



## Annex XIII (d-1) Stakeholder consultation



### MINISTRY OF ENVIRONMENT AND ENERGY NATIONAL STRATEGY TO REDUCE EMISSIONS FROM DEFORESTATION AND FOREST DEGRADATION REDD+ SECRETARIAT



Costa Rica has developed an entire consultation process for the National REDD+ Strategy for Indigenous Territories in compliance with Convention 169

Compiled and prepared by:

MARÍA ELENA HERRERA UGALDE  
LEVI SUCRE ROMERO

Document presenting the results of the consultation process  
Systematization of the compliance with the FPIC process

## Acronyms

ACICAFOC:	Central American Indigenous and Peasant Coordinator of Communal Agroforestry
ACOMUITA:	Association of Indigenous Women of Talamanca.
ADIs:	Indigenous Development Association.
ARADIKES:	Regional Aboriginal Association of Dikes.
ASP:	Protected Wildlife Areas
BTR:	Regional Territorial Blocks.
CATIE	Tropical Agricultural Research and Higher Education Centre
CBD:	Convention on Biological Diversity.
IFC:	Indigenous Forestry Chapter.
IACHR:	International Court of Human Rights.
FPIC:	Free, Prior and Informed Consent
CONAI:	National Commission on Indigenous Affairs.
UNFCCC;	United Nations Framework Convention on Climate Change
DINADECO	National Directorate for Community Development.
UNDRIP:	United Nations Declaration on the Rights of Indigenous Peoples
ENREDD:	National REDD+ Strategy Costa Rica.
FAO:	Food and Agriculture Organization of the United Nations
FCPF:	Forest Carbon Partnership Facility (FCPF)
FONAFIFO:	National Forest Financing Fund
GIZ:	German Agency for International Cooperation
INDER:	Institute of Rural Development.
INEC:	National Institute of Statistics and Census.
ITCO:	Institute of Land and Colonization.
MINAE:	Ministry of the Environment and Energy

ONF:	National Forestry Office.
ILO:	International Labour Organization.
OTI:	Indigenous Territorial Organizations.
GAP:	Gender Action Plan.
PLAN-RTI:	Plan for the Recovery of Indigenous Territories.
PIRs:	Relevant Stakeholders.
PES:	Payment for Environmental Services.
RFC:	Peasant Forestry Network.
RIBCA:	Bribri and Cabecar Indigenous Network.
RPP:	Readiness Proposal Program.
SESA:	Strategic Environmental and Social Assessment.
SINAC:	National System of Conservation Areas.
UICN:	International Union for the Conservation of Nature.
UNAFOR:	National Association of Agroforestry Organizations.
UNDRIP:	United Nations Declaration on the Rights of Indigenous Peoples

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## I. BACKGROUND

This document focuses on showing, in a systematized manner, the actions carried out by the Government of Costa Rica through the National Forest Financing Fund (FONAFIFO), which was designated by the Ministry of the Environment and Energy (MINAE) to work with the 24 existing indigenous territories in Costa Rica in the process of building the National REDD+ Strategy (ENREDD). The purpose is to show how international and national legislation was respected, the evolution of the indigenous vision on REDD+, and how participation and respect for the human rights of these populations were promoted.

This systematization shows the actions carried out internally, the processes carried out in a participatory manner together with the institutions, the communities in the indigenous territories and the Indigenous Comprehensive Development Associations (ADIs). It also shows the consensus that was reached voluntarily, which allowed the definition from their worldview and autonomy, of the ways in which their populations would be consulted in a free, prior and informed manner.

### 1.1 INTERNATIONAL AND NATIONAL LEGISLATION

- Convention 169 on Indigenous and Tribal Peoples of the International Labour Organization (ILO)

Convention 169 was adopted by the ILO Conference in a tripartite form (participation of governments, employers' and workers' organizations) in June 1989. Basically, it points to the State's obligation to guarantee conditions equivalent to those enjoyed by other sectors of the population, by providing indigenous peoples with the necessary means for economic and social development, while respecting their culture, identity and integrity and their traditions and institutions. This Convention is the only legal instrument of an international nature that protects, promotes and propagates the human, labour and economic rights of indigenous peoples (Martínez, M, 2002).

It literally states: "(a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures. It also delegates to governments the responsibility for **developing administrative actions and bodies to protect their rights, institutions, property, work, culture and environment**. Finally, another important aspect of this Convention is that it raises the right of indigenous peoples to decide what their interests are and to control the process of economic, social and cultural development (Martínez, M, 2002).

It is worth mentioning that this Convention also promotes the participation of women, since it establishes that, in order to improve the living, working, health, education and economic conditions of indigenous peoples, the participation of their members is indispensable; without any kind of exclusion on the basis of gender. ***Costa Rica ratified this Convention with Law No. 7316 of December 4, 1992, but before the Convention on April 2, 1993.***

- United Nations Declaration on the Rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous Peoples was adopted in New York on 13 September 2007 during the 61st session of the United Nations General Assembly. It addresses, among other issues, individual and collective rights, cultural rights and identity, and the rights to education, health, employment and language. It ***emphasizes the right of indigenous peoples to preserve and strengthen their own institutions, cultures and traditions and to work for their development in accordance with their aspirations and needs*** (UN,2019).

Free, Prior and Informed Consent (FPIC) is a principle protected by international human rights law, which states that '*all peoples have the right to self-determination*' and, linked to this, that '*all peoples have the right to freely pursue their economic, social and cultural development*'. Behind FPIC is the ***United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)***, the ***Convention on Biological Diversity*** and ***Convention 169 of the International Labour Organization***, which are the most powerful and comprehensive international instruments that recognize the plight of indigenous peoples and defend their rights. ***Through CPLI, indigenous peoples can give or withhold their consent to a project that affects them or their territories***. An interpretation of FPIC is presented below:

***Consent***: Consent given voluntarily and without coercion, intimidation or manipulation. A process that is self-directed by the community from which consent is sought, free of coercion, expectations or externally imposed timelines. It refers to the collective decision made by the rights holders and reached through the customary decision-making processes of the affected indigenous peoples or communities. ***Indigenous peoples and local communities must be able to participate through their freely elected representatives, while ensuring to the greatest extent possible the participation of youth, women, seniors and persons with disabilities*** (FAO, 2016).

***Free***: the nature of the undertaking and the type of information to be provided prior to seeking consent and as part of the ongoing consent process. This consent must not be coerced, intimidated or manipulated. ***It also reflects processes that are self-directed by the communities and in times, languages and formats determined by the right holders***. Finally, all community members are free to participate, without distinction as to gender, age or position (FAO, 2016).

***Prior***: consent is requested well in advance of any authorization or commencement of activities. This is collected well in advance, in the initial stages of a development or investment plan, and not only when the need to obtain community approval arises (FAO, 2016).

***Informed***: this refers mainly to the nature of the commitment and the type of information that must be provided before consent is obtained. ***Easily understandable information is provided in a transparent and clear manner. Provided in the local language and in a culturally appropriate format***. The information is provided by culturally appropriate personnel, in culturally appropriate locations, and including the training of indigenous or local trainers (FAO,2016).

- Convention on Biological Diversity

This Convention is a legally binding international treaty with three main objectives: the conservation of biological diversity, the sustainable use of its components and the fair and

equitable sharing of the benefits arising out of the utilization of genetic resources. Its overall objective is to promote measures that will lead to a sustainable future. ***It was ratified by Costa Rica by Act No. 7416 of 30 June 1994, published in La Gaceta No. 143 of 28 July 1994.***

The Convention on Biological Diversity covers biological diversity at all levels: ecosystems, species and genetic resources. It also covers biotechnology, inter alia, through the Cartagena Protocol on Biosafety. In fact, it covers all possible domains that are directly or indirectly related to biodiversity and its role in development, from science, politics and education, to agriculture, business, culture and much more (United Nations, 2019).

Article 6 of the Convention requires ratifiers to develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or to adapt existing strategies, plans or programmes to this end. Article 8 **(j)** further provides that Governments, subject to their national legislation, shall respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying lifestyles, and traditions relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

- United Nations Framework Convention on Climate Change

***The United Nations Framework Convention on Climate Change (UNFCCC), and its annexes were developed in New York in May 1992, and ratified by Costa Rica with Law No. 7414 of June 1994,*** which provides for the broadest possible cooperation by all countries, in accordance with their common but differentiated responsibilities, their capacities and their social and economic conditions, with the aim of taking the respective measures or completing the instruments to address climate change.

This Convention takes a very important step forward in indigenous issues when the COP 16, Cancun - 2010, defines from paragraph 70, the REDD+ measures on which, according to its capacities and national circumstances, the country can support in mitigation actions. It also establishes in paragraph 71, that the countries should develop, among other things, an information system on how the safeguards are being addressed and respected, which are indicated in Annex 1, and are presented below, in which two are direct related to actions with indigenous peoples:

(a) The complementarity or compatibility of measures with the objectives of national forest programmes and the conventions.....

(b) The transparency and effectiveness of national forest governance structures.....;

(c) ***Respect for the knowledge and rights of indigenous peoples and members of local communities, taking into account relevant international obligations and national circumstances and legislation, and bearing in mind that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;***

(d) ***The full and effective participation of stakeholders, in particular indigenous peoples and local communities, in the actions referred to in paragraphs 70 and 72 of this decision;***

- (e) The compatibility of measures with the conservation of natural forests and biological diversity, ensuring those referred to in paragraph 70;
- (f) The adoption of measures to address the risks of reversals,
- (g) The adoption of measures to reduce the displacement of emissions

Therefore, the promotion of initiatives developed by countries under emission reduction strategies, national contributions, national mitigation and adaptation measures, and other actions involving the participation of indigenous peoples or rural communities, should be included and monitored, under national information and safeguard reporting systems.

- Law No. 6172. Indigenous Law

This law was published in 1977 and defines who is an indigenous person for Costa Rica in its first article: "***Indigenous persons are those who constitute ethnic groups that are direct descendants of pre-Columbian civilizations and who preserve their own identity***". Indigenous reserves are declared as established in executive decrees numbers 5904-G of April 10, 1976, 6036-G of June 12, 1976, 6037-G of June 15, 1976, 7267-G and 7268-G of August 20, 1977, as well as the Guaymi Indigenous Reserve of Burica (Guaymi).

