to ensure that there are culturally appropriate and gender inclusive mechanisms to resolve project-related grievances of all project-affected people, including minority ethnic groups.</p> <p>Amend all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly stipulate that projects must consult and coordinate with local</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions	(C) Extent of Equivalence ¹	(D) Recommended Gap-filling Measures
	this Act.		governments, on a case-by-case basis, to ensure that there are culturally appropriate and gender inclusive mechanisms to resolve project-related grievances of all project-affected people, including minority ethnic groups.
Policy Principle 4: Ascertain the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.			
Key element (1): Consent of affected Indigenous Peoples communities is required for project activities that would include commercial development of cultural resources and knowledge of Indigenous Peoples.	Biodiversity Act 2003 38. Appraisal of application. The owners of the Traditional Knowledge must decide whether:... b. To accept the application and enter into negotiations for a written authorized user agreement in relation with the application containing the appropriate benefit sharing arrangements.	Full equivalence	
Key element (2): Consent of affected Indigenous Peoples communities is required for project activities that would include physical displacement of Indigenous Peoples from traditional or customary lands.	Land Act 2007 Entitlement to own land 58 The juristic persons who are entitled to own land in the Kingdom of Bhutan are:... f) ...community for social and religious purposes...recognized by the laws of the Kingdom of Bhutan. 88 With exception of the land registered in the Thram in the name of... a community for social and religious purposes, the share of land under joint ownership shall be considered equal among the joint owners unless otherwise specified in the Thram. Prohibition to use community land for other	Partial equivalence The Land Act 2007 forbids the alienation of land that is registered in the name of an indigenous community for social and religious purposes, except for government acquisition.	Amend the Land Act 2007 to explicitly establish transparent and equitable procedures for securing consent of project-affected people who would be subject to involuntary resettlement in the event the government intends to have land registered in the name of a community for social and religious purposes surrendered.

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	<p>purposes</p> <p>129 The land registered in the Thram in the name of a community for social and religious purposes shall not be used for purposes other than social and religious purposes.</p> <p>134 Except for surrender of land to the Government, the landowners shall not engage in any transaction of the land registered in the name of a community for social and religious purposes.</p> <p>Unlawful land transaction</p> <p>232 Any registered landholding in a Thram shall be annulled without any compensation under the following circumstances...</p> <p>b) If a land in the name of the community for social and religious purposes is sold, gifted, or donated.</p> <p>Definitions</p> <p>319 In this Act, unless the context requires otherwise, the term:...</p> <p>12) Community for social and religious purposes means indigenous communities in whose name landholdings are traditionally registered for the use of social and religious purposes to preserve and sustain their tradition and culture.</p> <p>43) Land transaction means the change of title of ownership to a land by...surrendering land to the Government;...</p>		
<p>Key element (3):</p> <p>Consent of affected Indigenous Peoples communities is required for project activities that would include commercial development of natural resources within customary lands under use that would impact the livelihoods or the</p>	<p>See Policy Principle 4, Key element 2.</p>	<p>Partial equivalence</p> <p>See Policy Principle 4, Key element 2.</p>	<p>See Policy Principle 4, Key element 2.</p> <p>Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to provide that, on a</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions	(C) Extent of Equivalence ¹	(D) Recommended Gap-filling Measures
cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples.			case-by-case basis, projects must secure the consent of affected minority ethnic groups for project activities that would include commercial development of natural resources within customary lands under use that would impact their livelihoods or the cultural, ceremonial, or spiritual uses that define their identity and community.
Policy Principle 5: Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.			
Key element (1): Project design avoids, to the maximum extent possible, any restrictions on Indigenous Peoples' access to, and physical displacement of Indigenous Peoples from, protected areas and natural resources.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly stipulate that project design must avoid, to the maximum extent possible, any restrictions on minority ethnic groups' access to, and physical displacement from, natural resources and protected areas that are wholly or partially within their ancestral territories.
Key element (2): Where avoidance is not possible, project designs ensure that the affected Indigenous Peoples communities can participate in the design, implementation, and monitoring and evaluation of management arrangements for	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly stipulate that, where avoidance is not possible, project designs

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions	(C) Extent of Equivalence ¹	(D) Recommended Gap-filling Measures
such protected areas and natural resources.			ensure that project-affected minority ethnic groups can participate in the design, implementation, and monitoring and evaluation of management arrangements for such natural resources and protected areas that are wholly or partially within their ancestral territories.
Key element (3): Where avoidance is not possible, project designs ensure that affected Indigenous Peoples communities share equitably in project benefits.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly stipulate that, where avoidance is not possible, project designs must ensure that project-affected minority ethnic groups share equitably in project benefits.
Policy Principle 6: Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.			
Key element (1): When Indigenous Peoples communities are present in the project area, or are likely to be affected by project activities, an Indigenous Peoples Plan (IPP) is prepared.	No corresponding legal provision.	No equivalence There is no requirement in the legal regime for a plan to address a project's potential impacts on minority ethnic groups. The NEPA 2007 defines 'environmental management plan', but does not use the term in the text of the Act. The EA Act 2001 defines 'environmental management plan' but provides only that the Secretariat of the National Environment Commission must issue guidelines on terms of reference for them.	Amend the EA Act 2000 and the EC Regulation 2001 to explicitly require preparation of an environmental management plan that provides for mitigating a project's social impacts as well and, in the case of projects that affect minority ethnic groups, to require preparation of a separate social impact management plan that addresses the

