

Indigenous Peoples Planning Framework

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Cambodia: National Restoration of Rural Productive Capacity Project

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LIST OF ACRONYMS

AIIB	-	Asian Infrastructure Investment Bank
CoVID-19	-	Coronavirus 2019
DLMUPCC	-	Department of Land Management, Urban Planning, Construction and Cadastral
GKC	-	Government of Kingdom of Cambodia
ESIA	-	Environmental and Social Impact Assessment
FPICon	-	Free Prior Informed Consent
IP	-	Indigenous Peoples
IPP	-	Indigenous Peoples Plan
IPPF	-	Indigenous Peoples Planning Framework
KCH	-	Kampong Chhnang
KKG	-	Koh Kong
M&E	-	Monitoring and Evaluation
MRD	-	Ministry of Rural Development
NRRPCP	-	National Rural Restoration of Productive Capacity Project
PLN	-	Pailin
PIU	-	Project Implementation Unit
PMU	-	Project Management Unit
PRSC	-	Provincial Resettlement Screening Committee
PVG	-	Prey Veng
PDRD	-	Provincial Department of Rural Development
PRSC	-	Provincial Resettlement Screening Committee
TKM	-	Tboung Khmum
WG	-	Working Group

EXECUTIVE SUMMARY

This Indigenous People's Planning Framework (IPPF) has been prepared for the National Rural Restoration of Productive Capacity Project (NRRPCP) to provide a guide in identifying Indigenous People's (IPs), the Project's impacts on them, appropriate ways of engaging with them with beneficial and mitigation measures and for the preparation of Indigenous Peoples Plans (IPPs) where these are required. The IPPF is part of the Environmental and Social Management Planning Framework (ESMPF). The IPPF is also in line with the Royal Government of Cambodia (RGC) Policies on Indigenous People, and the AIIB Environmental and Social Framework.

The Government of the Kingdom of Cambodia (GKC) has received a loan from the Asian Infrastructure Investment Bank (AIIB) to assist in financing the NRRPCP, which has been identified as a priority in the Government's CoVID-19 response. The Project objective will be achieved by maintaining and accelerating rural infrastructure spending, creating short term employment and income generation building the capacity of local labour and national contractors to ensure quality rural infrastructure building on the national standards established with development partners, and to establish foundations for learning and knowledge sharing among key Project stakeholders to scale up rural infrastructure and rural services delivery.

The Project will finance the construction of at least 253 km of rural roads and the rehabilitation and or/construction of 150 community ponds that are located in five provinces: Pailin (PLN), Kampong Chhnang (KCH), Tboung Khmum (TKM), Prey Veng (PVG) and Koh Kong (KKG). The existing community ponds are being used primarily for the supply of water for domestic purposes and in some cases may supply water to home gardens, but not for fish farming although wild migratory fish species may reside in the ponds during the dry season.

Under the Environmental and Social Management Planning Framework (ESMPF) the Project has been categorized as B and moreover it is anticipated that the planned activities will have minimal adverse impacts on IPs since within the five target provinces there are only three identified IP communities located in KKG province in very remote communes that are very unlikely to be included within the scope of the proposed subproject.

This IPPF has been prepared to manage all of the issues that may arise relating to any IP communities in the event that they are residing within any of the subproject sites. It seeks to ensure that subprojects that are located in areas where any identified ethnic groups are residing are designed and implemented in such a way that fosters the full respect of their ethnic identity, dignity, human rights, livelihood systems and cultural uniqueness as defined by the ethnic group themselves.

The objectives and principles of the IPPF are defined and the legal and policy framework for IPs is described for both the AIIB and the GKC. The analysis of the equivalence and gaps demonstrates that both are well aligned and there is an acceptable level of consistency in the standards for IPs and the self-identification process of indigenous communities defined in the national policy is broadly consistent with international good practice. Also the national policy does not exclude communities who have become more mainstream, and indigenous communities may apply for legal status regardless of whether or not they still use their own language or practice traditional agriculture.

Based on the Ministry of Rural Development (MRD) inventory of officially recognised IPs in Cambodia, there are 155 indigenous communities residing in 10 provinces, the majority being in the north-east of the country and the total number of people in these communities is estimated to be about 73,000 that represents only 0.4 percent of the national population.¹ They have lower standards of education compared to the mainstream Khmer population and

¹ The Department of Ethnic Minorities in the MRD is responsible for maintaining the inventories of IPs in Cambodia.

practice more traditional forms of agriculture together with the harvesting of non-timber forest products as well as fishing and weaving as their main income sources.

The IPPF includes a screening form that is used to ascertain the presence of IPs within a subproject area. If this screening determines that IPs are present then a full Social Impact Analysis (SIA) will be conducted to allow for full and meaningful consultations with the indigenous communities and to assess the extent of the impacts, both beneficial and negative, on them and enable the identification of mitigation measures to minimise the extent of any such negative impacts. The IPPF also includes a full discussion of the potential benefits as well as the potential impacts and mitigation measures within the context of the types of subprojects that are to be financed.

The IPPF provides a full description of the procedures to be applied for the conduct of the Environmental and Social Impact Assessment (ESIA) to ensure that this is done in a culturally and appropriately gender sensitive manner in consultation with the IP communities. The IPP that is prepared for a subproject will be disclosed in a timely manner to the IPs in a form and in a language understandable by them.

The IPPF utilizes the Grievance Redress Mechanism (GRM) that will be established by the Project in each province as defined within the ESMPF.

The implementation of the IPPs will be reported within the semi-annual reports on the implementation of the ESMP, covering each of the three Environmental and Social Standards (ESS 1, 2 & 3) of which ESS3 is concerned with IPs, for all subprojects.

1. INTRODUCTION

1.1 Description of Project

1. The Government of the Kingdom of Cambodia (GKC) has received a loan from Asian Infrastructure Investment Bank (AIIB) in the form of a loan to assist in financing the NRRPCP. This Project has been identified as an immediate priority of the Government of Kingdom of Cambodia (GKC) CoVID-19 response and is a part of the proposed comprehensive rural infrastructure program to be funded under the AIIB CoVID-19 Crisis Response Facility to strengthen the GKC financial resources that have been impacted by the pandemic. The Project objective will be achieved by maintaining and accelerating rural infrastructure spending; creating short term employment and income generation; building capacity of local labour and national contractors to ensure quality infrastructure delivery building on the national standards established with the development partners; establishing foundations for learning and knowledge sharing among key Project stakeholders to scale up rural infrastructure and rural basic services delivery in future programs. The Project will also support the Government's communications effort to (i) enhance awareness of targeted rural population about social distancing and hygiene to help contain the spread of the current pandemic; and (ii) build their preparedness and resilience during CoVID-19 and beyond.

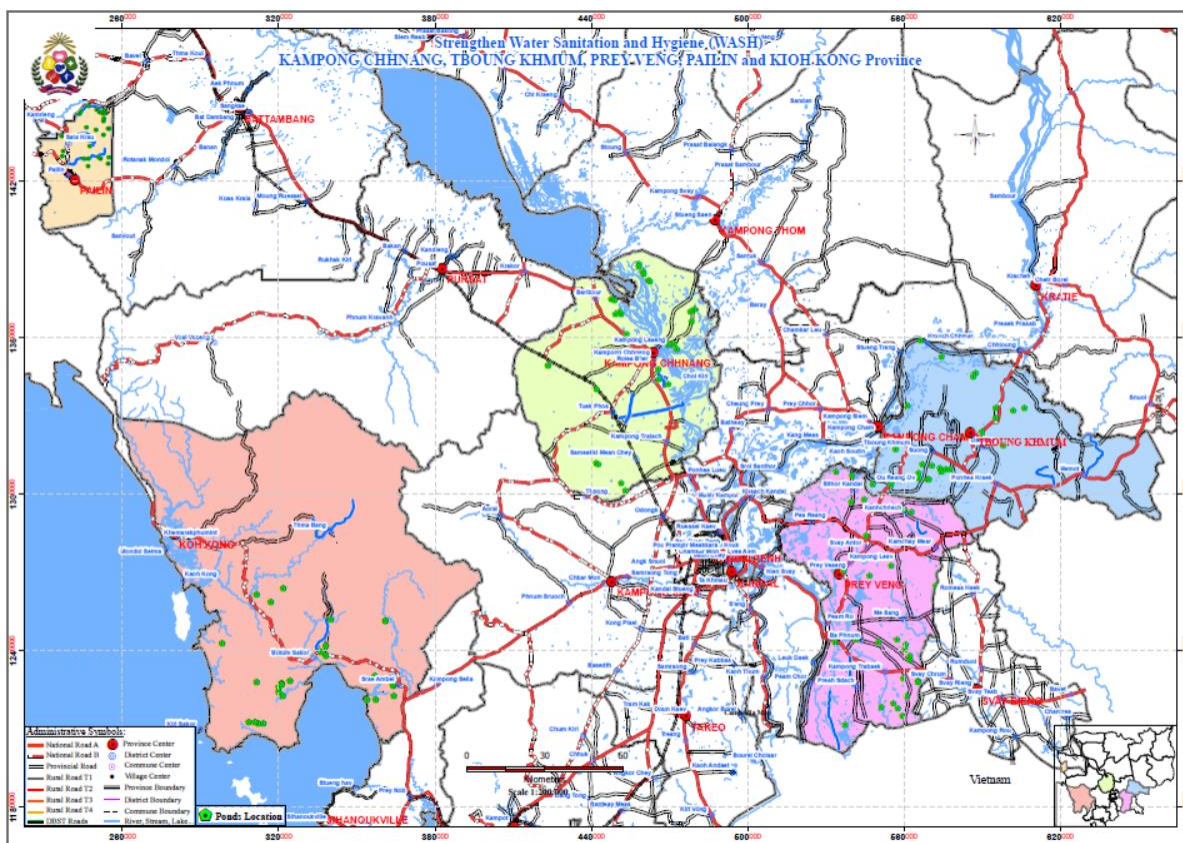
2. The Executing Agency for the NRRPCP is the Ministry of Rural Development (MRD) who are responsible for overall Project coordination, planning, financial management, procurement and monitoring and evaluation (M&E). The Project implementation duration is from February 2021 to June 2024.