Likewise, Article 3 states: "Indigenous reserves are inalienable and imprescriptible, non-transferable and exclusive to the indigenous communities that inhabit them. Non-indigenous people may not rent, lease, purchase or otherwise acquire land or property within these reserves. Indigenous people will only be able to negotiate their lands with other indigenous people. The lands and their improvements and the products of the indigenous reserves will be exempt from all kinds of national or municipal taxes, present or future. In addition, the reserves will be governed by the indigenous people in their traditional community structures or by the laws of the Republic that govern them, under the coordination and advice of the National Commission for Indigenous Affairs (CONAI). Among other issues that are developed in the law.

It is important to emphasize that this law and its regulations are a very important national framework for action to address indigenous territories and their governance, from the conception of who is an indigenous person, to the way they are organized.

- Law No. 3589. On Community Development.

This law was promulgated on April 7, 1967, on which the National Directorate for Community Development (DINADECO) was created as a basic instrument for the organization of the country's communities, in order to achieve their active and conscious participation in the realization of the objectives of the National Economic and Social Development Plan.

**Chapter 3**, establishes that it is in the public interest to establish and operate associations for the development of communities, as a means of stimulating the population to join State bodies, for the economic and social development of the country. **Article 16** clarifies that, in order to establish comprehensive development associations, it will be necessary for them to bring together at least

one hundred people, and not more than fifteen hundred, over the age of fifteen, who are *interested in promoting, through joint and organized effort, the economic development and social and cultural progress of a given area of the country*. The jurisdictional area of a development association shall correspond to that territory which constitutes a natural basis for community grouping.

Through legislation, the Government established that the Indigenous Comprehensive Development Associations have legal representation of the indigenous communities and act as their local government (Executive Decree No. 13568 of April 30, 1982).

- Law No. 7788. Law on Biodiversity

It was published in the Costa Rica on April 23, 1998. This law provides a broad framework that establishes all actions in the use, management and conservation of biodiversity in the country. For the issue that concerns indigenous territories, the provisions of articles 81 to 85 are relevant, which address the topic on the use of licenses. In its article 81, in cases of declared national emergency, the State may issue a compulsory license for a patent involving elements of national biodiversity, for the benefit of the community, in order to resolve the emergency, in accordance with the provisions laid down in Law No. 6867 of April 25, 1983. As part of the fair and equitable distribution of benefits derived from access to national biodiversity elements and resources in favour of the community, each permit, agreement or concession for access to or use of such biodiversity elements and resources, shall establish that such licenses shall not be subject to any remuneration or royalty for the right holder.

The sui generis community intellectual rights, that the State expressly recognizes and protects, under the common name of sui generis community intellectual rights, the knowledge, practices and innovations of indigenous peoples and local communities, related to the use of the elements of biodiversity and associated knowledge. This right exists and is legally recognized by the mere existence of cultural practice or knowledge related to genetic and biochemical resources. It does not require prior declaration, express recognition or official registration, and therefore may include practices that acquire such status in the future. This recognition implies that none of the forms of protection of intellectual or industrial property rights regulated in this chapter, special laws and international law will affect such historical practices (**Article 82**).

Article 83 establishes that the participatory process to determine the nature and scope of sui generis community intellectual rights must be .....a participatory process must be defined with the indigenous and peasant communities, in order to determine the nature, scope and requirements of these rights for their definitive regulation. The Commission and the organisations involved will arrange the form, methodology and basic elements of the participatory process.

- OTHER RELEVANT LEGISLATION

Constitutional jurisprudence has outlined the constitutional principle of participation from article 9 of the Political Constitution. In resolution number 6084 of 15:32 hours of April 22, 2009, the Constitutional Court expressed: *I.-On Citizen Participation*. The participation of citizens in public

decision-making is provided for in article 9 of the Political Constitution, and therefore acquires the status and force of a fundamental constitutional right.

It also indicates that the scope of the principle of participation in environmental matters is outlined by the Constitutional Chamber in resolution number 6922 of 14:35 hours of April 16, 2010:

**"XVII.-On the procedure of the environmental assessment and the necessary communication, information and dialogue with the population.** The performance of the environmental assessment in the said terms, implies the compliance with the steps established by law for the performance of the public authorities involved, especially the National Environmental Technical Secretariat. Within this procedure, the need to publicly inform the population that may be positively or negatively affected by the execution of works with environmental impact is particularly relevant, going beyond the mere transmission of information to tend to the establishment of a dialogue that provides inputs prior to the granting of environmental viability. Thus, in the aforementioned judgment 2003-6322, the Chamber established that:

**"11.-Citizen participation in environmental matters:** *Citizen participation in environmental matters covers two essential points: the right to information regarding environmental projects, or those that may cause damage to natural resources and the environment, and the guarantee of effective participation in decision making in these matters. Therefore, the Costa Rican State must not only invite citizen participation, but must also promote and respect it when it occurs"* (Judgments number 2001-10466, cited above).

The Organic Law on the Environment recognizes this principle in Sections 6 and 23, which literally provide for what is of interest:

**"Article 6.** Inhabitant participation: The State and the municipalities will promote the active and organized participation of the inhabitants of the Republic, in decision making and actions to protect and improve the environment. "

**"Article 23.** Publicity of the information: The information contained in the environmental impact assessment file shall be of a public nature and shall be available for consultation by any person or organisation.

## 1.2 BACKGROUND OF INDIGENOUS PEOPLES IN COSTA RICA

According to the 2011 Census of the National Institute of Statistics and Census (INEC), there is currently a total of 104,143 inhabitants who define themselves as indigenous, the equivalent to 2.4% of the country's total population. The indigenous population settled in its "reserves" is<sup>1</sup> 35,943 inhabitants (34.5%) and is located in an area with a total of 334,447 hectares (density of 9.3 H/KM2), which are distributed in different regions of the country, and are occupied by eight ethnic groups: Cabécar, Bribri, Brunca or Boruca, Guaymí or Ngäbe, Huétar, Guatuso or Maleku, Térraba or Teribe and Chorotega.

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<sup>1</sup> It is important to differentiate between 'indigenous reserves' and indigenous territories. The first is a legal name that has not been changed, for the delimitation of the public deed that each Indigenous Comprehensive Development Association has. The second is a concept appropriated politically by various indigenous organizations to designate the spaces that legally belong to them and those that they have traditionally used or that have cultural significance for them. It is also important to differentiate between "indigenous peoples" and indigenous communities; the former designates the ethnic group as such and the latter are the villages within an ethnic group's territory.

In total, there are 69,809 indigenous people who identify themselves as Costa Rican indigenous people belonging to these eight ethnic groups. In other words, there are 33,866 indigenous Costa Ricans living outside their indigenous reserves; a little less than half.

Among all the Costa Rican ethnic groups, the Bribri - Cabécar of the Talamanca Mountain Range stand out with a total population of 35,183 (50.3% of the population that identifies itself with a Costa Rican ethnic group) with a territory of 264,889 hectares distributed in eleven indigenous reserves, for almost 80% of the total area of the indigenous lands of the country. Without a doubt, this ethnic group<sup>2</sup> is the most numerous, the one that lives the most in their territories (71%) and the one that managed to conserve the most land extension with forest cover. They also border on forests of important Protected Wildlife Areas (ASP) within the Amistad Biosphere Reserve or Talamanca Eco-Region, which together form a single block of forests of more than half a million hectares, which continue in Panama with a similar number.

The provinces of Puntarenas and Limón have the largest number of indigenous reserves, with the cantons of Talamanca and Buenos Aires standing out in the basins of the Sixola and Térraba<sup>3</sup> rivers. In general, 20 of the 24 indigenous reserves are located in the southeast of Costa Rica (provinces of Cartago, Limón and Puntarenas).<sup>4</sup>

The indigenous peoples of Costa Rica have the lowest development indices and the highest poverty rates, and among the five poorest cantons, the two that concentrate the largest indigenous population are Buenos Aires and Talamanca. If in the 2011 census the indicators of health, education, accessibility and others that measure poverty are disaggregated, separating the general ones that result from the 104,143 indigenous people reported from those living within the indigenous reserves, the result is quite discouraging, the indigenous people living on their lands are the poorest among the entire extreme poverty population.

In the following page, there is a summary table with the main characteristics of the country's Indigenous Reserves by ethnic group and a map that locates them geographically in the country.

**TABLE 1.** Total indigenous population and land extension area by ethnic group

Ethnic group	Indigenous Territory	Population 2000		Population 2011		Extension (has)	Total (has)
		By territory	Total	By territory	Total		
CABÉCAR	Alto Chirripó	4.619	9.861	5.985	12.707	77.973	177.739
	Bajo Chirripó	363		752		18.783	
	Tayní	1.807		2.641		16.216	
	Telire	536		533		16.260	
	Talamanca	1.335		1.408		23.329	
	Cabécar						
	Ujarrás	855		1.119		19.040	

<sup>2</sup> The Bribri and the Cabécar identify themselves as a single cultural and political entity. Anthropologists such as Stone, Bozzoli, Borge and Guevara have worked on their cultural corpus in this way. Recently the Indigenous Development Associations (ADIs) and other organizations are making efforts to federate all their territories and organizations into an organization called the Indigenous Bribri-Cabecar Network (RIBCA).

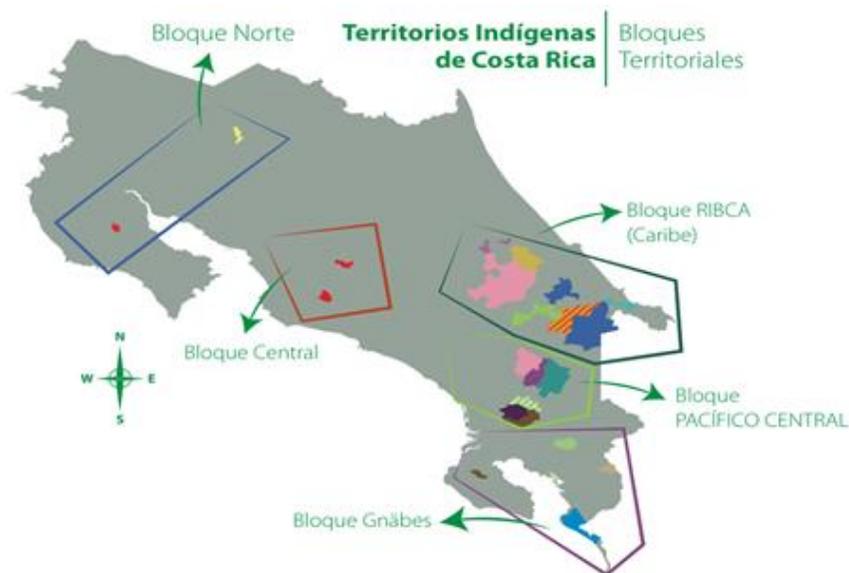
<sup>3</sup> The Province of Puntarenas holds 18 of the 24 indigenous reserves in the country, concentrating 12 in the cantons of Talamanca and Buenos Aires and 13 in the Sixola and Térraba basins.