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		<p>The EC Regulation 2001 does not define or otherwise mention environmental management plans; it does refer to 'management techniques' to limit environmental impacts, but does not refer to social impacts.</p> <p>NEPA 2007 111. In this Act, unless the context otherwise requires:...</p> <p>(23) Environmental management plan means a plan which specifies the environmental, health and safety terms for the design, construction, operation, and decommissioning of a project.</p> <p>EA Act 2000 6. Under this Act:...</p> <p>6.12. Environmental management plan means a plan which specifies the environmental, health and safety terms for the design, construction, design, construction, operation, and decommissioning of a project.</p> <p>35. The Secretariat, in consultation with the concerned competent authorities, shall issue regulations and guidelines concerning: 35.1. Terms of reference for environmental assessments, environmental management plans...</p> <p>EC Regulation 2001 Annex 3 9) Mitigation Measures. A description and assessment of physical, biological and chemical measures and management techniques designed to limit negative environmental impacts or to cause positive environmental impacts during development and operation of a project.</p> <p>All but one of the eight sectoral Guidelines for Application for Environmental Clearance have</p>	<p>impacts on the minority ethnic group or groups.</p> <p>Amend all sectoral Guidelines for Application for Environmental Clearance and all sectoral ECOP to explicitly provide for preparation of an environmental management plan that provides for mitigating a project's social impacts as well environmental impacts and, in the case of projects that affect minority ethnic groups, to require preparation of a separate social impact management plan that addresses the impacts on the minority ethnic group or groups.</p>

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		<p>sections on “Project Impacts and Mitigation Measures” which use identical language to specify that “...At the time of tendering, the Contractor will be required to prepare a Contractor’s Site Environmental Management Plan (CSEMP) that shows how the Contractor will implement the Environmental Terms that are included as part of the Tender Specifications...”</p> <p>Only the sectoral ECOP for Highways & Roads requires an environmental management plan: “3.1.2. Mitigation Measures ...besides the work program, the contractor has also to submit an environmental management plan, specific to the works, that conforms with the requirements stated in the ECP....”.</p>	
<p>Key element (2): The IPP is based on social impact assessment and is prepared by qualified experts.</p>	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, that plan must be based on social impact assessment and is prepared by qualified experts.
<p>Key element (3): The IPP draws on indigenous knowledge and participation by the affected Indigenous Peoples communities.</p>	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a

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			separate social impact management plan is prepared, that plan must draw on the knowledge of the affected minority ethnic groups and provide for their participation in its preparation.
Key element (4): The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, that plan must include a framework for continued consultation with the affected minority ethnic groups during project implementation.
Key element (5): The IPP includes specific measures to ensure that Indigenous Peoples communities receive culturally appropriate benefits.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, that plan must include specific measures to ensure that the minority ethnic groups receive

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			culturally appropriate benefits.
Key element (6): The IPP identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, that plan must identify measures to avoid, minimize, mitigate, or compensate for any adverse project impacts.
Key element (7): The IPP includes a culturally appropriate grievance redress mechanism.	No corresponding legal provision.	No equivalence The legal regime has provisions for resolving disputes (see Policy Principle 3, Key element 5), but there is no requirement for the equivalent of an IPP.	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, that plan must include arrangements for a culturally appropriate grievance redress mechanism.
Key element (8): The IPP includes arrangements for monitoring during project implementation and for evaluation of results.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide

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			that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, that plan must include arrangements for monitoring during project implementation and for evaluation of results.
Key element (9): The IPP includes a budget and time-bound plan for implementing all required actions.	No corresponding legal provision.	No equivalence See Policy Principle 6, Key element 1. The EC Regulation 2001 requires an implementation schedule for measures to mitigate environmental impacts, but does not define or otherwise mention environmental management plans and does not refer to social impacts. EC Regulation 2001 Annex 3 9) Mitigation Measures. ...The environmental assessment report shall specify in detail: the measures to be taken by the proponent to avoid, minimize, and mitigate potential environmental impacts; and the anticipated implementation schedule that shall ensure that mitigation measures shall be implemented prior to or when appropriate in relation to environmental impacts.	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, that plan must include a budget and time-bound plan for implementing all required actions.
Policy Principle 7: Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.			
Key element (1): A draft IPP (including documentation of consultations with Indigenous Peoples communities and social impact assessment results is publicly disclosed in a timely manner	EC Regulation 2001 31.2The Secretariat or Competent Authority may also order the applicant to submit a proposed plan for public consultation that includes public notice and review procedures beyond the minimum requirements described...	Partial equivalence The EC Regulation 2001 enables, but does not require, a consultation plan that could provide for disclosing a draft management plan.	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects

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before project appraisal.			that affect minority ethnic groups and for which a separate social impact management plan is prepared, a draft of that plan which includes documentation of consultations with the affected minority ethnic groups must be disclosed in a timely manner before project appraisal.
Key element (2): The disclosed draft IPP is accessible to, and in a form and language(s) understandable to, affected Indigenous Peoples communities and other stakeholders.	EC Regulation 2001 31.2The Secretariat or Competent Authority may also order the applicant to submit a proposed plan for public consultation that includes public notice and review procedures beyond the minimum requirements described...	Partial equivalence The EC Regulation 2001 enables, but does not require, a consultation plan that could provide for disclosing a draft management plan.	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, a draft of that plan must be disclosed to the affected minority ethnic groups in a form and language(s) that they understand.
Key element (3): The final IPP (and any subsequent updates) also are disclosed to affected Indigenous Peoples communities and other stakeholders.	EC Regulation 2001 31.2The Secretariat or Competent Authority may also order the applicant to submit a proposed plan for public consultation that includes public notice and review procedures beyond the minimum requirements described...	Partial equivalence The EC Regulation 2001 enables, but does not require, a consultation plan that could provide for disclosing a draft management plan. The EA Act 2000 and the EC Regulation 2001 otherwise provide only for disclosing information about a project after the decision on the environmental clearance has been made.	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is

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		<p>EA Act 2000 28. When a decision on the environmental clearance has been taken, the Secretariat or the competent authority shall make a public announcement of the decision and make the following information available to the public: 28.1. A description of the project; 28.2. The environmental terms; 28.3. A description of measures to avoid or mitigate potential adverse impacts and enhance positive impacts of the project; 28.4. The main reasons and considerations on which the decision is based, including the basis for the acceptance or rejection of views and arguments presented by other authorities and concerned people; 28.5. A non-technical summary of the information under Sub-articles 28.1 to 28.4.</p> <p>EC Regulation 2001 28.8 When a decision on the environmental clearance has been taken, the Secretariat or the Competent Authority shall make a public announcement of the decision and make the information available to the public under Article 28 of the EA Act, 2000.</p>	<p>prepared, the final plan and any updates must be disclosed to the affected minority ethnic groups and other stakeholders.</p>
<p>Policy Principle 8: Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.</p>			
<p>Key element (1): Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied.</p>	<p>See Policy Principle 4, Key element 2.</p>	<p>Partial equivalence The Land Act 2007 provides for registering land in the name of a community for social and religious purposes.</p>	<p>Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly include in the EIA process a requirement that: 1. in the event that a proposed project's activities are contingent on establishing legally recognized rights of</p>

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			minority ethnic groups to land; and/or 2. in the event of involuntary acquisition of lands traditionally occupied by minority ethnic groups, project proponents must prepare an action plan for registering those lands as community for social and religious purposes.
Key element (2): Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves involuntary acquisition of such areas.	See Policy Principle 4, Key element 2.	Partial equivalence See Policy Principle 8, Key element 1.	See Policy Principle 8, Key element 1.
Policy Principle 9: Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.			
Key element (1): Monitor implementation of the IPP using qualified and experienced experts.	No corresponding legal provision.	No equivalence See Policy Principle 6, Key element 1. EC Regulation 2001 Monitoring 33. The Secretariat shall conduct compliance monitoring of projects that do not require development consent and may also conduct spot checks for listed projects under Article 44 of the EA Act, 2000. 34. When development consent is issued following the issuance of the environmental clearance by the Secretariat and for listed projects, the Competent Authority shall be responsible for monitoring compliance.	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, implementation of that plan must be monitored by qualified and experienced experts.
Key element (2): Include arrangements for	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all

(A) ADB Safeguard Policy Statement	(B) Corresponding Legal Provisions	(C) Extent of Equivalence ¹	(D) Recommended Gap-filling Measures
participatory monitoring whenever possible.			sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, that plan must include arrangements for participatory monitoring whenever possible.
Key element (3): Assess whether IPP objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic groups and for which a separate social impact management plan is prepared, monitoring of the implementation of that plan must assess whether its objectives and desired outcomes are achieved, taking into account baseline conditions and monitoring results.
Key element (4): Monitoring reports are disclosed.	No corresponding legal provision.	No equivalence	Amend the EA Act 2000, the EC Regulation 2001, all sectoral Guidelines for Application for Environmental Clearance, and all sectoral ECOP to explicitly provide that, in the case of projects that affect minority ethnic

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			groups and for which a separate social impact management plan is prepared, the implementation of that plan must be monitored and the monitoring reports must be disclosed.

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