3. The Project targets five provinces that have been selected to allow connectivity within the provinces as well as connectivity between the provinces and the national capital and neighbouring countries to sustain trade flows and food security as well as sustain rural livelihoods and generate short term employment benefits for local residents who have lost their employment in urban areas as well as in other countries.

4. The Project will benefit about 480,000 rural people in the targeted five provinces maximizing benefits to the vulnerable groups (women, children, unemployed returning migrants and indigenous peoples), whose socio-economic conditions are adversely affected by the CoVID-19 pandemic and looking for short term employment benefits under the Project. Within the five target provinces there are IPs identified in only three villages in one district of KKG province with an estimated population of only 350 persons. Works and services under the Project will be procured based on national competitive bidding and will prioritize job opportunities and benefits for the local residents and returning migrants living in the Project targeted areas. Both local residents and national contractors will be trained under the Project to ensure quality rural infrastructure delivery and basic rural services provision; and capacity development as a strong foundation for learning and sharing among the various stakeholders (the various tiers of the governments, the local contractors, the rural/local communities and workers) to scale-up future programs by the government with the assistance of the Bank and the development partners.

5. Under the Environmental and Social Management Planning Framework (ESMPF) the categorization of the Project is Category B (as stated in the AIIB ESS3) and it is anticipated that the planned activities will have minimal adverse impact on IPs and where they are residing within the locality there will be substantial positive benefits for them. This IPPF supports the integration of IPs needs and interests into each program output and sub-output and ensures effective participation and access of IPs to Program/Project benefits and has been prepared in line with AIIB ESF and the laws and regulation of the GKC.

Figure 1: Location of roads and community ponds



1.2 Rational for Indigenous Peoples Planning Framework

6. This IPPF has been developed to manage all of the issues that may arise relating to any IP communities residing within any of the subproject sites. It seeks to ensure that subprojects that are located in areas where any identified ethnic groups are residing are designed and implemented in such a way that fosters the full respect of their ethnic identity, dignity, human rights, livelihood systems and cultural uniqueness as defined by the ethnic group themselves. The aim is to enable them: (i) to receive culturally appropriate social and economic benefits; (ii) to not suffer from adverse impacts that may result from the subproject; (iii) to participate actively in the project; and (iv) to gain equal benefits from the subproject investment. This IPPF has been designed to safeguard the rights of the indigenous peoples groups in the Project targeted areas and ensure that they are able to participate and equitably receive culturally appropriate benefits from the Project.

7. The Project promotes a sequential and sector-based approach in its implementation, which includes infrastructure development, capacity building for both technical skills as well as local management of the operations and maintenance particularly of the Water, Sanitation and Hygiene (WASH) facilities with the intention of promoting community ownership and empowerment through community driven development. All of the infrastructure subprojects will be based on full community consultation to gain a consensus for the proposed investments and to promote this sense of ownership.

2. OBJECTIVES OF INDIGENOUS PEOPLES PLANNING FRAMEWORK

2.1 Principles and Objectives

8. **Objective.** The main objective of the IPPF is to help ensure that the Project interventions are designed and implemented in a way that fosters full respect for the identify, dignity, human rights, livelihood systems and cultural uniqueness of the IPs, as defined by themselves to enable them to (i) receive culturally appropriate social and economic benefits;

(ii) not suffer adverse impacts as a result of the Project; and (iii) participate actively in the Project. This IPPF safeguards the rights of IPs to participate and equitably receive culturally appropriate benefits from the Project. For this purpose, where necessary an Indigenous Peoples Plan (IPP) will be prepared for those subprojects that are located in communes subject to the results of screening that identifies (i) the presence of IPs; and (ii) subproject impacts on IPs whether positive or negative, direct or indirect, temporary or permanent. The IPPs that are prepared will be submitted to AIIB for approval and then will be translated into the Khmer as well as other indigenous languages as appropriate to ensure wider awareness of the document.

9. **Principles:** In pursuit of the abovementioned objectives, the NRRPCP and its subprojects will be governed by the following principles:

- a) Early screening to determine IP presence and/or collective attachment to the Project area as well as potential impacts on IPs.
- b) Conduct of culturally appropriate, gender-sensitive and technically backed-up social impact assessment where full consideration to IP-generated options as regards benefits and mitigation measures are taken into account and translated into the IP plans.
- c) Undertake meaningful consultations with affected IP communities and concerned organizations to solicit their participation across the subproject cycle to avoid adverse impacts or in cases when avoidance is not possible, to minimize, mitigate, or compensate for such effects by establishing culturally appropriate and gender inclusive capacity development modalities and grievance mechanisms.
- d) Ensure free, prior and informed consent of affected IP communities to project activities that may introduce commercial development of cultural resources and indigenous knowledge, physical displacement from traditional or customary land, and commercial development of natural resources within customary lands that impact on livelihoods or cultural uses that define the identity and community of IPs. Consent refers to a collective expression by affected IP communities, through individuals and/or their recognized representatives, of broad community support for Project/project activities even if some individuals or groups object.
- e) Avoid restricted access to and physical displacement from protected areas and natural resources but when not possible, ensure that affected IP communities participate in all aspects of the subproject cycle and that their benefits are equitably shared.
- f) An IPP will be prepared that is based on the social impact assessment with the assistance of qualified and experienced experts that draw on indigenous knowledge through consultation with affected IP communities. The IPP will include a framework for continued consultation with the affected IP communities during project implementation; specifies measures to ensure that IPs receive culturally appropriate benefits; identification of measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; culturally appropriate grievance procedures; M&E arrangements, and a budget and time-bound actions for implementing the planned measures.
- g) The draft IPP after approval by the AIIB is disclosed including documentation of the consultation process and the results of the social impact assessment in a timely manner and made available in an accessible place and in a form and local languages understandable to affected IPs communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected IP communities and other stakeholders.
- h) 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 IPs have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.
- i) 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 and disclose the monitoring report.

3. LEGAL AND POLICY FRAMEWORK FOR INDIGENOUS PEOPLES

3.1 Definitions

10. Over 97 percent of Cambodia's population belongs to the Khmer ethnic group, while the remainder comprise a range of ethnic groups, including *Chams* (predominantly Muslim), ethnic Vietnamese, ethnic Chinese, and indigenous Khmer Loeu (hill-tribes). Amongst the non-ethnic groups, only the hill-tribes are categorized as IPs by the government. There are also isolated villages *Cham* (muslim) communities that are non-Khmer ethnic groups but they are generally well assimilated in Khmer society and not recognised as IPs.

3.2 National Policies and Programs for Indigenous Peoples

11. The Cambodian government initiated a decentralization program to be more responsive to community needs, indigenous peoples included. In the mid-1990s, the Cambodian government created the Inter-Ministerial Committee for Ethnic Minorities Development and the Inter-Ministerial Committee for Highland Peoples Development to address IP issues. The Department of Ethnic Minority Development at the MRD was established in 1999 after the Inter-Ministerial Committee was abolished. The MRD mainly works to maintain the culture, beliefs and traditions of IPs through a formal process of establishing the identity and conditions of indigenous peoples groups in Cambodia.² The department operates through IP offices in the provinces. The IPs are represented in the formal governance structures in Cambodia from the village, commune and through to the district/provincial levels.

12. Cambodia has a number of laws and policies that protect the rights of local communities, including IPs. Since the IPs have strong ties to the land and natural resources, the Land Law (2001) is the most significant for them because it sets out the basis for their rights to land. Article 25 provides for the collective ownership of land, while Article 26 recognizes the role of traditional authorities, mechanisms and customs in decision-making and exercising ownership rights. The subsequent Policy and Sub-decree for Indigenous Peoples Registration of Collective Land Rights sets the incorporation of the community as a legal entity as a condition for receiving a collective title. National policies applicable to the indigenous peoples include:

13. **Cambodia Constitution and the Land Law** In the context of Cambodian legal framework, Article 31 of the Cambodian Constitution states that "*All Cambodian citizens shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status*"; and the promulgation of the 2001 Cambodian Land Law marks explicit recognition of collective land rights of indigenous communities by the State that offer a unique chance for indigenous peoples in Cambodia to exercise their rights to self-determined development that include:

- a) Ownership of the lands is granted by the State to indigenous communities as collective ownership, including all the rights and protections enjoyed by private owners. The exercise of collective ownership rights are the responsibility of the traditional authorities and decision-making mechanisms of the indigenous community, according to their customs and subject to laws such as the law on environment protection. (Article 26).
- b) No authority outside the community may acquire any rights to immovable properties belonging to an indigenous community. (Article 28).