<sup>4</sup> The small indigenous territories of Zapotón, Quitirrisí, Matambú and Guatuso, with a total area of 10,219 hectares (3 per cent of the total) and a population of 2,937 people (4.2 per cent of the total number of indigenous ethnic groups), are outside the southeast of Costa Rica.

	Nairi Awari	346		223		5,038	
	China Kichá	-		46		1,100	
<b>BRIBRI</b>	Talamanca Bribri	6,467	9,645	7,772	12,785	43,690	87,150
	Cocles (Kekoldi)	210		1,062		3,900	
	Salitre	1,285		1,588		11,700	
	Cabagra	1,683		2,363		27,860	
<b>BRUNCA (BORUCA)</b>	Boruca	1,386	2,017	1,933	2,593	12,470	23,090
	Curré	631		660		10,620	
<b>TÉRRABA (TERIBE)</b>	Térraba	621	621	1,267	1,267	9,350	9,350
<b>GUAYMI (NGOBE)</b>	Guaymi de Coto Brus	1,091	2,563	1,612	3,654	9,000	26,899
	Abrojo Montezuma	387		610		1,480	
	Conte Burica	971		1,144		12,400	
	Guaymi de Osa	114		108		2,757	
	Altos de San Antonio	-		180		1,262	
<b>HUETARES</b>	Quitirrisí	952	1,006	999	1,354	2,660	5,515
	Zapatón	54		355		2,855	
<b>GUATUSO (MALEKUS)</b>	Guatuso	460	460	498	498	2,994	2,994
<b>CHOROTEGA</b>	Matambú	868	868	1,085	1,085	1,710	1,710
<b>TOTAL</b>		27,041	27,041	35,943	35,943	334,447	334,447

Source: Carlos Borge, 2018.

The official entities for the administration and governance of the Territories are the **Comprehensive Development Associations (ADIs)**, created by the regulations of the Indigenous Law. ADIs have often been criticized for being a non-traditional organizational system imposed on indigenous peoples, not representative of the entire population of the Territories and their traditional governance structure. However, due to the acculturation processes suffered by the Territories, many of them have lost their traditional decision-making structures and already identify ADIs as their legitimate representatives. Other Territories have maintained their traditional governance structures, which have operated in parallel with the formally recognized legal entities.



**FIGURE 1.** Map of the location of the Indigenous Territories in Costa Rica.

### 1.3 BEGINNING OF THE RAPPROCHEMENT OF THE INDIGENOUS PEOPLES WITH THE MINISTRY OF ENVIRONMENT AND ENERGY - NATIONAL FORESTRY FINANCING FUND

With the promulgation of Forest Act No 7575 of 1996, the country began a series of actions aimed at protecting and improving natural resources within the framework of that Act. The entire incentive structure implemented to date is consolidated, and a new Payment for Environmental Services (PES) scheme is developed, through the concept of "the polluter should pay". The objective of this program is to economically compensate the beneficiaries or owners of private forests for the environmental services that these forest ecosystems generate for society, both nationally and internationally.

It establishes the concept of environmental services defined in Article 3, paragraph k, namely: *"mitigation of greenhouse gas emissions, protection of biodiversity for various uses, protection of water for urban, rural or hydroelectric use and natural scenic beauty for tourism and scientific purposes"*.

This recognition is made thanks to the economic resources that initially came from the Tax Simplification and Efficiency Law and that currently come from the collection of the single fuel tax from all Costa Ricans, of which 3.5% is destined to the implementation of the Program. This program has also managed two credits with the World Bank and the Global Environment Fund to cover more hectares of the program from 2000 -2005 and 2006-2012, which represented a total of US\$ 60 million; as well as the donation of the German Government through KfW to be applied in the Northern Zone of the country on PES, for an amount of 10 million euros.

One of the main participants in the PES program are the indigenous territories, which represent 1.7% of the national population and have approximately 350,000 hectares (7% of the national territory). The *first approaches of the indigenous peoples with FONAFIFO were made in 1997, when the United Nations Small Grants Program was implementing resources in the OSA Peninsula and was financing the Indigenous Territory of Conte Burica, the preparation of the technical study to enter the PES program, with the insertion of the first 420 hectares of forest. Later that same year, the indigenous territories of Ujarrás in Buenos Aires and Cabécar in Talamanca, the first three ADIS contracts with the program, were included for a total of 745.19 hectares of forest protection.*

The indigenous territories have managed to establish environmental service contracts with FONAFIFO through voluntary participation in the PES program, which has meant sources of income for their local economy for the development of communal and individual activities. These contracts are established with the Comprehensive Development Associations of Indigenous Reserves (ADIs), which are the owners of the land and the legal representatives of the territories. These funds recognize indigenous communities for the environmental services their forests provide to the country's environmental well-being (Herrera and Perez, 2012).

In order to ensure that this participation is inclusive, FONAFIFO has established within its internal policies the mandates indicated by the government on special themes and therefore the procedure manuals of the PES Program include actions to address the particularities of these territories. Therefore, in the beginning the ADIs submitted a total of 300 hectares of forest per year under the forest protection modality, then in subsequent years they went up to 600 hectares and currently contracts of 1000 hectares are approved. They also have additional points in the contract assessment prioritization matrix for the entry into the PES program due to their status as indigenous territories.

From 1997 to date, the indigenous territories have participated in the PES program with more than 162,000 hectares of forest, 3,986 hectares of natural regeneration, 190 hectares of reforestation and 1,668,780 trees in agroforestry systems. These have represented an investment in the period 1997-2018 of approximately 11.94 billion colones and 35.5 million dollars.



FIGURE 2. PES PROGRAM IN INDIGENOUS TERRITORIES FOR THE PERIOD BETWEEN 1997-2018.

Currently, in current PES contracts with FONAFIFO, 17 of the 24 indigenous territories have an area of 73,081.5 hectares in forest and natural regeneration contracts, and have a potential for the inclusion of **171,207.6 hectares of forest** in the program, which in total represents 9% of the national territory (273,580.4 hectares). NOT CLEAR!!!

With this background, the country has initiated a series of activities since 2008 with indigenous territories, aimed at incorporating this relevant stakeholder in the processes of building the National REDD+ Strategy. The participation and evolution of the vision of the indigenous peoples in the framework of their engagement in this process is presented below. The idea is to show each relevant fact that originated knowledge and promoted in them, forms of organization, training and the opening of different spaces in various topics.

Likewise, the Government of Costa Rica, through the work carried out by FONAFIFO and international cooperation with the indigenous territories, has led a whole process of inclusion and participation with them, which is currently reflected in great achievements in the fulfilment of international conventions and declarations that guarantee their participation at the national level.

#### 1.4. THE THREE PILLARS OF DIALOGUE FOR THE IMPLEMENTATION OF THE FPIC PRINCIPLE

The dialogue between the government and the indigenous peoples contemplated three fundamental pillars, so that the process would not only comply with the principle of free, prior and informed consent, but would also mark the route to reach agreements between the two parties. The actions and decisions of the National REDD+ Strategy consultation process were based on:

- Institutional Framework.
- Participation of the indigenous community.
- The thematic evolution of the consultation topic.



FIGURE 3. CONCEPTION OF THE WORK PROCESS WITH INDIGENOUS TERRITORIES UNDER THE CONSULTATION OF THE NATIONAL REDD+ STRATEGY.

#### Institutional Framework

This pillar applies to both the government and the indigenous peoples. In the case of the government, this institutional framework was granted to FONAFIFO, which had the power and the endorsement of the Ministry to establish relations and negotiations as representatives of the government before the indigenous territories, which made it a valid and official interlocutor for them.

In the case of indigenous peoples, two legal representatives are recognized in Costa Rica: the ADIs, based on Indigenous Law No. 6172 of 1977, which grants them legal status in representation of the territories, so they can make decisions and acquire legal responsibilities to carry out, as in this case, activities and financial resources in their territories; the second representation are the traditional authorities, legally protected by ILO Convention 169. These authorities must comply with the provisions of the Constitutional Chamber in their 2013 vote Exp: 12-016025-0007-CO Res. No. 2013008258, which indicates that to be a traditional authority, it must be culturally proven that it descends from a line of traditional authority, which has been exercised since ancestral times. In addition, the indigenous community must recognize this descent and this vest of traditional authority.

In Costa Rican legislation, traditional authorities do not have legal status, and this varies from one territory to another. For this reason, FONAFIFO has established with the indigenous people that the ADIs will be the facilitators and coordinators of the consultation process because of their legal ability to represent the people and sign legal contracts. However, one of the first activities carried out at the territorial level was to identify key actors in the respective territories, so that the traditional authorities or other fundamental groups in the territory, such as women's organizations, would be active participants in the National REDD+ Strategy consultation process.

### **Participation of the indigenous community.**

The participation of the indigenous community was one of the central pillars of the process since each ADI developed a detailed work plan, which would cover all the communities or regions to be called to the discussion. This would be responding to the nuances of each territory, in addition to the inclusion of the key actors already identified. In order to achieve this participation, FONAFIFO provided each territory with financial resources so that it would be able to convene and carry out the activities necessary to inform the communities; as well as to have the indigenous personnel required to carry out coordination and cultural mediation processes during the construction stages of the National REDD Strategy.

Another key element of this participation was the multiple meetings of indigenous leaders at the national level, who not only evaluated and monitored the territorial processes, but also discussed the main issues that were being consulted at the territorial level, in order to complement the results that were coming out of the process.

### *The thematic evolution of the consultation topic.*

This pillar is fundamental for the dialogue, since FONAFIFO, representing the government, presented a thematic proposal to the indigenous peoples, making it clear that it could be modified from the basis of the consultation. Thus, a National REDD+ Strategy proposal was initiated based on 8 strategic areas, which were taken to discussion with the PIRs and which were transformed into 6 policies at the end of the pre-consultation process.

The same happened with the indigenous approach, which identified five high-risk issues during the National SESA Workshop, and became the basis for solutions, until a clear approach was achieved on each special topic, creating the National REDD+ Strategy policy 5 at the end of the process. aimed at the treatment of the five special themes. This process of thematic transformation, as a result of the consultation process, is what we call the *thematic evolution of the consultation*.

