

## **Indigenous Organizations' Proposals**

(March 3, 2020 – Lima, Peru)

### **Indigenous families seasonally moving**

This policy also applies to those families that, in certain seasons of the year, move in the surroundings or outside the territories of the indigenous peoples to which they belong for hunting, gathering or traditional ceremonies purposes.

(Source: World Bank's 2016 ESS7, paragraph 9)

### **Transborder indigenous peoples**

In regional projects involving two or more countries or in border areas where indigenous peoples are present, the Bank will adopt the measures that are necessary to prevent that its projects do not adversely affect transborder peoples, such as consultation and good faith negotiation processes, territorial legal security and other programs related to health, freedom of movement, dual nationality (within the context of the applicable legal norms), among others, taking into account the **representative institutions** of the indigenous peoples concerned.

(Source: Inter-American Development Bank's 2006 OP-765, page 9)

### **Indigenous rights**

Indigenous rights include the rights of indigenous peoples and individuals, whether originating in national indigenous legislation, in other relevant national legislation, in applicable international norms in force for each country, or in the indigenous juridical systems of each people, hereinafter collectively referred to as the “applicable legal norms.” Indigenous juridical systems will be taken into account according to the rules for their recognition established in the legislation of each country. In the absence of such rules these systems will be recognized whenever they are consistent with national legislation and do not contradict fundamental rights established in national legislation and in international norms.

The Bank will take into account the respect of the indigenous rights established in the applicable law norms according to their relevance for the bank's operations, always bearing in mind the norm that provides greater protection to indigenous peoples.

The “applicable international norms” include, among other applicable human rights and environmental law instruments, the I.L.O. Convention No. 169, the United Nations Declaration on the Rights of Indigenous Peoples, the American Declaration on the Rights of Indigenous Peoples, the jurisprudence of the Inter-American Human Rights Commission and Court, and the Escazú Agreement.

(Source: Inter-American Development Bank's 2006 OP-765, page 5, 8)

## **Indigenous development**

Indigenous development refers to a process that includes the fulfillment of indigenous peoples' self-identified development needs, harmony with their environment, sound management of territories and natural resources, the establishment of an indigenous economy, the participation of indigenous women in the development process, and the respect for indigenous values and rights, in accordance with their own worldview and governance.

The Bank will support the region's national governments and indigenous peoples, through their representative organizations, in mainstreaming indigenous issues in local and national development agendas and in the Bank's project pipeline. It will pursue this through specific initiatives and, where technically feasible and appropriate, the integration of complementary activities, operations, and general initiatives.

(Source: Inter-American Development Bank's 2006 OP-765, page 5, 6)

## **Survey, titling and registry of indigenous lands and territories**

When the projects **deal with matters related to** land and directly or indirectly affect indigenous territories, the Bank will support the strengthening of the systems used by the borrowers to survey, title and register territories in traditional possession and/or use of indigenous peoples, in order to legally recognize collective property or ownership right over such territories.

The Bank will not support those projects where the borrowers pursue individual titling in indigenous territories or the recognition of diminished property rights for indigenous peoples, such as the right to use.

(Source: Inter-American Development Bank's 2006 OP-765, page 8; World Bank's 2016 ESS7, paragraph 29)

## **Indigenous peoples in isolation or initial contact**

Projects will respect the rights of indigenous peoples in isolation or initial contact to remain in isolation and to live freely according to their culture.

In order to avoid any direct or indirect contact with indigenous peoples in isolation or initial contact, their lands and territories or way of life, [the projects] will have to take appropriate measures to (i) safeguard the collective and individual physical, territorial, and cultural integrity of these peoples; and (ii) recognize, respect and protect the intangibility of lands and territories, environment, health and culture, including the establishment of buffer zones.

The aspects of the project that would result in undesired contact will not be processed further.

(Source: Inter-American Development Bank's 2019 Draft ESPS7, paragraph 10; World Bank's 2016 ESS7, paragraph 19)

## Free, prior and informed consent

As a result of a consultation process, the borrower shall obtain the free, prior and informed consent (F.P.I.C.) of indigenous peoples:

- a) when the project, plan or program impacts on the lands, territories and resources traditionally owned or under customary use of indigenous peoples or involves the use of natural resources located on such lands;
- b) when the relocation of indigenous peoples out of their lands and natural resources subject to the traditional property regime or under customary use is inevitable;
- c) when the project may significantly impact on a critical cultural heritage of indigenous peoples.

In those cases where indigenous peoples have developed their own consultation protocols, the borrower must take them into account under the three circumstances mentioned above.

The Bank will not support projects falling under these three circumstances in which the F.P.I.C. of the indigenous peoples concerned has not been obtained.

The refusal of indigenous peoples to participate in a consultation process aimed at obtaining the F.P.I.C. or their silence within a consultation process should not be understood as support for the project in question. **All this** in exercise of their rights of self-determination and self-government.

The borrower must also adopt these measures when proposing the expansion or relocation of any project that falls within the three circumstances mentioned above.

The Bank's Safeguard Unit is responsible for ensuring compliance with the commitments assumed by the borrower as a result of the consultation process in question.

(Source: Inter-American Development Bank's 2019 Draft ESPS7, paragraph 14-18)

### Eliminate:

Para. 13 (...) F.P.I.C. does not necessarily require unanimity and may be achieved even when individuals or groups within the community explicitly disagree.