14. Indigenous communities have the right to collective ownership of their lands, which gives them all the rights and protection of ownership as enjoyed by private landowners. The lands of indigenous communities include residential and agricultural land and encompass land actually cultivated and the lands reserved/fallow land for shifting cultivation. Indigenous communities shall continue to manage their community land according to their traditional

² A list of all of the officially recognised IP communities in the whole country is shown in Appendix 2.

customs, pending the determination of their legal status. Once they are registered as legal entities, communities can apply for the registration of their collective title (Land Law 2001, Article 23 to 25).

15. According to the new constitution of 1993 and the Land Law of 2001 five main categories of property on land can be distinguished:

- a) Private land,
- b) State public land (all areas need for public services such as roads, riverbanks, etc.),
- c) State private land (all other areas owned by the state),
- d) Communal land, and
- e) Indigenous land.

16. Cambodia's Administration Law of 2001, Article 43, stipulates the Commune Council's role in protecting and preserving the environment and natural resources. They also have a role in the classifying and setting of boundaries for all forests in their area of jurisdiction, in coordination with the Ministry of Agriculture, Fisheries and Forestry (Forestry Law 2002, Article 10).

17. **Forestry Law 2003.** The Forestry Law authorizes the granting of forest concessions. The sub-decree on the Management of Forest Concessions states that cancelled or revoked forest concessions shall revert to natural forest protected areas and cannot be converted into an Economic Land Concession (ELC) or awarded to other companies.

18. **Protected Area Law of 2005.** Article 21: The Natural Protection and Conservation Administration shall develop an implementation plan for managing each Protected Area (PA) designated by the Ministry of Environment and pursuant to the national strategic plan. The process of developing the implementation plan for managing each protected area shall be conducted in coordination and consultation with local authorities, local communities, indigenous ethnic minorities, and other stakeholders.

19. Article 30: The Natural Protection and Conservation Administration shall have the duties to conduct feasibility studies for organizing a PA community by identifying a clear location and an appropriate size through consultation and coordination with the local authority, local community and indigenous ethnic minorities.

20. Article 11: The Natural Protection and Conservation Administration shall prepare proposals for establishing or modifying any protected areas based on research findings, criteria, management objectives, rights to use natural resources, rights to land ownership, and other relevant factors. The following shall be attached with the proposals for establishing or modifying any protected areas:

- a) A description of the importance of biodiversity, landscape, geography, history, culture, and conservation for the area to be proposed or modified as a protected area.
- b) A legal description of the area to be proposed or modified with a map of clearly defined scale showing the exact location, boundaries and size of the protected area attached.
- c) The management objectives of the proposed area and threats.
- d) Study on the use of natural resources and land in the proposed protected area.
- e) Findings from consultations with relevant institutions and parties and representatives of local authorities located in or near the protected area proposed for establishing or modifying.

21. **Land Concessions 2003 and 2005.** A sub-decree on Social Land Concessions (SLC) was established in 2003 to accompany the implementation of the Land Allocation for Social and Economic Development Project (LASED). The SLC aims at providing state private land for purposes of settlement and family farming to private families particularly the poor, disabled soldiers, and families of deceased soldiers who have no or not enough land.

22. In late December 2005, the ELC sub-decree was established, defining a mechanism to grant state private land through a specific ELC contract to a concessionaire to use the land

for agricultural and agro-industrial production. This refers to the cultivation of food or industrial crops, animal raising and aquaculture and the construction of facilities for the processing of domestic agricultural raw materials (Sub-Decree No.146 on ELC, article 2). For an ELC, which can be granted to private or investment companies, it must have been classified and registered in the Land Register as state private land, complying with the necessary legal procedures (Land Law 2001 Article 17, Sub-Decree No.118 on State Land Management article. 3 & 21, Sub- Decree No. 146 on ELC article. 2).

23. All responsibilities and authorities in granting ELCs lie with the MAFF. The concession land cannot exceed 10,000 ha and may only be granted when some additional requirements are fulfilled as follows (sub decree No.146 on ELC, article 4 & 5):

- a) A land use plan for the land has been adopted by the Provincial or Municipal State Land Management Committee, and the land use is consistent with the plan.
- b) Environmental and social impact assessments have been completed with respect to the land use and development plan.
- c) There are solutions for resettlement issues in accordance with the existing legal framework and procedures. There shall be no involuntary resettlement and access to private land shall be respected.
- d) Public consultations have been conducted with territorial authorities and local residents, relating to economic land concession projects or proposals.

24. Moreover, the proposal for ELC has to be evaluated against criteria that include the promotion of people's living standards, perpetual environmental protection and natural resource management, avoidance or minimization of adverse social impacts, creation of increased employment and with linkages and mutual support between SLC and ELC.

25. **Decentralization Reform of 2005.** The government has initiated a decentralization program to be further responsive to community needs, indigenous peoples included. This emanates from the Land Law and subsequently passed legislation create additional opportunities for Commune Council involvement in participatory land use/natural resources and environmental management planning by clarifying issues related to state public and state private property, the designation of communal property that is managed and ultimately owned by indigenous communities, economic and social land concessions, procedures for creation of cadastral maps and land registers and land dispute resolution. While all of these issues can be worked into the commune development planning process, certain areas mandate direct involvement of commune councils.

26. The Commune Councils have a direct role to play in land conflict resolution procedures, creation of cadastral maps and land registries (both systematic and sporadic) and social land concessions. The provisions for social land concession planning are of critical importance; commune councils initiate the process at the local level, and it mirrors the commune development planning process, therefore creating the opportunity to integrate the two. It is hoped that the rules and regulations related to economic land concessions (industrial agricultural exploitation) will create a similar role, thereby further enhancing the ability of commune councils to be actively involved in land use/natural resource management planning.

27. **Organic Law 2008** recognises the vulnerability of IPs and sub-national level councils (at provincial and district and khan level in urban areas) are required to formulate development plans that identify the needs of vulnerable groups including the IPs. The Department of Ethnic Minorities, under the MRD, is the lead government agency working on IP issues.

28. **Registration of Lands of Indigenous Communities 2009.** Sub-decrees on tenurial security have been issued by the GKC to put in place procedures whereby IPs can process claims to their rightful lands (provided they are the majority population at commune level). Recognition and certification of lands among IPs are ongoing with the issuance of the 2009 Sub-Decree on Procedures of Registration of Lands of Indigenous Communities.

29. **Other Policy Considerations.** Apart from its Constitution and other national laws, Cambodia has adopted and supports the UN Declaration of Rights of Indigenous Peoples (IP) by way of ending discrimination and promoting the rights of Cambodia's recognized IPs.

3.3 Relevant International Agreements

30. Other legal considerations for this IPPF are international instruments which Cambodia has adopted. The policies include the UN Declaration of Rights of Indigenous Peoples that has the objective of ending discrimination and promoting the rights of Cambodia's recognized indigenous peoples. The **UN Declaration on the Right of Indigenous People** was adopted by the United Nations General Assembly in September 2007. Many countries in the world including Cambodia have voted in favour of this non-binding declaration. Other relevant international policies adopted by Cambodia are the **International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)**, the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**. The ICERD Article 5(e) ensures the enjoyment, on an equal footing and without discrimination, of economic, social and cultural rights, in particular the right to education and training. The ICESCR Article 13 includes the provision of free primary education irrespective of gender, ethnicity or any other consideration and commits the state party to make secondary education generally available and accessible to all, including through the progressive introduction of free education, and to working towards the provision of equal access to tertiary education, including through the provision of free secondary education. The government ratified the ICESCR in 1992.

3.4 AIIB Policy on Indigenous Peoples

31. The AIIB Environmental and Social Framework (ESF) sets out the requirements for all Bank supported operations to comply with the Bank policies addressing environmental and social impacts, among other policies.³ The ESF includes three mandatory Environmental and Social Standards (ESSs) that detail the requirements applicable to Bank clients on, respectively: Environment and Social Assessment and Management (ESS 1), Land Acquisition and Involuntary Resettlement (ESS 2) and Indigenous Peoples (ESS 3).

32. **Objective:** The objective of the ESS 3 is to enable the design and implementation of Projects in a way that fosters full respect for IPs identity, dignity, human rights, economies and cultures, as defined by the IPs themselves, so that: (a) they receive culturally appropriate social and economic benefits; (b) they do not suffer adverse impacts as a result of Projects; and (c) can participate actively in Projects that affect them.

33. **Scope and application:** The ESS 3 applies if IPs are present in, or have a collective attachment to, the proposed area of a subproject, and are likely to be affected by the subproject. The term IP is used in a generic sense to refer to a distinct social and cultural group possessing the following characteristics in varying degrees: (a) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (b) collective attachment to geographically distinct habitats, ancestral territories or areas of seasonal use or occupation in the subproject area and to the natural resources in this area; (c) customary cultural, economic, social or political institutions that are distinct or separate from those of the dominant society or culture; and (d) a distinct language or dialect, often different from the official language or languages of the country in which they reside.⁴ In considering these characteristics, national legislation, customary law and any international conventions to which the member in whose territory the subproject is located is a party may be taken into account. 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 as an IP under ESS 3.