It is important to emphasize that this was a consultation process for construction, therefore, the thematic evolution is more feasible, however, there may be other consultation processes where this evolution leads to complementary agreements or specific modifications to the topic consulted.

## **1.5 START OF THE REDD+ PROCESS COSTA RICA WITH INDIGENOUS TERRITORIES.**

REDD+ is a global initiative to combat climate change that emerged in 2005 under the United Nations Framework Convention on Climate Change (UNFCCC), when Papua New Guinea and Costa Rica raised their voices for the recognition of forests in global emission reduction mechanisms. REDD+ seeks to address the causes of deforestation and forest degradation in order to help reduce carbon emissions from the forest sector.

In 2008, Costa Rica joined the REDD+ readiness phase through the National Forest Financing Fund (FONAFIFO). For the country, it represented a pilot experience led by the Forest Carbon Partnership Facility (FCPF), under a global alliance that supports countries with tropical and subtropical forests to develop systems and policies for REDD+ with results-based payments.

Thus, starting this year, the Government of Costa Rica, through FONAFIFO, established a process of early dialogue with leaders of the 24 indigenous peoples in order to define what the participation of this sector would be in the process that was to come if the country's insertion into the FCPF was achieved. ***A Readiness Proposal Program (R-PP) was developed, in which eight strategic actions were identified:***

1. Strengthen the management of the National System of Conservation Areas (SINAC) to control illegal logging and forest fires;
2. Integrate carbon capture in National Parks and Biological Reserves;
3. Registration and regularization of special territories, including indigenous territories;
4. Maintain long-term coverage of the Payment for Environmental Services Program(PES);
5. Expand the coverage of the PES Program;
6. Sustainable timber production and consumption under certification schemes;
7. Strengthen the auditing management of the Costa Rican College of Agricultural Engineers (CIAgro);
8. Create sources of funding for the implementation of the REDD+ Strategy.

*An important event in the beginning of the process was the approval of the R-PP by the FCPF in June 2010, under the direction of FONAFIFO; since it marks the beginning of work for Costa Rica to implement a series of processes in the development of its National REDD+ Strategy, a set of public policies and coordinated actions to stop the causes of deforestation and forest degradation and to increase carbon stocks in the country. This series of processes were developed under a participatory approach and taking into account binding national legislation; as well as national objectives, methodological frameworks of the Forest Carbon Partnership Facility and resolutions of the United Nations Framework Convention on Climate Change, ILO Convention 169.*

### 1.5.1 DEFINITION OF THE CONSULTATION PROCESS

Since 2008, FONAFIFO has established an early dialogue process with leaders of the 24 indigenous peoples in order to define the participation of this sector. In this sense, the Indigenous Peoples and FONAFIFO agreed that the consultation process of the REDD+ Strategy would be composed of three stages: **information, pre-consultation and consultation**. Due to the participatory approach of the Strategy, and compliance with the Cancun safeguards, the consultation process was defined and implemented for all Relevant Stakeholders, using the organizational structures and communication channels established for each of them. This is how a National Consultation process was launched in 2011. What each stage of the process means is presented below:

**+ Information:** general information was provided to the PIRs on the nature, purpose, coverage, impacts and benefits of REDD+, through a culturally appropriate explanation, based on educational tools in a participatory and culturally appropriate manner for Indigenous Peoples, defining methodological approaches, organizational mechanisms and participation procedures differentiated by each stakeholder group in the subsequent stages of the consultation process. The levelling of information for indigenous peoples began in 2008, and was completed in 2014, depending on each people. However, this stage is considered to be constant throughout the preparation process, as well as during implementation.

**+ Pre-consultation:** A deep-dive into the analysis of the strategic actions defined in the R-PP and the five special indigenous themes took place, as well as the political, social and environmental

risks associated with them. The collection and systematization of the information generated in this phase allowed for the construction of a proposal for six policies that make up the draft of the National REDD+ Strategy. The Strategic Social and Environmental Assessment (SESA) (a space in which the analytical discussion on special indigenous issues, safeguards, co-benefits, among others.) was implemented through the indigenous action plans between 2014 and 2017.

**+ Consultation:** This was the final validation of the National REDD+ Strategy, in addition to its mechanisms and instruments. This stage took place in the years 2018- 2019. Throughout the document, the process followed for this last stage will be explained in detail. Once the phases with the Relevant Stakeholders (PIRs) have been defined, Costa Rica begins the process of building the National REDD+ Strategy, which is detailed in the following section.

For Costa Rica, it was clear that the national consultation process would only be successful if the PIRs could be actively involved in identifying their needs and establishing solutions for future implementation. This process is based on the following aspects: free, prior and informed consent, respect for the legal structure in force, respect for values, territoriality, traditional groups and indigenous worldviews, respect for the organizational structure of the various groups of actors involved, transparent and dynamic participation, which is a cross-cutting theme of the process, and the safeguards, all of which are integrated throughout the consultation process. Each one is explained:

- δ **The national consultation is based on the principle of *free, prior and informed consent*:** It implies respecting the right of voluntary participation of the actors, values, positions and needs of the stakeholders, as well as transferring relevant information and clarify questions, so that the actors are well informed of the process.
- δ **The national consultation respects the national legal framework,** according to the legal levels of the regulations, such as International Conventions, Political Constitution, Laws, Decrees, among others. Those affected must be aware of the possible measures and their consequences, with clear and agreed spaces that allow them to express their proposals.
- δ **Consultation based on respect:** respects the worldview, traditional groups, territoriality and values of indigenous territories, as well as the organizational structure of other groups of actors.
- δ **The consultation ensures the protagonist and transparent participation of the various groups of actors.** Citizen participation is cross-cutting during the consultation process. The various groups of actors are a dynamic part of the process of building the various components of the Strategy.
- δ The Safeguards established by the UNFCCC and the World Bank's operational policies are cross-cutting during the REDD+ Strategy development process.

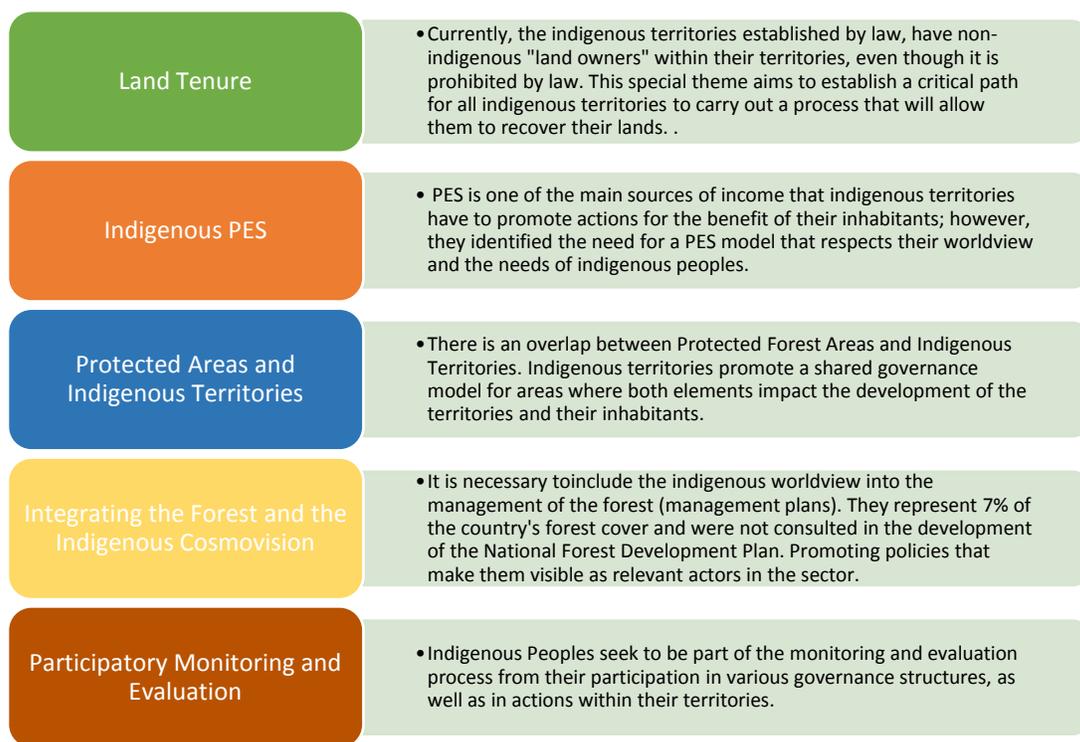
The consultation process was primarily directed at indigenous peoples and was conducted in the spirit of compliance with International Labour Organization Convention No. 169, which targets indigenous and tribal peoples. However, the processes were developed with the conviction to promote participation and transparency, and to have the feedback from all the PIRs.

## II. PARTICIPATION OF INDIGENOUS PEOPLES AND THE ROLE OF FONAFIFO AS IMPLEMENTING AGENCY

*The information phase begins with one of the main milestones in Costa Rica's preparation process, the National Strategic Environmental and Social Assessment Workshop (SESA) of the country's preparation proposal (R-PP).* This workshop was held in May 2011, and was attended by the PIRs, who numbered over **100 people**, including indigenous representatives from the **24 territories of the country**. This activity was of great significance for the indigenous peoples, since, for the first time, they were gathered in the same place, sharing the same needs and political position. The objective of the workshop was to conduct a participatory assessment of the social and environmental risks of the readiness proposal and its strategic actions to define the National REDD+ Strategy. During this assessment, the indigenous peoples identified a large number of risks, which were grouped into five major themes, which today integrate the main needs of all indigenous peoples in the country.

Following an agreement between the indigenous peoples and FONAFIFO, it was defined that these issues (**Figure 5**) would be addressed as thematic areas, in order to develop a series of technical studies during the information and pre-consultation process. These studies would be conducted to address more clearly and transparently the needs of the territories with activities and discussions in the indigenous communities. These in turn would allow for the definition of the planning of the implementation of special themes during the process of building the National REDD+ Strategy.

In the months following the SESA Workshop, the **Bribri and Cabecar Indigenous Network (RIBCA)**, prepared a proposal document called the **National Plan for Indigenous Consultation in the Development of Costa Rica's National REDD+ Strategy**, with the objective of "establishing a political, technical, cultural, organizational and economic order, which would allow the consultation of the five special themes identified and which would be the basis for the participation of indigenous peoples and their authorities, seeking to integrate the results in a clear and systematized manner, in order to establish the route for effective monitoring and evaluation".



**FIGURE 4.** Five special themes of Indigenous territories in REDD+.

Based on the need to establish an organizational mechanism at the national level while taking into account the nuances of each territory, the National Consultation Plan defined a five-level organizational structure for the development of the Strategy process:

- **First level:** made up of the Indigenous Territorial Organizations (OTIs), or Comprehensive Development Associations (ADIs), as institutions that facilitate the consultation process in the Territories and to which FONAFIFO has transferred logistical and financial responsibilities.

- **Second level:** formed by the Regional Territorial Blocks (BTRs), which group the territories according to their socio-cultural characteristics and geographical location. For the purposes of this process, four BTRs were defined: Atlantic, Central-North, Central-Pacific and South-Pacific.

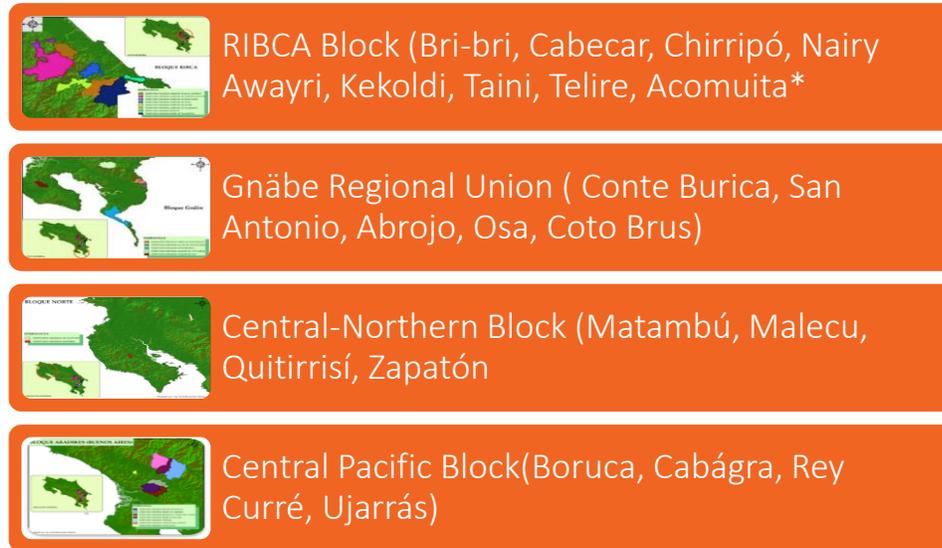
- **Third level:** it is a National Assembly composed of two representatives from each Territory.

- **Fourth level:** a National Indigenous Technical Secretariat, with a technical specialist selected from each BTR.

- **Fifth level:** one Indigenous delegate and one alternate member who serve on the REDD+ National Executive Committee coordinated by FONAFIFO.

Throughout 2012, the RIBCA, with the support of the REDD+ Executive Secretariat, maintained a process of dialogue and consensus building with the other Territories. Four workshops were held to discuss the proposal, which was again reviewed by the territorial leaders in September.

*At the National Indigenous Meeting on December 18, 2012, the final version of the Plan was approved by 18 Indigenous Territories and the non-territorial organization Association of Indigenous Women of Talamanca (ACOMUITA), which signed a National Indigenous Agreement for consultation and elected their representatives to the REDD+ Executive Committee (Annex 1).*



**FIGURE 5.** Location and composition of each Indigenous Territorial Block developed for the National REDD+ Strategy consultation process.

*Due mainly to the disagreement over the representativeness of ADIs as indigenous governance entities, four indigenous territories located in the Central Pacific (Rey Curré, Boruca, Salitre and Cabagra), led by the Regional Aboriginal Association of the Dikes (ARADIKES), decided not to join the consultation process proposed by RIBCA and requested that REDD+ be included in their dialogue with the government. Subsequently, the Territory of Terraba joined the ARADIKES group in refusing to participate in the process as defined in the RIBCA proposal.*

*Two other territories (Quitirrisí and Terraba) did not have up-to-date legal representation at the time the Plan was approved. Finally, the Territory of Quitirrisí joined the dialogue process as part of the Central-Northern Regional Territorial Block (BTR) once it managed to resolve the situation.*

## 2.1. PREPARATION OF REGIONAL CONSULTATION PLANS

In order to operationalize the National Indigenous Consultation Plan and strengthen the capacities of indigenous peoples, guarantee participation and respect the principle of self-determination of peoples, the **Territorial Blocks** were contracted as consultants, with their own work plans, consolidating themselves as active protagonists in the entire process.

For the implementation of the Regional Consultation Plans, maps of stakeholders per Territorial Block were created and socialized and territorial consultation plans were developed. The REDD+ Secretariat held meetings throughout the first months of the year with representatives of ADIs and BTRs to define and strengthen the organizational, technical, administrative, and financial process of the consultation.



**FIGURE 6.** Diagram of the operation levels within the indigenous territorial blocks.

The structure for collecting the information was defined as follows:

1. Preparation of a **work plan** (including timeline), at a regional block level (4 territories) and at a territorial level, (a work plan for each territory) containing the necessary logistic and administrative support based on the methodological approach, through the logical framework and the work plan to support a process to obtain free, prior and informed consent.
2. Preparation of a **map of actors** at the regional block level and at the level of the indigenous territory that includes each of the **groups that make up the organizational system of the indigenous territories** (ADIs, specific indigenous organizations, traditional groups) at a territory level.

3. Logistical and administrative support for the **implementation of the consultation plan in Phase 1 and 2 (Information Phase and Pre-Consultation Phase)** approved by the REDD Executive Secretariat at the regional level (4 territories) and at the indigenous territory level (one plan per territory).

4. Preparation of a **monitoring and evaluation instrument**, that allows to report on the progress of the process to the Executive Secretariat, of the advances of the implementation of the Regional Block Plan and at territorial level, of the Indigenous Territories that signed the **National Indigenous Agreement for the Indigenous Consultation** during the process of preparation of the REDD Strategy.

5. Preparation of **reports on each of the activities** established in the work plan based on FONAFIFO's communication strategy for REDD+.

6. **Systematization of the outcomes and outputs of the activities** developed and the indigenous proposals in the framework of the pre-consultation and consultation for the construction of the National REDD+ Strategy.

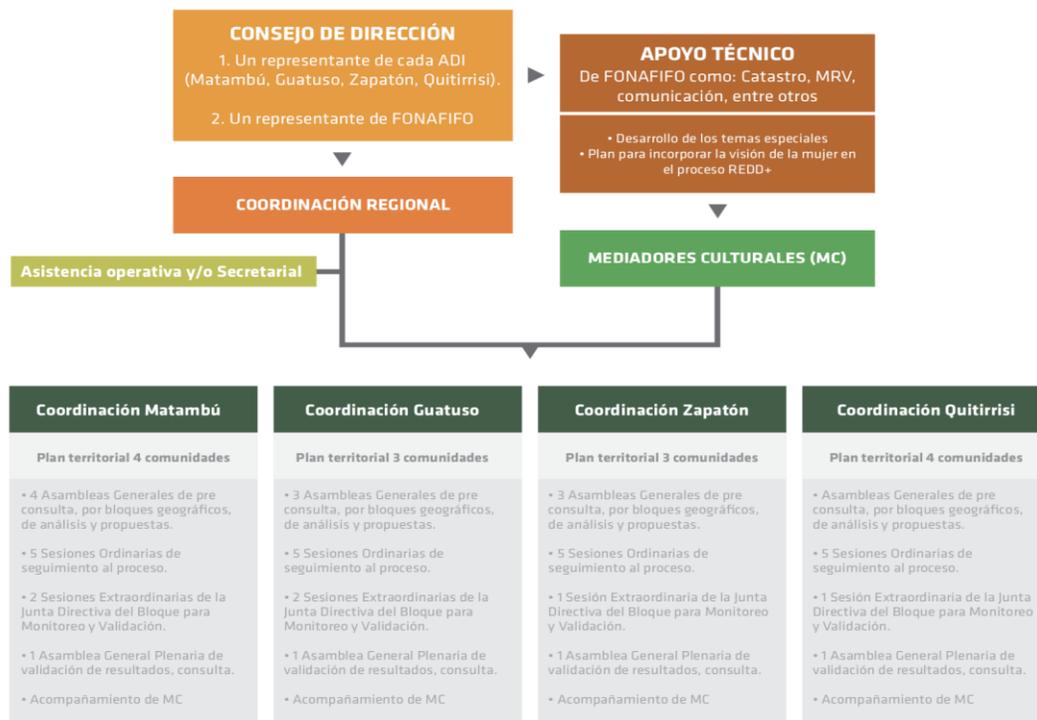
7. Systematization and preparation of an **approach proposal, at an indigenous territory level**, the 5 special themes based on the activities with indigenous peoples in the territories which are:

1. The development of indigenous PES.
2. The land titling strategy of the respective territories.
3. The development of a cultural approach to forest conservation, use, and management.
4. A plan on the relationship and management of protected areas and indigenous territories.
5. A model plan for participatory monitoring and evaluation of investments in the territories within the framework of the ENAREDD+.

8. Preparation of a **document that systematizes and integrates the consultation process** in its different stages at the regional level and for each of the 4 territories in the framework of the construction of the National REDD+ Strategy.

From April 2014 to the first months of 2015, the social specialists of the REDD+ Secretariat, the leaders of the ADIs and the Cultural Mediators began to develop multi-sector workshops, informative workshops and pre-consultation workshops in the different Territories. The main result of this series of workshops was the first progress made in the approach proposal, at the level of each Indigenous Territory, the five special themes defined at the SESA Workshop in May 2011.

Bilateral dialogues were also held with some Territories and sectors for the resolution of questions and concerns, problems and specific situations related to the information and pre-consultation process. For example, several meetings and workshops were held with representatives of the ARADIKES Block to define the strategy and methodology of the consultation in the Central Pacific Territories. The territories of Boruca, Rey Curré and Cabagra finally decided to hold their informative and pre-consultation workshops not by block but directly by community. Support was also provided to the Bribri and Cabécar women in developing a proposal for indigenous women's participation in REDD+. Finally, in November and December, clarification dialogues were held with the Bribri communities of Talamanca, in order to clarify fundamental information on REDD+ to sectors that are very negatively influenced by other external stakeholders.