³ <https://www.aiib.org/en/policies-strategies/download/environment-framework/AIIB-Revised-Environmental-and-Social-Framework-ESF-May-2021-final.pdf>

⁴ Some characteristics may have been eroded or be less evident for some groups or communities through integration into the broader society or economy

34. **Indigenous Peoples Planning Framework:** An Indigenous Peoples Planning Framework (IPPF) is prepared when a Project is likely to involve IPs and consist of a program or series of activities whose details had not yet been identified at the time the Project was approved by the Bank. In the case of this Project, and under exceptional circumstances, the AIIB determined that the environmental and social assessment of the identified Project activities could be conducted using a phased approach as defined under Section E, *Special Circumstances of the IPP* of the ESS 3, during the development of the activities in conformity with the IPPF that is approved by the Bank.

35. **Indigenous Peoples Plan:** Generally, if the subproject process determines that IPs are present in, or have collective attachment to, a subproject area, and furthermore are likely to be affected by the subproject, the Project is required to prepare an Indigenous Peoples Plan (IPP). The IPP should draw on indigenous knowledge and participation by any affected IP communities and take into consideration differentiated impacts of the Project with respect to gender and different generations. The IPP includes (a) a framework for continued consultation with those affected IPs during the subproject implementation; (b) measures to provide these IPs with gender sensitive and culturally appropriate benefits; (c) measures to avoid, minimize, mitigate, offset or compensate for any adverse subproject impacts, and actions to address these impacts on the different groups in the community; (d) culturally appropriate grievance procedures, monitoring and evaluation arrangements; and (e) a budget and time-bound actions for implementing the planned measures.

3.5 Equivalence and Gaps of the GKC and AIIB Policies on Indigenous Peoples

36. Despite the fact that Cambodia has a policy that recognizes the rights of IPs to culture, education, justice, health, environment, land, agriculture, water resources and infrastructure among others, there are no decrees, sub-decrees or procedures for specific safeguards to protect the interest of IPs, other than those related to land or forestry. The Cambodia Land Law does recognize the right of indigenous communities in Cambodia to own immovable property - their land - with collective title. However, in practice, the procedure to register collective title can be very time consuming and only a few indigenous communities have received collective title since the Land Law was enacted in 2001. Similarly, the Forest Law also guarantees and recognizes the right of IPs to continue the use and access to certain forest areas that they traditionally use and practice.

37. Overall, there is an acceptable level of consistency between the government system and the AIIB standards on IPs. The self-identification process of indigenous communities defined in the national policy is broadly consistent with international good practice. The national framework does not exclude communities who have become more mainstream, and indigenous communities may apply for legal status regardless of whether or not they still use their own language or practice traditional agriculture.

38. However, while there are some complementary links between Cambodian laws and regulations related to IPs and the ESS 3, there are no sufficiently detailed regulations or operating procedures to facilitate full implementation of the IPPs. Therefore, this IPPF has been prepared on the basis of the ESS 3 by taking into account relevant Cambodian policies and regulations. The IPPF also outlines the Grievance Redress Mechanism (GRM), based on the GRM that is used for the Project, which will need to be further refined in consultation with IPs, if any are found to be residing at any subproject sites.

4. IDENTIFICATION OF AFFECTED IPs IN PROJECT AREAS

4.1 Demographics

39. The population of Cambodia is a multi-ethnic society with an estimated current population of at 15.3 million with an average annual growth rate of 1.4 percent and 51.5

percent female.⁵ Life expectancy for men is 68 years and for 72 years for women. The predominant ethnic groups are Cambodian (90%), Vietnamese (5%), Chinese (1%) and others small numbers of *Cham*, Laos and hill tribes (4%). However, the numbers of IPs are imprecise since Khmer is the official language and is spoken by the almost the entire population aside from very small numbers of IPs residing in some remote villages in the north-east of the country and even in these villages the children are attending local schools in which Khmer is taught. Poor people are estimated at 17.8 percent of the population, having risen slightly as a result of the CoVID-19 pandemic, and at least 10 percent of poor people are landless. Landlessness is one of the causes of internal migration. Movement is from the more densely populated provinces to more sparsely populated and poorer provinces, particularly to IP areas. The country's poor households include subsistence farmers, members of poor fishing communities, landless people and rural youth, as well as internally displaced persons and landmine victims. Tribal peoples and women are generally the most disadvantaged.

40. The indigenous population statistics are the responsibility of the National Institute of Statistics of the Ministry of Planning with collaboration with the Ministry of Rural Development and Ministry of Interior. They communicate through the channel of the National Committee for Decentralization and Deconcentration (NCDD) and collaborate with the Commune Councils in gathering annual population statistics, including those for the indigenous population. The NCDD consolidates and aggregates data for the indigenous population at the national level. Cambodia has a specific national policy on indigenous peoples (NPDIP).

41. However, there are no definitive population figures for IPs and the national censuses are an imprecise gauge of it. Based upon the inventory of officially recognised IPs compiled by the MRD the population numbers about 73,000 that is equivalent to only 0.4 percent of the total population. Indigenous communities are recorded over 10 provinces of Cambodia, with almost 70 percent located in Ratanak Kiri and Mondul Kiri provinces. There are 14 groups of indigenous minorities in Cambodia, who are also referred to as Khmer-Loeu (hill-tribes). The major groups among the indigenous communities are the Phnong, Kuoy, Tumpuon, Charay and Kroeung.

42. The IPs have their own religious practices based upon belief in a god and the conduct of traditional ceremonies involving animal sacrifice. In general they have adopted the clothing styles of the mainstream Khmer culture and only some of the older generations wear traditional costumes including the use of basket on the back for transportation of produce. There is no clear division of labour between men and women in traditional agriculture but men tend to predominate in the harvesting of non-timber forest products.

4.2 Education

43. While there are few official ethnicity-based education statistics, a lack of inclusion in education can be inferred from the fact that IPs live in those regions with predominantly higher poverty rates and lower school enrolment, including Ratanak Kiri and Mondul Kiri in the north-east of the country. The IP attitudes to education are mixed, as the parents want their children to be literate in Khmer in order to take advantage of the opportunities in the modern world and to avoid being looked down on. At school, not only is the language of study Khmer but the content is exclusively oriented to Khmer values, meaning that indigenous children are at a distinct disadvantage when they start school. Some IP groups (e.g., Phnong) have accepted and absorbed many mainstream values and school attendance is therefore higher. However, other groups (e.g., Jarai or Stieng) that reside in remote border areas have shown a reluctance to send their children to school since they see no benefit since their livelihoods are based on collection of timber products and traditional agriculture.

⁵ Cambodian National Census 2019.

https://www.nis.gov.kh/nis/Census2019/Provisional%20Population%20Census%202019_English_FINAL.pdf

4.3 Livelihoods

44. The IPs from the south-western (including KKG province) and the north-eastern provinces of Cambodia have similar cultural practices. Their livelihoods are based on animal husbandry and rotational (shifting) cultivation (slash and burn) cultivation as well as wetland rice cultivation. In their traditional upland rice cultivation, forest areas are cleared by family groups and burned to establish plots of land that are farmed for several years. Clearing new plots of land every year allows previously farmed plots to remain fallow and regain their fertility until they are fit to be reused. Although some IPs began lowland rice farming in the 1960s they still keep fallow fields where they farm upland rice and other crops including vegetables, root crops, gourds, fruits and non-food crops like tobacco and cotton. Apart from cultivation, IPs also collect non-timber forest products from the natural forest (i.e. chopping rattan and plucking vine, tapping resin, picking (collecting, harvesting) cardamom, honey etc.), and weaving which are the main sources of their household income.

45. Indigenous groups are increasingly finding that the land available to them for hunting, gathering non-timber forest products, and shifting cultivation is rapidly shrinking. Loss of land is the most serious threat to the livelihoods of indigenous groups. Land disputes and land grabbing are issues for some communities, while the widespread lack of land titles, especially for shifting agriculture, is a general issue in most IP provinces. As a result, land alienation has contributed to a loss of jobs, impoverished livelihoods and health, the loss of opportunity to attend school, and the loss of traditional and cultural practices. The poverty of indigenous communities is also related to IPs lack of representation in decision-making and in formulating and enforcing policies and laws.

5. SCREENING FOR INDIGENOUS PEOPLE

46. Using the screening form shown in Appendix 1, the following leading questions are posed in order to ascertain the presence of IPs within each of the subproject site villages:

- a) Are there socio-cultural groups in or use the subproject area who may be considered as hill tribes, ethnic minorities or indigenous communities within the subproject area?
- b) Are there national or local laws or policies as well as anthropological research or studies that consider these groups residing in or using the subproject area as belonging to ethnic minorities, IPs or cultural communities.
- c) Do such groups identify themselves as being part of a distinct social or cultural group?
- d) Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the dominant society in these habitats and territories.
- e) Do such groups maintain cultural, economic, social and political institutions distinct from the dominant society and culture?
- f) Do such groups speak a distinct language or dialect.
- g) Have such groups been historically, socially and ecologically marginalized, disempowered, excluded and/or discriminated against.
- h) Are such groups represented as IPs in any formal decision making bodies at the National or local levels.

47. If the results show that there are IPs residing within the proposed subproject area, a Social Impact Analysis (SIA) for IPs will be planned and scheduled and an IPP will be prepared and an outline of the IPP has been included in Appendix 3. The Environmental and Social Management due diligence process will be extended in scope to include the requirements for an SIA for the IPs.