**FIGURE 7.** Example of organisational structure at BTR and territorial levels (Central-Northern BTR).

*This first stage of development of the process had a funding with the resources of the grant by the FCPF, to implement in agreement with the proposed work plans, more than 180 activities between assemblies, information workshops and analysis of proposals among all the BTR, which represented a first investment of approximately US\$ 840 thousand dollars. The details by block are shown in the following table.*

**TABLE 2 .** Detail of resources used for the Consultation kick-off process: Information and pre-consultation

Block	Amount	Indigenous Territories
Logistical and administrative support for the consultation process in stages 1 and 2 (information stage and pre-consultation stage), design and implementation of the indigenous action plan on land tenure and land titling, and the establishment of an indigenous secretariat for the implementation of agreements, advice and regional coordination for the Central-Northern Block.	\$166,000.00	4
Development of the consultation plan, design and implementation of the indigenous action plan on land tenure and land titling,	\$15,000.00	2

establishment of an indigenous secretariat for the implementation of agreements, advice and national coordination for the China Kichá and Ujarrás Central Pacific Block		
Logistical and administrative support for the consultation process in phases 1 and 2 (information phase and pre-consultation phase), design and implementation of the indigenous action plan on land tenure and land titling, and establishment of an indigenous secretariat for the implementation of agreements, advice and regional coordination for the Ngäbe South Pacific Block	\$171,000.00	5
Logistical and administrative support for the consultation process in phases 1 and 2 (information phase and pre-consultation phase), design and implementation of the indigenous action plan on land tenure and land titling, and establishment of an indigenous secretariat for the implementation of agreements, advice and regional coordination for the RIBCA Block.	\$196,000.00	8
Logistical and administrative support for the consultation process in phases 1 and 2 (information phase and pre-consultation phase), design and implementation of the indigenous action plan on land tenure and land titling, and establishment of an indigenous secretariat for the implementation of agreements, advice and regional coordination for Cabagra.	\$31,200.00	1
Development of a consultation plan, design and implementation of the indigenous action plan on land tenure and land titling, establishment of an indigenous secretariat for the implementation of advisory and coordination agreements for the Rey Curré territory.	\$31,200.00	1
Development of a consultation plan, design and implementation of the indigenous action plan on land tenure and land titling, and establishment of an indigenous secretariat for the implementation of advisory and coordination agreements for the Boruca territory.	31,200.00	1
Facilitation of the development of the consultation plan, design and implementation of the indigenous plan of action on land tenure and land titling, and establishment of an indigenous secretariat for the implementation of agreements, advice and national coordination for the China Quicha and Ujarrás Territorial Block	60,000.00	2
<b>Total</b>	<b>\$842,600.00</b>	<b>24</b>

## 2.2 INSTITUTIONAL FRAMEWORK AND GOVERNANCE ASSOCIATED WITH THE INFORMATION PROCESS

### 2.2.1 ORGANIZATIONAL STRUCTURE FOR STRATEGY OPERATION

Executive Decree No 37352-MINAE, published in August 2012, established the organizational structure for the preparation phase, as a complementary mechanism to strengthen transparency and active participation of all relevant stakeholders (PIRs), in accordance with the rules defined by the FCPF. The PIRs correspond to those groups or persons who serve as users and/or owners of Costa Rican forests. In this sense, for the REDD+ preparation process, indigenous peoples, the government, academia, the timber industry, and small and medium-sized forest and agro-forestry

producers were defined as PIRs. Below is a brief description for each of them, as well as their main role throughout the preparation process:

### **1. *Government Institutions***

The Government sector is represented by Ministries, Directorates, Institutes, Funds, Systems, Secretariats and Commissions, among others, within the executive structure. It is responsible for executing the consultation process, through the FONAFIFO focal point.

### **2. *Private Forestry Sector***

The National Forestry Office (ONF) holds the representation of the small forest producers and the wood industries. The ONF was created by Forest Act No. 7575 of 1996, as a non-state public body with its own legal personality, with the aim of promoting forestry activities and the use of wood as a valid formula for conserving and harvesting these resources, generating major environmental, social and economic benefits with a national and global impact.

### **3. *Small and Medium Forest and Agroforestry Producers***

The agroforestry sector, on the other hand, begins its participation in 2011, with a process of social organization to form itself as a social economic sector. The Peasant Forestry Network (Refocan) and the Central American Indigenous and Peasant Coordinator of Communal Agroforestry (ACICAFOC) promoted this process with funding from German Agency for International Cooperation (GIZ). In this regard, five regional workshops and a national workshop were held in 2013, the result of which was the establishment of the National Association of Agroforestry Organizations (UNAFOR). Two representatives were chosen from each region, and then at the national workshop, the full representative and deputy representative of the Executive Committee were elected. UNAFOR is a platform made up of 230 peasant organizations of agroforestry producers in Costa Rica. This organization is made up of 5 regional subsidiaries, namely Brunca, Huetar, Central Pacific and Chorotega.

### **4. *Academia and NGOs***

They are made up of national and international non-governmental organizations, as well as research centres and universities working on the subject of forestry development and agroforestry.

### **5. *Indigenous Peoples***

In Costa Rica, there are 24 indigenous territories distributed in different regions of the country. Since 2008, an early dialogue was established with the leaders of the 24 indigenous peoples. In December 2012, through the National Indigenous Agreement, the indigenous peoples formalized their organizational structure, defined in four territorial blocks and grouped according to their geographic location, culture and worldview.

## **2.2.2 PROPOSED GOVERNANCE OF THE NATIONAL REDD+ STRATEGY**

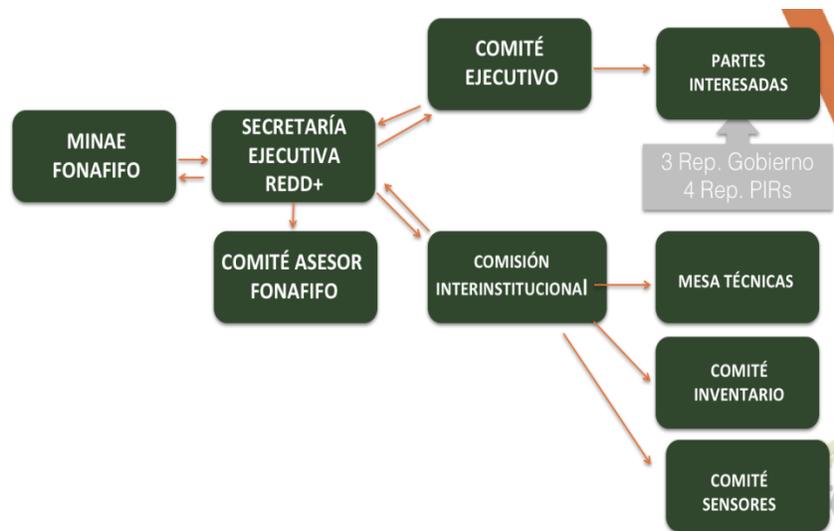
Executive Decree No. 37352-MINAET also defined the governance to be operated for the readiness phase, namely

- **FONAFIFO** is the lead agency responsible for the readiness phase of REDD+ in Costa Rica. It is accountable to the Ministry of Environment and Energy (MINAE) for the development of the National REDD+ Strategy.

- Within FONAFIFO, an **Executive Secretariat** was created, with a technical component, a social component and a cross-cutting support component. The Secretariat is responsible for generating the operational, logistical, programmatic, technical and financial conditions for the design and implementation of the Strategy.

- The **Executive Committee**, established to ensure the governance of the Strategy, is composed of one full member and his/her respective substitute from each of the interest groups or Relevant Stakeholders (PIRs): indigenous peoples, timber industry, small forest producers, government, academia and civil society. The Executive Committee provides technical and policy recommendations on the REDD+ Strategy, acting as an Advisory Committee.

- In order to promote the inter-institutionality of the REDD+ Strategy, the Decree also established that public institutions be appointed as focal points. Subsequently, these liaisons formed an **Inter-institutional Commission**, which also included other stakeholders from the non-governmental sector and whose purpose was to support, facilitate, implement, and disseminate the National REDD+ Strategy.



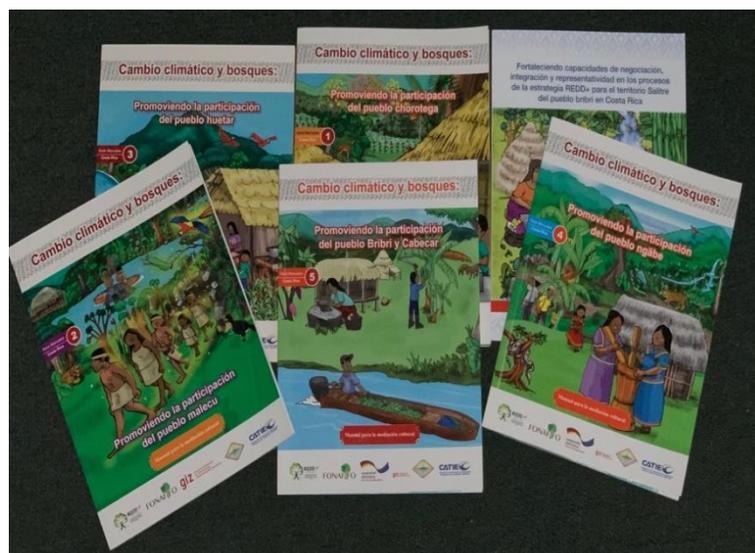
**FIGURE 8.** Operational structure for the information phase of the National REDD+ Strategy.

### 2.3. THE CULTURAL MEDIATORS PROGRAMME FOR INDIGENOUS PEOPLES

From an early stage, indigenous leaders expressed that the complexity and technicality of the REDD+ process would be a challenge to ensure that indigenous communities have full command of the information. In order to facilitate the dissemination and understanding of information related to climate change and the National REDD+ Strategy, and thus generate proposals that reflect the real interests of the Indigenous Territories, the RIBCA and the Tropical Agricultural Research and Higher Education Center (CATIE) developed a ***National Program of Cultural Mediators***, inspired by a pilot project implemented in 2012 in the Talamanca region.

Between 2013 and the first months of 2014, the project was scaled up to the national level, adapting the Programme to the context and reality of the different Territorial Blocks. ***Cultural Mediators*** serve as indigenous people who have been trained on issues related to REDD+, and who have been trained to provide simplified information in their own languages. They were selected by the territorial authorities based on requirements such as a broad knowledge of the culture, worldview and language of their own territory and the capacity to integrate and transmit traditional indigenous knowledge and non-indigenous technical-scientific knowledge to their communities. These representatives were trained on the issues associated with climate change and REDD+. Likewise, didactic materials and tools contextualized to the culture and cosmogony were developed using participatory communication plans, videos, posters, radio spots, pamphlets, in which the appropriate communication channels are defined to disseminate the information of each indigenous people, allowing the mediators to facilitate and systematize information and pre-consultation workshops in their respective communities. ***For indigenous peoples, the main communication process is the cultural mediators programme. This programme was supported with technical and financial resources from the REDD/CCAD/GIZ Programme, the UN-REDD Programme and the International Union for Conservation of Nature (IUCN).***

***It is worth mentioning that the development of this program and its activities promoted the training of more than 150 cultural mediators in all indigenous territories. These are indigenous people who continue to support other internal processes in different areas such as education, health, etc., in order to disseminate information in the communities.***



### III. PARALLEL ACTIVITIES TO SUPPORT THE INFORMATION AND PRE-CONSULTATION PHASE

In parallel to the activities developed at the territorial level, the REDD+ Executive Secretariat coordinated a series of national activities for the training, information, follow-up, updating, and feedback of the information and pre-consultation process. These activities are presented and described below:

#### 3.1 CONSULTING FOR THE ANALYSIS OF AN INDIGENOUS ENVIRONMENTAL SERVICE PAYMENT

One aspect in which the work of the 5 special themes was strengthened with the blocks during the information and pre-consultation phase ***was the study financed by the REDD/CCAD/GIZ program, with the name of "Designing an indigenous environmental services program that integrates the vision of Indigenous Peoples as agents of Development"***. The main objective of the study was to design an Indigenous Environmental Service Payment (Indigenous PES) that would integrate the vision of the indigenous peoples, proposing the necessary adjustments (legal, programmatic, technical) to include, among others, cultural productive aspects as agents of community development (Morales, 2014).

The study considered that a new indigenous PES should be made up of a legal, cultural and governance base, a supply of financing and monitoring, follow-up and evaluation modalities. These dimensions are intended to provide:

- A legal basis that provides legal support to the indigenous PES both internally and externally.
- A cultural basis, which allows the incorporation of elements from the indigenous peoples' world view, including land use regulations and ancestral customs.
- A basis for governance, for the strengthening of the institutional framework of indigenous territories, their forms of government, decision-making, political organization, defence and good administration of the territory including the good distribution of the benefits of the PES.
- A selection of financing modalities, which allow to identify, adapt and strengthen them according to the indigenous contexts.
- Monitoring, follow-up and evaluation, that incorporate control and transparency mechanisms in both the indigenous community and the State.

One of the aspects that the study points out that any indigenous PES promoted in the territories should consider, and which results in an opportunity to strengthen the economic and social development of the communities, as well as their principles and cultural values, is that it should ***guarantee that they respond to the good living standards of the indigenous communities, considering:***

- ***Distribution (promoting economic and social development)***
- ***Transparency.***
- ***Proper use of resources.***

It is also established that any PES developed specifically for indigenous territories must be made up of an internal and an external level. At the *internal level*, there are the responsibilities that must be assumed by the indigenous organizations of each territory (ADIS) and even by the communities. The mechanisms of control, monitoring and evaluation must be worked on, as well as accountability, transparency in the implementation and distribution of benefits, in the construction of internal regulations, which allow to guarantee the fulfilment of the purposes of the legislation (protection of the environment) and the good life of the indigenous communities.

At the *external level*, FONAFIFO is responsible for implementing the PES, as well as for the financing mechanisms, procedures and other actions that are part of the State's institutional framework. This level is characterized by the development of actions that are not necessarily under the control of the indigenous communities, mainly because many of these mechanisms are established in national regulations.

*As part of this study, starting in 2016, changes were promoted in the regulation of the PES program implemented by FONAFIFO, in relation to indigenous territories, since as part of the negotiation with indigenous territories in the national REDD+ working groups, with the Minister, the first changes to be made to the Procedures Manual for entering the PES program were agreed upon ([Annex 2. Memorandum](#)).*

*The first aspects agreed upon for improvements to the indigenous PES are found in Decree No. 39,871-MINAE, for the "Reform of the Regulations to the Forestry Law, Executive Decree No. 25721-MINAE of 17 October 1996", which indicates in article 4, paragraph e: Payment for Environmental Services in Indigenous Territories.*

*These changes are important because they improve transparency in the participation of indigenous territories in the PES program and also allow for the application of a way of working that respects the autonomy and worldview of these populations in the use of forest resources, allowing them, among other things, to:*

### *New elements incorporated in the PES Program for work with Indigenous Territories*

*i-* The procedure for the application of the PES by the ADIs of the Indigenous Reserves will be as indicated in the previous paragraphs; however, by virtue of the particular characteristics of these territories and their form of land tenure, the following regulations are established for access to the Program:

a). In the event that the Indigenous Reserve does not have the respective cadastral plan, the project can be processed using the alternate route, for which FONAFIFO will use the information specified in the decree creating the Reserve.

b). When the application refers to a forest protection project in areas that have been subject to PES in the last five years, FONAFIFO will assume, when requested by the above-mentioned ADIs, the preparation of the technical study and the annual monitoring of the areas submitted, through its professional staff; in accordance with the above, these projects will not require a forest management contract. This exception shall only apply to applications submitted from 2016 onwards.

In order to formalize the PES contract, FONAFIFO staff will only need to verify that the definition of forest established in Forestry Law No. 7575 is met and determine the area to be submitted. This is for projects submitted from 2016 onwards.

c). In the event that the areas have not had a PES contract before, the exception in paragraph b) will not apply. Therefore, the presentation of the technical study and the contract of the respective reGENCY will be required, according to the established procedures.

d) The PES contracts signed by said Associations shall not be registered before the National Registry as an affectation to the property.

*ii-* The application to enter the PES Program must be accompanied by a certified copy of the Minutes of the General Assembly of Associates, which authorizes the execution of the PES project. The minutes shall include the list of those attending and the Treasurer's report approved by the Assembly, reflecting the use made of the resources received by said Associations from the PES Program.

*iii-* In areas subject to the PES Program on which the respective contracts have been signed, they may carry out traditional activities, including the establishment of subsistence agricultural crops as long as they do not exceed 2% of the area under contract, supervised by FONAFIFO personnel. The contract shall set out the conditions required to comply with this provision.

*iv-* Without exception, in all cases, the procedures for the application of the PES Program must be signed by the president of the ADI of the Indigenous Reserve. The contracts signed with these Associations must establish obligations that allow publicizing the financial management to all members of the Association.

*v-* The above-mentioned Associations may present PES projects for up to 1,000 hectares in forest protection and/or regeneration, and 350,000 trees in agroforestry systems per year. In reforestation projects a maximum of 300 hectares per year.

### 3.2 CADASTRE AND LAND TITLING TRAINING

*During 2014, with the support of the REDD/CCAD/GIZ Program, Costa Rica managed to hire two professionals: one technical and one legal, with the objective of developing a land recovery action plan for indigenous territories, which would describe the processes that must be carried out for the recovery of lands and properties in indigenous territories by the ADIs.* This plan was conceived in two parts: a first part with the general guidelines or steps that are considered technically appropriate, to initiate an effective management for the recovery of the land within the indigenous territories. And in a second part, the situation in each indigenous territory was analysed individually, according to these general guidelines or steps.

These action plans were developed for the 24 indigenous territories. Some managed to be more specific than others due to internal political conditions.

In addition to this process, in 2016, with the resources of the grant from the Forest Carbon Partnership Facility (FCPF), the services of a surveyor were hired who, among other tasks, provided training to two representatives of each ADI on the use of systems (of the National Registry and global positioning programs) to strengthen the actions of the ADIs, in order to carry out land titling processes that are under their jurisdiction. In addition, an update of information on the ordinance plans carried out in previous years was made.

An important fact to note is that the Institute of Rural Development (INDER), formerly the Institute of Land and Colonization (ITCO), was defined by the Indigenous Law No. 6172 of November 29, 1977, and regulated by Executive Decree No. 8487 of April 26, 1978,<sup>5</sup> specifically with regard to **Article 5**, to carry out various actions, including: *"The studies and procedures for expropriation and compensation shall be carried out by ITCO in coordination with CONAI"* (INDER, 2015). Likewise, **Article 9** states that: The lands belonging to the ITCO included in the demarcation of the indigenous reserves and the Boruca-Térraba, Ujarrás-Salitre-Cabagra reserves should be ceded by that institution to the indigenous communities.

Given this and other situations, the Government of Costa Rica, bearing in mind the problems faced by these territories, sought through the Cadastre and Registration Regularization Program, with resources from an IDB loan, from 2003 to 2012, to organize the national territory as far as farms are concerned, including a specific component for the indigenous part, which was called **Areas Under Special Regimes (ABE)**, where the results showed some of the drawbacks, but no solution to the problem was reached (INDER, 2015).

In 2014, INDER also created an internal Indigenous Affairs Commission, which analyses cases of land tenure and for which the institution has been sued to compensate those affected. One year later, in 2015, the International Court of Human Rights (ICHR) requests precautionary measures from Costa Rica in order to protect the life and physical integrity of the Teribe and Bribri indigenous populations, located in Salitre de Puntarenas. These are several indigenous territories located in this area where indigenous communities have been trying to recover their lands for several years.

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<sup>5</sup> <http://www.elpais.cr/2015/05/25/costa-rica-debe-concertar-con-pueblos-indigenas/>

That is why, in 2015, this INDER commission on indigenous affairs will propose the need to draw up a "**Plan for the Recovery of Indigenous Territories (PLAN-RTI)**". The proposal is analysed with the Ministry of the Presidency and the Ministry of Justice and support is received from both ministries to request the approval of 17 temporary positions in INDER to undertake **PLAN-RTI 2016-2021**, (initiate census and measurements, as well as appraisals where required) and authorization is obtained. It begins in 2016 with budgetary content for the payment of salaries, and the purchase of specialized equipment to begin the field work of the 17 new officials, per diems, etc.; for approximately US\$1 million.