6. POTENTIAL IMPACTS ON INDIGENOUS PEOPLES

6.1 Project Potential Benefits

48. The project is expected to benefit about 480,000 rural population in the targeted five provinces, maximising the benefits to the vulnerable groups (women, children and

unemployed returning migrants), whose socio-economic conditions have been adversely affected by the CoVID-19 pandemic.

49. The Project benefits will include:

- a) Incremental gains from short term employment opportunities during the construction phase for roads and community ponds.
- b) Easier access to services in the district and provincial towns including schools and health facilities as well as easier transport of farm products to local and other larger markets in urban centres generating more income for households.
- c) More reliable water supplies from the community ponds to supplement domestic water supplies during the dry season as well as water for irrigation of home gardens resulting in reliable year round production of more nutritious crops and improved food security.
- d) Improved standards of health and sanitation resulting from capacity building and better understanding of measures for CoVID-19 prevention.

50. The Project will make a contribution to reducing rural poverty in the target districts that will help to ease pressure to migrate from the rural areas to the urban centres as well as across the borders to neighbouring countries and will support the younger and older generations who remain unsupported in rural villages.

6.2 Potential Impacts and Mitigation Measures

51. The civil works that are financed under the Project cover the rehabilitation of existing rural roads within the existing road alignment (Right of Way) and rehabilitation of existing and construction of new community ponds. As a consequence of this, there are no or only very minimal land acquisition impacts. Nevertheless, if any IP communities are identified within the sites of the proposed subprojects and are found to suffer any impacts from land acquisition or loss of other assets this IPPF and the Project Environmental and Social Management Planning Framework (ESMPF) will both apply.

52. The direct beneficiaries of the subprojects will be local residents and communities living or operating businesses along the rural roads or using existing or newly constructed community ponds. While these communities may suffer temporary impacts relating to dust, traffic and noise during rehabilitation, in the long-term they will benefit from improved access to markets, schools, hospitals and the provincial towns as well as more reliable access to water for household and home garden use as well as the short-term opportunities for employment during the construction period.

53. Civil works often result in an influx of workers to the area even where steps are taken to minimize this by encouraging the hiring of local labour. An influx of workers in an area could cause disturbances to IPs and would need to be managed carefully and with cultural sensitivity as well as in consultation with the IP community. Other potential issues could involve road design and designated pond if, for example, trees that are important to IP communities need to be cut to rehabilitate the road/pond. Therefore, it is essential that if IP communities are found along the road or within the area of a community pond or having a collective attachment to areas along or near the road or pond, that these communities are closely consulted on the design as well as on identifying potential risks of improving these civil works.

6.3 Potential Negative impacts

54. Despite the aforementioned benefits, the Project could bring about a number of adverse social impacts that can be mitigated. Some of the anticipated negative impacts and potential mitigation measures are as follows:

- a) **Increase in trafficking, migration and encroachment:** With the rehabilitation or rural infrastructure through upgrading of the rural roads there is a potential for an increase in trafficking, as well as creating easier access to the land being used by the local residents including possible ancestral and conservation sites especially by outsiders or those not belonging to the same groups of IPs. Four of the target provinces have international borders but there are no IPs living in these areas. Community participatory

planning as well as secure incomes and employment opportunities as well as zoning and land use certification can provide the necessary tools to regulate such threats.

- b) **Social exclusion:** Commune, village and subproject selection requires that the Project entry has to seek prior approval from the Commune Chiefs and the district Governors, as well as the representatives of other local governance structures. This includes the methods of distributing benefits which may have to be directed through these entities. Although these protocols are imperative for the acceptability of each subproject, they can pose a challenge in securing broad community support for the subproject and ensuring that the members of the IPs benefit from it, regardless of their social status. Participatory, multi-stakeholder consultations together with development of priority identification as well as the Project's social and participatory monitoring tools will be used to mitigate this. In addition, meaningful consultation with IP communities should be conducted on rural road and community pond designs to identify any trees or plants that could be impacted by widening/enlarging. The public consultations that require the participation of IPs will be conducted in a manner that is conducive to their full participation without any barriers to women bringing young children to the meeting and the provision of drinking water and refreshments.
- c) **Increase in the value of land in the subproject areas.** Infrastructure and other investments introduced through the Project may increase the likelihood of land speculation, which may increase the selling of IP land rights to plantation and other investors. Benefits derived from such transactions will be transitory but a consequence could be the further marginalization of the IPs. The formation of community based multiple user groups relating to the infrastructure subprojects can provide some empowerment to counter such deals through partnerships with the local administrations.
- d) **Land acquisition and temporary social and environment disturbances:** Long-term, short-term impacts and noise and dust disturbances are expected to occur through infrastructure development during the construction. Consultation with IP communities would be required to agree on the location of worker's camps during the period of civil works. These impacts could be ameliorated by enabling the IP communities to market food and other products to the workers thus providing income generation opportunities to the IP communities. Mitigation measures for these types of adverse impacts are included in the ESMFP including specific provisions to minimise the risk of spread of communicable diseases as well as measures for preventing the spread of CoVID-19. .

7. SOCIAL IMPACT ASSESSMENT AND INDIGENOUS PEOPLES PLANNING

55. This section describes the essential steps in preparing the IPP and provides fundamental suggestions for consultations with IPs. Through the Environmental and Social Impact Assessment (ESIA) conducted for each subproject there will be an identification of the key stakeholders, beneficiaries and also the presence of any ethnic minority groups and where these are present there should be an adoption of a culturally appropriate and gender-sensitive approach in order to bring about meaningful consultations. The Project Management Unit (PMU) as well as the consulting firms recruited for the preparation of the detailed designs will include suitably qualified consultants so as to determine the impacts on IPs and also where necessary prepare the IPP in conjunction with the feasibility study. The IPP will draw on indigenous knowledge and participation by the affected communities that takes into consideration the differentiated impacts of the Project with respect to gender and different generations. The potential social impact risks of each subproject will be assessed to include those mitigation measures required for the achievement of acceptable IP safeguards.

7.1 Social Impact Assessment for Indigenous Peoples

56. The consulting firms, supported where necessary by the PMU consultants, will conduct the ESIA in a culturally and appropriate gender sensitive manner in consultation with the identified IP communities. The ESIA will (i) establish the baseline socio-economic profile of IPs in the subproject area; (ii) assess access and opportunities to be able to use basic social and economic services; (iii) determine the long and short terms, direct and indirect, and

positive and negative impacts of the subproject on each group's social, cultural and economic status; (iv) assess and validate which IPs will trigger the ESMPF principles; and (v) assess the subsequent approaches and resource requirements for addressing the various concerns and issues of the subproject that affect them. An IPP in conjunction with the subproject feasibility study will be prepared if the impacts on IPs are established.

57. The first step is to screen each subproject with the use of the form provided in Appendix 1 for the potential impacts that it may have on IPs. This should then be followed with a field-based ESIA. The Project team will ensure that appropriate IPs engagement strategies are used during the ESIA and that the Stakeholders Communication Strategy (included in the Project Operational Manual) is used during the consultation process. The ESIA will include (i) a review of the legal and institutional framework applicable to indigenous peoples in the subproject areas; (ii) collection of socio-economic baseline information of the affected IPs and their land ownership and use of natural resources; (iii) identification of the key subproject stakeholders and the appropriate process for consultations with IPs; (iv) assessment of the potential adverse and positive effects; (v) assessment of the perceptions of the affected IPs about the subproject and its impacts; and (vi) recommended measures to avoid, minimize, mitigate, and/or compensate for adverse effects and ensure that the IPs receive culturally appropriate benefits. Information will be gathered from separate group meetings with representatives of the various sections of the ethnic minority group communities, including their leaders; groups of men and women, and especially those individuals who live directly in the subproject areas.

7.2 Indigenous Peoples Plan

58. The IPP will be developed in order to respond to the issues identified in the ESIA and through the group consultations, and it will set out the necessary measures that need to be undertaken by the Project to ensure that:

- a) Affected IPs receive culturally appropriate social and economic benefits;
- b) When potential adverse impacts on IPs are identified, that these will be avoided to the maximum extent possible;
- c) Where this avoidance is proven to be impossible, based on the meaningful consultations with IP communities, the IPP will outline measures to minimize, mitigate, and compensate for the adverse impacts.

59. If physical displacement from customary lands should occur or trigger any of the conditions set forth under the ESS 3 policy on IPs, the IPP will include legal recognition of customary rights and territories for Project activities that involve customary land acquisition and ascertain broad community support. If a subproject involves involuntary resettlement impacts on IPs, a land acquisition and resettlement plan will be prepared based on the Resettlement Planning Framework (RPF).

60. A level of proportionality should be adopted to that an IPP is prepared such that its level of detail and comprehensiveness are proportional to the degree of the subproject impacts. Thus, the level of detail and comprehensiveness of an IPP will vary depending on the specific subproject and the nature of impacts to be addressed. If IPs are the sole or the overwhelming majority of the direct project beneficiaries, and when only positive impacts are identified, the elements of the IPP could be included in the overall subproject design rather than preparing a separate IPP. In such cases, there will be a need to provide a summary of how the subproject complies with the IPs safeguards and how the requirements for meaningful consultation have been fulfilled and how the accrual of benefits has been integrated into the subproject design.

61. Following the completion of detailed engineering design and detailed measurement surveys, the IPP will be updated. Mitigating measures to avoid adverse impacts on IPs and measures to enhance culturally appropriate development benefits will be adjusted, but the agreed outcomes as specified in the draft IPP will not be lowered or minimized. If new groups

of indigenous peoples are identified prior to submission of the final IPP, meaningful consultation will be undertaken with them also.

62. The Project will submit all IPPs that are prepared to AIB for clearance so that it can be publicly disclosed and posted on the AIB website together with the subproject ESMP and subproject related documents.

63. The MRD will be required to ensure that there are sufficient financial and human resources available before embarking on the preparation of an IPP. The IPP should be implemented in coordination with the local authorities and IP leaders. The activities and the outcomes of the IPPs implementation should be recorded in a manner and language understood by the ethnic groups and displayed in places accessible to them. Furthermore, this information should also be disseminated at the community, commune and district levels and through relevant government offices.

8. CONSULTATION, PARTICIPATION AND DISCLOSURE

8.1 Consultation and participation

64. **Subproject identification:** The selection of the subprojects is performed at the provincial level by the PIUs based on the priorities identified at the commune level through the existing commune development planning process. In any communes where IPs communities are residing they are a part of this planning process and are able to propose specific investments for improved rural infrastructure that could include both rural roads and community ponds.

65. **Subproject preparation:** The conduct of meaningful public consultations is an essential part of the process of design/preparation of the subprojects and in the case of any communes where IPs are residing they will be enabled to participate in these consultation processes as described in the ESMPF with due consideration for the removal of any constraints to their participation concerning language, level of literacy and potential social exclusion. Full consultation and information disclosure will be undertaken with all the affected IPs for the subprojects to ensure that the needs, priorities and preferences of IPs are adequately reflected. This includes their leaders, rights groups, community based organizations, line agencies and Project implementation unit representatives.

66. All consultations will be documented. The mitigation measures and strategies will be presented to the members of the ethnic minority groups at community level meetings so that they are able to provide their input before the measures are finalized. The mechanisms and procedures for the documentation of the consultation process that gains broad support from the affected IP communities will be undertaken in the following manner:

- a) Initial discussions are conducted with indigenous peoples to inform them about the subproject and the need for land.
- b) Focus group discussions inform indigenous peoples about the potential impacts and benefits from the subproject.
- c) An investigation of land ownership and a socio-economic survey is conducted to establish baseline information (e.g., income, livelihoods and basic social services);
- d) Community meeting(s) are held to further discuss IPs concerns and recommendations;
- e) A documentation of the outcome of the informal consultation process (i.e., minutes of meetings) is published; and
- f) A memorandum of agreement is signed with landowners that demonstrate their support of the use of customary land.

67. If a subproject requires the consent of the affected IP communities, meaningful consultations with affected individuals and/or their recognized representatives will be

undertaken so as to gain broad community support.⁶ This level of broad community support will be achieved when: (i) the majority of recognized representatives of the affected IP communities formally express their support; (ii) a considerable majority of the affected IP community members and particularly those most severely affected, provide their support either through formal agreements or through other informal means; (iii) any significant opposition or major disagreement has been resolved through a good faith negotiation process. The commune council and the Project must ensure that the most vulnerable elements of the IP community are adequately represented. This may include women, the elderly, and the poor. This support should be obtained through separate meetings that are sensitive to the issues affecting these vulnerable groups and are led by people who are acceptable to the particular subgroup.

68. **Subproject implementation:** During the civil work construction period there is a mechanism through the existing Provincial Resettlement Sub-Committee (PRSC) in each target province for the lodgement and resolution of grievances. In any communes with IP communities that are impacted by the civil works they are able to communicate any such grievances relating to adverse impacts suffered or to complaints regarding the standard of construction quality through their village leader, commune chief and the PRSC.

69. **Subproject completion and handover:** Upon completion of the civil work there will be official handover ceremonies organised at each subproject site and in communes where there are IPs residing they will be enabled and encouraged to participate in these ceremonies.

8.2 Disclosure of information

70. The disclosure of the information for the indigenous peoples will also apply the same principles set out in the ESMPF. The relevant information on the proposed subproject will be disclosed in a timely manner to IPs in a form and in a language(s) understandable to the IPs. The IPP and other detailed Project documents, as well as other relevant information that is to be disclosed to the affected IPs can be presented in a summarized form. Such documents would include key findings and provisions, and these could be presented as brochures that are written clearly in the local language. They should describe the benefits and mitigation measures that are to be undertaken, and also include information regarding the submission of grievances and means of obtaining further Project information.

9. GRIEVANCE REDRESS MECHANISM

71. The grievance redress mechanism (GRM) outlined in the ESMPF has been established in each target province will be used for all subprojects through the existing Provincial Resettlement Sub-Committee (PRSCs). The GRM includes a well-defined resolution mechanism to resolve grievances and complaints in a timely and satisfactory manner. The GRM is also designed to include a mechanism for addressing gender-related concerns and complaints including those relating to gender-based violence using an understandable and transparent process that is gender sensitive, culturally appropriate and readily accessible to all APs

72. Multiple points of entry are provided including in-person meetings, written complaints, telephone conversations, social media platforms and e-mail/telegram/messenger are included.

⁶ A requirement of ESF ESS 3, it is only free, prior and informed consultation (FPIC) is required and the project needs to obtain the broad community support of the affected IP communities. However, not all project activities will trigger the need for FPIC and the need to obtain broad community support. This relates only to activities under the Project that would: (a) have impacts on land and natural resources subject to traditional ownership or under customary occupation or use; (b) cause relocation of IPs from land and/or limitations on access to natural resources subject to traditional ownership or under customary occupation or use; or (c) have significant impacts on IPs cultural resources.

73. All affected persons, including IPs will be made fully aware of their rights and they will be provided with instructions on the procedures involved in filing a complaint. Should a complaint have been raised, the Project will consider it a priority for the implementation team to resolve the complaint as quickly as possible. This will be done at the local level through a process of conciliation and, if this is not possible, clear and transparent procedures will be provided for an appeal.

74. The GRM that has been established involves the following four stages:

- a) **Stage 1:** An AH will present their complaints and grievances verbally or in writing to the village chief, commune chief or PRSC. The receiving agent will be obliged to provide immediate written confirmation of receiving the complaint. If after 15 days the aggrieved AH does not hear from the village and commune chief or the Provincial Resettlement Sub-Committee (PRSC), or if he/she is not satisfied with the decision taken in the first stage, the complaint may be brought to the District Office.
- b) **Stage 2:** The District Office has 15 days within which to resolve the complaint to the satisfaction of all concerned. If the complaint cannot be solved at this stage, the District Office will bring the case to the PRSC.
- c) **Stage 3:** The PRSC/Working Group (WG) meets with the aggrieved party and tries to resolve the situation. The Committee may ask for a review of the detailed measurement survey by the provincial Department of Land Management, Urban Planning, Construction and Cadastral (DLMUPCC). Within 30 days of the submission of the grievance, the PRSC/WG must make a written decision and submit copies to the PRSC members, the MRD/PMU and the AH(s).
- d) **Stage 4:** If the aggrieved AH does not hear from the PRSC or is not satisfied, s/he can bring the case to Provincial Court. This is the final stage for adjudicating complaints. The Court will make a written decision and submit copies to the MRD/PMU, Provincial Department of Rural Development (PDRD) and the AHs). If any party is still unsatisfied with the Provincial Court judgment, he or she can bring the case to a higher-level court.

10. SUBPROJECT IMPLEMENTATION AND MONITORING

75. The provincial Project Implementation Units (PIUs), assisted by the MRD PMU Environmental and Social Management Unit (ESMU) team, will be responsible for ensuring the effective implementation of the subproject IPPs in close cooperation with relevant local authorities and other partners including the district administration and the commune council.

76. The PMU ESME is staffed with three counterpart staff and supported by a Social Safeguard Specialist, whilst at provincial level the PIUs are each staffed with five counterpart staff and two technical staff (one for roads and one for community ponds) are tasked with supporting safeguard procedures including the implementation of the IPPs where these are prepared for specific subprojects. The PMU Social Safeguard Specialist will be responsible for the delivery of skills-based capacity building training for the PIU teams as well as the PMU ESME. They will assist in integrating the IPs concerns into all Project activities, working closely with the PIUs, as well as orientating staff in project agencies on social inclusion issues (including inclusion of indigenous peoples and other ethnic minorities). Ethnic minority group indicators will also be included in all baseline surveys/studies.

77. The PMU Social Safeguard Specialist will be responsible for monitoring the implementation of and compliance with the disclosed IPP and will ensure that this information is incorporated into the semi-annual monitoring reports on the ESMP that are prepared and submitted to AIIB. These monitoring reports will provide data and analysis on IP related aspects. In addition, the midterm review will assess IPP related achievements, identify constraints in implementing the IPPs and recommend adjustments to the IPPs.

11. BUDGET AND FINANCING

78. MRD will ensure that sufficient resources are allocated for the preparation of the IPPs for all subprojects which will have impacts on IPs. A detailed budget will be prepared by MRD/PMU for such subprojects, taking into account all activities associated with the

formulation and implementation of IPPs. Due to the nature of the subprojects it is expected that most of the costs required to implement mitigation measures that provide other forms of benefit (capacity building training, short term employment generation, improved sanitation practices, etc.) for the IPs will be borne by the components that cover capacity building, community mobilization for the design, operation and maintenance and raising community awareness on safe water use, sanitation and hygiene improvements. In case additional budgets are required, these will be reflected in the IPPs and become an integral part of the subproject cost and will be made available by MRD during implementation. The MRD/PMU will transfer the required amount to the PIUs as required.

ANNEX 1: IP SCREENING CHECKLIST**Indigenous Peoples (IP) safeguards screening checklist**

Province-Capital:	Municipality-District-Khan:	Location map attached		
		Yes	No	
Commune-Sangkat:	Village:	Street-road No.:		
Type of civil work/activity:				
Brief description of work/activity and location of civil work: <i>[Roads, community pond. required/purpose of civil work, (table/explain each activity) number of village (number of population) affected with explanation about the affected community]</i>				
Screening checklist				
Questions	Yes	No	Not known	Remarks
A. Indigenous Peoples Identification				
1. Are there socio-cultural groups present in or use the Project/Subproject area who may be considered as "tribes" (hill tribes, schedules tribes, tribal peoples), "minorities" (ethnic or national minorities), or "indigenous communities" in the Subproject area?				
2. Are there national or local laws or policies as well as anthropological research/studies that consider these groups present in or using the subproject are as belonging to "ethnic minorities", scheduled tribes, tribal peoples, national minorities, or cultural communities?				
3. Do such groups self-identify as being part of a distinct social and cultural group?				
4. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories?				
5. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture?				
6. Do such groups speak a distinct language or dialect?				
7. Has such groups been historically, socially and economically marginalized, disempowered, excluded, and/or discriminated against?				
8. Are such groups represented as "Indigenous Peoples" or as "ethnic minorities" or "scheduled tribes" or "tribal populations" in any formal decision-making bodies at the national or local levels?				

Questions	Yes	No	Not known	Remarks
B. Identification of potential impacts (provide elaboration in Remarks column)				
9. Will the subproject directly or indirectly benefit or target IPs?				
10. Will the subproject directly or indirectly affect Indigenous Peoples' traditional sociocultural and belief practices? (e.g. childrearing, health, education, arts, and governance)				
11. Will the subproject affect the livelihood systems of Indigenous Peoples? (e.g., food production system, natural resource management, crafts and trade, employment status)				
12. Will the subproject be in an area (land or territory) occupied, owned, or used by Indigenous Peoples, and/or claimed as ancestral domain?				
C. Identification of Specialist Requirements				
13. Commercial development of the cultural resources and knowledge of IPs?				
14. Physical displacement from traditional or customary lands?				
15. Commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of Indigenous Peoples?				
16. Establishing legal recognition of rights to lands and territories that are traditionally owned or customarily used, occupied or claimed by IPs?				
17. Acquisition of lands that are traditionally owned or customarily used, occupied or claimed by IPs?				
Anticipated impact on IPs				
Subproject activities		Expected positive impact	Expected negative impact	
Subproject Category	Subproject eligibility	Next steps		
A. Subproject has impacts (negative or positive) on IP communities residing within the subproject area.	A/B	Prepare IPP describing the completion of meaningful consultations with the IPs and the identification of appropriate mitigation measures to obviate or mitigate any identified negative impacts.		
B. Subproject has no impacts sine there are no IP communities residing in the subproject area.	C	No IPP required and no further action is needed.		

IP Screening checklist by:		
	Name	Position:
	Signature	Date:

ANNEX 2: LIST OF INDIGENOUS PEOPLES RECOGNIZED BY MRD

No	District	Commune /Sangkat	Village	Ethnic	Committee of Community			Community statistics			Letter recognition by MRD	Hand Phone of Community Leader	Remarks	
					Total population	Female	Name of Community Leader	HH	Total population	Female				
1. Ratanakiri														
1	Borkeo	Kak	Sala	Charay	13	3	L. RoChom Hieng	72	302	-	0710/10K. C. Z. 24.05.10	099208936	ICSO	
2			Chhrung	Charay	13	5	L. RoChom Suon	97	444	-	0712/10K C. Z. 24.05.10	-	ICSO	
3		Laminh	Sou	Tumpuon	9	2	L. Ting Kuok	83	381	-	0296/10K Z C. 16.12.10	0975811410	ICSO	
4		Keh Chong	Pa Or	Tumpuon	13	4	L. RoMas Song	105	507	-	0708/10K C Z. 24.05.10	-	ICSO	
5			Sa Krieng	Tumpuon	13	4	L. Khvas Rieng	143	744	370	0984/12K Z C. 19.07.12	0972366934	ICSO	
6		Sueng	Soeung	Tumpuon	7	-	L. RoMam Ngoeun	41	190	-	1262/11K Z C. 26.7.11	0889886927	ICSO	
7			Yeam	Tumpuon	9	2	L. RoMam Ngoy	159	725	-	0299/10K Z C. 16.12.10	-	HA	
8		Lung Kung	Pa Or	Tumpuon	9	1	L. Leu Theu	156	635	328	0984/19K Z C. 02.07.19	-	ICSO	
9	Ou Yadav	Pat Te	Plangk	Charay	13	3	L. RoMam Hlin	81	377	188	0711/10K Z C. 24.05.10	-	ICSO	
10			Kong Yu	Charay	13	-	L. RoMam Thorn	57	268	-	0304/10K Z C. 16.12.10	-	ICSO	
11			Kong Thum	Charay	13	-	L. RoChom Dvin	193	1005	-	0302/10K Z C. 16.12.10	-	ICSO	
12		Lum Chor	Lai	Charay	11	-	L. RoChom Hvang	89	490	245	1530/10K Z C. 23.09.10	-	ICSO	
13		Ya Tung	Peak	Charay	13	4	L. Sev Phiel	118	572	-	1531/10K Z C. 23.09.10	-	ICSO	
14	Ou Yadav	Bor Kham	Pok Nhai	Charay	13	-	L. Chroek BunThen	94	449	213	0993/12K Z C. 19.07.12	-	ICSO	
15			Takok Charay	Charay	9	2	L. Sev Soeunh	87	408	201	0989/12 K Z C. 19.07.12	0888873083	ICSO	
16			Pril	Charay	13	5	L. RoMam Hlort	39	145	69	1406/13K Z C. 02.09.13	-	ICSO	
17	Ou Chum	Boi	Pa Tang	Charay	7	1	L. Sev Liet	61	310	150	1254/15 K Z C. 16.07.15	0976514290	ICSO	
18			Kann Chhoeung	Kroeng	13	4	L. Chrum Kiv	95	425	192	0714/10 K C Z. 24.05.10	-	NTFP	
19	Ou Chum	Kresh	Kroeng	9	2	L. Phlong Cha Vann	70	263	-	0715/10K C Z. 24.05.10	-	NTFP		
20			Kong Koy	Kroeng	7	3	L. Lam BasVieng	40	145	-	0717/10K C Z. 24.05.10	-	NTFP	
21			Ta Ngach	Kroeng	7	1	L. Cha Laek Praty	62	219	102	1264/11K Z C. 26.07.11	-	NTFP	
22			Khlaeng	Kroeng	13	3	L. Thon Ten	156	544	-	1412/13 K Z C. 02.09.13	078240870	DPA	
23			Sway	Kroeng	13	-	L. LoL. Chheouy	72	332	-	0992/12 K Z C. 19.07.12	0979951820	ICSO	
24		Mass	Kroeng	7	-	L. Loeun Phoeun	83	443	181	0982/19 K Z C. 02.07.19	-	ICSO		
25		La Ork	Kro Long	Kroeng	7	-	L. Biem Khem	57	223	-	0996/12K Z C. 10.07.12	0975163281	ICSO	
26			Kam	Kroeng	9	1	L. Vorn Cha Vaen	152	659	-	1532/10K Z C. 23.09.10	-	ICSO	
27		Ou Chum	Tong Kamal	Kroeng	13	-	L. Moeng Yay	104	357	218	0301/10K Z C. 16.12.10	092377650	ICSO	
28			Thouy Tom	Kroeng	5	-	L. Sor Tha Norm	100	431	210	1009/12 K Z C. 23.07.12	-	ICSO	
29	Cha Ong	Thouy Ampil	Kroeng	9	2	L. Chouy Baromei	189	806	386	0983/19 K Z C. 02.07.19	-	ICSO		
30		Samat Kroam	Tumpuon	6	2	L. Thann Mlael	157	838	420	0713/10K Z C. 24.05.10	0976465230	ICSO		
31	Lum Phat	Se Da	Tumpuon	13	3	L. Hiek Thvaen	167	848	425	0716/10K Z C. 24.05.10	-	ICSO		
32			Thmey	Tumpuon	11	3	L. Soum Vanny	170	782	400	1537/10K Z C. 23.09.10	0975905847	ICSO	
33			Pat Tok	Tumpuon	7	-	L. In Kham Baek	93	-	-	1464/12K Z C. 09.10.12	-	ICSO	
34			Kaeng Sann	Tumpuon	15	5	L. Sin Bodaeng	107	537	265	1252/15 K Z C. 16.07.15	0889958275	ICSO	
35		La Bang 2	Ka Tieng	Prov	7	2	L. Mi Aen	114	459	-	1533/10K Z C. 23.09.10	-	ICSO	
36			Ka Chanh	Prov	7	0	L. Yon Khoem	125	350	-	0297/10K Z C. 16.12.10	-	ICSO	
37		Ba Tang	Ba Tang	Tumpuon	9	3	L. Thoun Chan	145	675	385	1536/10K Z C. 23.09.10	-	ICSO	
38			Ka Tieng	Prov	9	-	L. Song Som Noug	68	256	129	095/12 K Z C. 19.07.12	-	ICSO	
39	La Bang 1	Kam Phlenh	Prov	7	1	L. Tev Nai	100	345	175	0985/19 K Z C. 02.07.19	-	ICSO		
40	Ta Veaeng	Ta Vaeang Kroam	Phyang	Prov	9	-	L. Boern Khaen	64	249	126	1413/13K Z C. 02.09.13	0889668733	SVC	
41			Sieng Say	Prov	9	4	L. Houn Kalob	59	208	-	1415/13/K Z C. 02.09.13	-	SVC	
42			Ke Koug	Prov	9	-	L. Yors Khoan	31	133	65	1410/13 K Z C. 02.09.13	0975832849	SVC	
43			Tumpuon Roeng Tou	Prov	9	4	L. Khlang York	60	230	98	1414/13 K Z C. 02.09.13	0888450269	SVC	
44	Ta Veaeng	Ta Vaeang Kroam	Tun	Kroeng	13	5	L. Thi Trin	94	500	202	1407/13 K Z C. 02.09.13	0976437642	GAA	
45			Tumpuon Roeng Tho	Prov	13	4	L. Cham Sdey	149	578	275	1253/15K Z C. 16.07.15	0972000662	CEDAC	
46		Ta Ngach	Lun	7	2	L. Mei Sovann	38	168	78	0381/17 K Z C. 20.04.17	-	CEDAC		
47		Phav	Prov	11	2	Naeng Chan Thorn	169	691	323	0466/18 K Z C. 19.03.18	-	CEDAC		
48		Phioeu Thom	Prov	11	4	L. Proeut Ka Tieb	64	244	124	0346/17 K Z C. 18.04.17	-	CEDAC		
49			Chhouy	Kroeng	11	2	L. Ka Liem Ton	117	456	228	0347/17 K Z C. 18.04.17	-	CEDAC	
50		Ta Bouk	Prov	15	2	L. Hiv Pann Sak	113	456	249	0380/17 K Z C. 20.04.17	-	CEDAC		
51		Pang Kit	Prov	9	2	Kham Like Pak	100	356	177	0465/18K Z C. 19.03.18	-	CEDAC		
52		Chan	Kroeng	9	1	Pel Pak	57	229	107	0467/17 K Z C. 19.03.18	-	CEDAC		
53		Ke Koug	Prov	7	2	Pout Kham Chorn	77	253	137	0468/18 K Z C. 19.03.18	-	CEDAC		
54		Reing Venh	Prov	9	2	Saeng Rieng	76	299	157	0469/18 K Z C. 19.03.18	-	CEDAC		
55		Kon Mom	Tuen	Kam Bak	Kroeng	6	2	L. Kong Phien	104	422	-	0298/10K Z C. 16.12.10	0976205935	HA
56				Ta Hoeuy	Kroeng	13	9	L. Srong Planh	176	693	339	1411/13 K Z C. 02.09.13	-	DPA
57			Toeun	Kroeng	11	4	L. Nun Song	152	574	340	1409/13 K Z C. 02.09.13	0978878279	DPA	
58	TA Ang		Ta Ong Ka Te	Kroeng	9	5	L. Pting Savann	108	403	202	1408/13K Z C. 02.09.13	0976185028	DPA	
59		Tus	Kroeng	7	1	L. Tev Kanang	102	399	194	1251/15K Z C. 16.07.15	0978088325	DPA		
60	Vuen Sai	Kak Lak	Rork	Kavet	13	5	L. Kleri Phann	175	727	481	1469/12K Z C. 09.10.12	-	NTFP	
61			La Lai	Kavet	13	5	L. Kdoeut Sieb	106	444	238	1470/12 K Z C. 09.10.12	-	NTFP	
62	Andoung Meas	Ta Lav	Ka Nath	Kachok	-	-	L. Sal Mhoeuy	161	788	-	0300/10K Z C. 16.12.10	-	HA	
63			In	Kachok	9	1	L. RoMam Choeuy	86	417	212	2275/18 K Z C. 31.12.18	090443766	CEDAC	
64			Kark	Kachok	13	5	L. Sal Soeuy	104	504	260	2276/18K Z C. 31.12.18	0088497369	CEDAC	
65		Malis	Loam	Charay	9	-	L. RoChom Phamm	106	444	207	1416/13K Z C. 02.09.13	0979247829	DPA	
66			Tumpuon	13	5	L. RoMam Min	226	1027	-	0303/10K Z C. 16.12.10	-	HA		
67		Nhang	Kaet	Charay	11	4	L. RoMam Lieng	159	754	-	1254/15K Z C. 16.07.15	0972293880	ICSO	
68			Dal	Charay	9	3	L. Klan Vaen	309	148	161	1250/15 K Z C. 16.07.15	0977187808	ICSO	
69			Tang Che	Charay	7	1	L. Klan Nih	84	357	179	1249/15K Z C. 16.07.15	-	ICSO	
70			Ka Chuot	Charay	13	2	L. RoMam Thok	121	670	307	1248/15 K Z C. 16.07.15	089514505	ICSO	
71			Tang Se	Charay	7	1	L. Sal Oeun	320	1360	683	1247/15K Z C. 16.07.15	0976084847	ICSO	
72	Andoung Meas	Nhang	Ngang	Charay	9	2	L. RoChom Maek	65	271	130	1680/15K Z C. 29.09.15	-	GAA/ CEDAC	
73			Ta Nga	Charay	9	1	L. Sal Hsamm	93	403	194	0187/18K Z C. 05.02.18	-	CEDAC	
74			Muy	Charay	11	3	L. RoMas Sou	81	411	193	0188/18K Z C. 05.02.18	-		
75			Phaeng	Charay	9	2	L. RoMam York	67	304	162	0189/18K Z C. 05.02.18	-		

ANNEX 3: OUTLINE OF AN INDIGENOUS PEOPLES PLAN

An indigenous peoples plan (IPP) is required for all Projects with impacts on IPs. Its level of detail and comprehensiveness is commensurate with the significance of potential impacts on indigenous peoples. The substantive aspects of this outline will guide the preparation of IPPs, although not necessarily in the order shown.

A. Executive Summary of the Indigenous Peoples Plan

This section concisely describes the critical facts, significant findings, and recommended actions.

B. Description of the Project

This section provides a general description of the subproject, discusses the subproject interventions and activities that may bring impacts on indigenous peoples; and identifies the subproject area.

C. Social Impact Assessment

This section:

- a) Reviews the legal and institutional framework applicable to IPs in the subproject context.
- b) Provides baseline information on the demographic, social, cultural, and political characteristics of the affected indigenous peoples communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
- c) Identifies key Project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with indigenous peoples at each stage of subproject preparation and implementation, taking the review and baseline information into account.
- d) Assesses, based on meaningful consultation with the affected indigenous peoples, the potential adverse and positive effects of the Project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected indigenous peoples given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.
- e) Includes a gender-sensitive assessment of the affected IPs perceptions about the project and its impact on their social, economic, and cultural status.
- f) Identifies and recommends, based on meaningful consultation with the affected IPs, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the indigenous peoples receive culturally appropriate benefits under the Project.

D. Information Disclosure, Consultation, and Participation

This section: (i) describes the information disclosure, consultation, and participation process with the affected indigenous peoples that was carried out during subproject preparation; (ii) summarizes their comments on the results of the ESIA and identifies concerns raised during consultation and how these have been addressed in the Project design; (iii) in the case of Project activities requiring broad community support, documents the process and outcome of consultations with affected IPs and any agreement resulting from such consultations for the Project activities and safeguard measures addressing the impacts of such activities; (iv) describes consultation and participation mechanisms to be used during implementation to ensure ethnic minority participation during implementation; and (v) confirms disclosure of the draft and final IPP to the affected IPs.

E. Beneficial Measures

This section specifies the measures to ensure that the IPs receive social and economic benefits that are culturally appropriate, and gender responsive.

F. Mitigation Measures

This section specifies the measures to avoid adverse impacts on IPs; and where the avoidance is impossible, specifies the measures to minimize, mitigate and compensate for identified unavoidable adverse impacts for each affected indigenous peoples.

G. Capacity Building

This section provides measures to strengthen the social, legal, and technical capabilities of (i) government institutions to address IPs issues in the Project area; and (ii) IPs organizations in the Project area to enable them to represent the affected IPs more effectively.

H. Grievance Redress Mechanism

This section describes the procedures to redress grievances by affected IPs. It also explains how the procedures are accessible to indigenous peoples and culturally appropriate and gender sensitive.

I. Institutional Arrangement

This section describes institutional arrangement responsibilities and mechanisms for carrying out the various measures of the IPP. It also describes the process of including relevant local organizations and nongovernment organizations in carrying out the measures of the IPP.

J. Monitoring, Reporting and Evaluation

This section describes the mechanisms and benchmarks appropriate to the Project for monitoring and evaluating the implementation of the IPP. It also specifies arrangements for participation of affected indigenous peoples in the preparation and validation of monitoring, and evaluation reports.

K. Budget and Financing

This section provides an itemized budget for all activities described in the IPP.