This PLAN-RTI intends to regularize the indigenous territories of Costa Rica within a period of six years, distributed in three stages: **First stage:** estimated time of recovery of 8 territories: Salitre, Cabagra, Guatuso, China Kichá, Kekoldi (Cocles), Zapatón, Altos de San Antonio, Guaymí de Osa and Terraba (2 years). Its complexity and area of coverage is considered, for example, only Salitre and Terraba are 21 thousand hectares. **Second stage:** Estimated recovery time for 6 territories: Quitirrisí, Ujarrás, Boruca, Curré, Guaymí de Conte Burica, Coto Brus (1 to 2 years). **Third stage:** Estimated recovery time of 8 territories: Talamanca (Cabécar and Bribí), Bajo Chirripó, Alto Chirripó, Nairi-Awari Sector Barbilla and Sector Awari, Telire, Tayní, Abrojo Montezuma (2 years)

The plan aims at the following:

- Carry out preliminary studies, using all types of inputs related to each territory to be regularized.
- Carry out a census according to the questionnaire established in the created specification sheet.
- Prepare file by occupant with technical-legal recommendation for decision making.
- To carry out topographic surveys of each of the occupations that make up the Territory.
- Identify the number of non-indigenous occupants.
- Assess the impact that the ordinance would have.

PLAN-RTI will make it possible to know the total cost of recovering each of the indigenous territories, which will enable the central government to establish a strategy for raising international (donors) and national (public funds) resources to compensate the bona fide occupants of these territories.

Likewise, it will make it possible to return the lands occupied by non-indigenous people to the ADIs in each territory, ensuring the autonomy of these peoples, compliance with the Indigenous Act and the provisions issued by the Office of the Comptroller General of the Republic, and avoiding conflicts between indigenous and non-indigenous people arising from land tenure.

Of this process, stage two is being finalized and stage three remains to be carried out in 2020, while the Government makes efforts to have economic resources to finalize actions in the territories together with the local governments.

### 3.3 INDIGENOUS CHAPTER FOR THE NATIONAL FORESTRY DEVELOPMENT PLAN

The National Forestry Development Plan (PNDF) 2011-2020 is a reference framework at the political level with a medium- and long-term strategic vision. The document was developed under a process of much participation, of other sectors, except the indigenous sector, although they possess 7 % of the territory with forest cover.

During the officialization of the PNDP in 2011, the indigenous sector expressed its disagreement with the fact that they were not duly involved or consulted, as provided for in Article 6 of Convention 169, which indicates the obligation to consult indigenous peoples on all legislative, institutional and administrative measures that may affect them. This document should incorporate the priorities and the indigenous vision in relation to forests.

This position was ratified in the framework of the IV Pablo Presbere Cultural Festival, held in Talamanca on April 26, 27 and 28, 2012, organized by the Bribri and Cabecar Indigenous Network (RIBCA) with the presence of more than 100 indigenous leaders from the 8 territories of the Atlantic zone, where they stated the following: "***We are very clear about the relevance of the PNDP, since it is a direct policy of the government, and it is also a key policy for the management of REDD+ at the international level***". Therefore, we agree to:



- A) Ignore the PNDP, since it was carried out in a way that was not consulted with our peoples, and in whose content, offended our lands, our culture and the protected areas, which are part of our cultural space, which we have taken care of for many years despite the fact that legally they have been taken away from us.
- B) To demand that the Government of the Republic repeal the current PNDP and initiate another process of developing up a new plan, which incorporates the demands of the indigenous peoples, so that we can be able to include the safeguards that protect our rights.

Subsequently, and as a result of this demonstration, a meeting was held between indigenous leaders and authorities of the Ministry of the Environment (MINAE) and it was agreed that the Indigenous Forestry Chapter (CFI) would be drafted, which would have as its scope of action the ecosystems and forest lands located within indigenous territories, and which would allow them to establish their own priorities for social, economic and cultural development based on their beliefs, spiritual well-being and the corresponding legal framework.

Given this fact, the REDD+ Secretariat, seeing the existing need, and counting on the resources of the FCPF grant, is developing a proposal for an Indigenous Chapter of the National Forest Development Plan, in close coordination and participation with the Indigenous Territories. The topics on which they have based the discussion process are:

- ***Forests use and protection.*** To know the importance and relevance that forests have for indigenous peoples and their cultural link for their use and protection and the development of communities.

- **Protected Wildlife Areas and shared management.** To know the vision/relationship of the people with respect to the Wildlife Protected Areas (ASPs).
- **Harvesting, processing and marketing of forest products.** To know the importance and relevance that the use and transformation of forest products has for the peoples.
- **Traditional production systems.** To know the importance and relevance of traditional production systems for indigenous peoples and their contribution to the development of communities.
- **Payments for environmental services (PES).** To learn about experiences and contributions of PES to indigenous peoples and aspects to be considered to improve their application.

*The preparation of this document has been a challenge and 3 workshops were held at the level of indigenous territorial blocks used for the pre-consultation phase: Atlantic Block, Ngäbe Block and South Pacific Block. In addition, specific visits and interviews were conducted with representatives of the Matambú, Zapatón and Maleku territories in order to integrate the perspective of the other indigenous peoples. A total of 114 indigenous people from 19 of the 24 territories participated in the process representing the 8 indigenous peoples of Costa Rica.*

The information gathered in the workshops was translated into 4 strategic areas or basic routes that help prioritize the areas of action to achieve certain goals proposed in the Indigenous Forestry Chapter. These are:

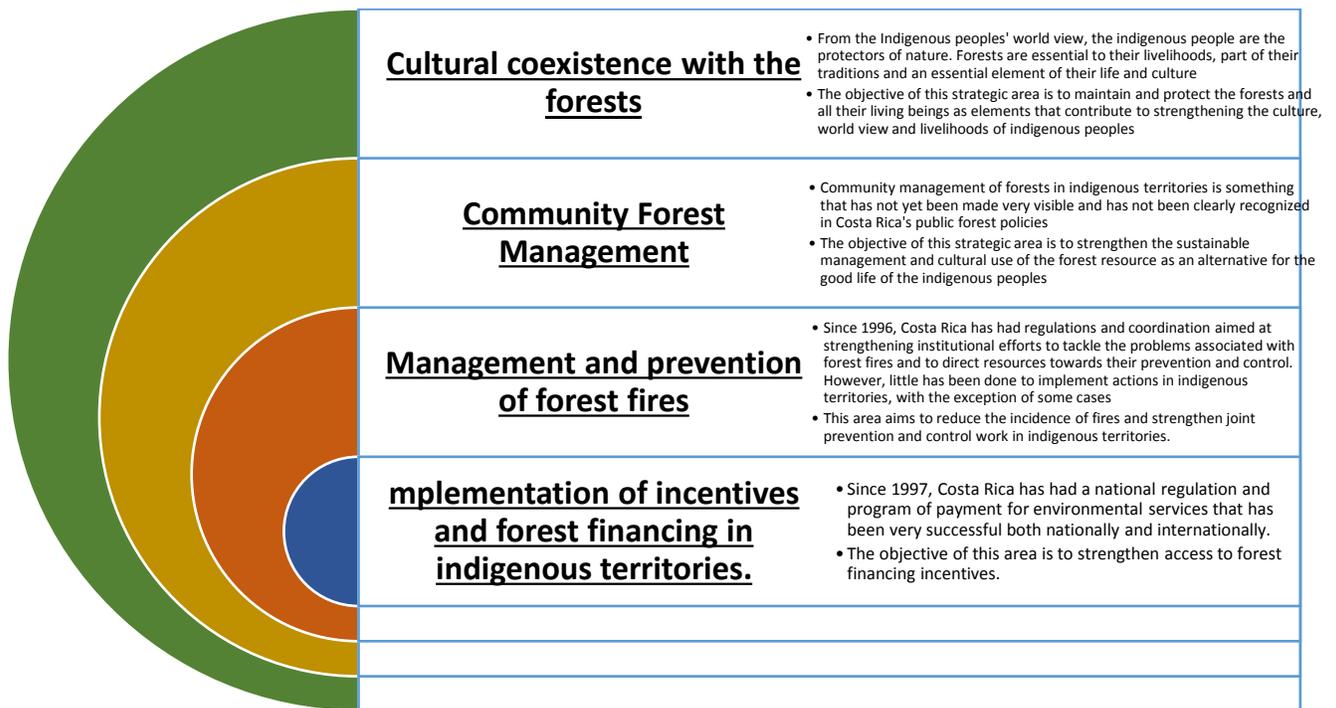


FIGURE 9. STRATEGIC AREAS PROPOSED FOR THE INDIGENOUS CHAPTER OF THE NATIONAL FORESTRY DEVELOPMENT PLAN.

### 3.4 PROTECTED WILDLIFE AREAS CHAPTER FOR THE NATIONAL FORESTRY DEVELOPMENT PLAN

For the development of this chapter, resources are available from the FCPF grant for the preparation of the National REDD+ Strategy at the Secretariat, which takes into account the external needs of the indigenous territories, ***to establish the technical and legal conditions that will allow them to implement a co-management governance model between the territories that overlap their lands and the wild protected areas***, covered by the proposal already made and piloted with the Cahuita National Park, in Limón.

To this effect, it is important to consider aspects that strengthen these processes when there are international conventions ratified by Costa Rica, such as the Convention on Biological Diversity (CBD), where it is established that each Contracting Party will, when necessary, develop guidelines for the selection, establishment and management of Wildlife Protected Areas or areas where special measures must be taken to conserve biological diversity.

Similarly, to promote participation, Principle 10 of the 1992 Rio Declaration on Environment and Development states that "environmental issues are best handled with the participation of all concerned citizens, at the appropriate level. At the national level, every person shall have appropriate access to environmental information held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States should facilitate and encourage public awareness and participation by making information available to all. Effective access to judicial and administrative proceedings, including redress and remedy, must be provided".

This process will also make it possible to have a chapter on Protected Wildlife Areas in public policies related to the forestry sector, which includes work with indigenous territories, so that the lines of work are focused with clear objectives and goals, towards coexistence and protection of existing resources in common areas and respect for cosmogonic aspects of the good life of the territories with these areas.

### 3.5 MINAE'S SPECIAL COMMISSION ON INDIGENOUS AFFAIRS

As part of the requests **submitted by the indigenous territories** during the **information and pre-consultation phase**, at different discussion spaces, the Indigenous Affairs Commission of MINAE was established on the basis of a commitment by the Minister, via ministerial directive **DM-217-2017** (see annex 3). This Commission deals with issues concerning indigenous territories in intra-institutional matters.

### 3.6 MAINSTREAMING GENDER IN THE NATIONAL REDD+ STRATEGY

During the preparation phase of the National REDD Strategy, the Government of Costa Rica has recognized the importance of appropriately addressing gender issues in REDD+ processes and has committed to work through FONAFIFO. The topic has been recognized as a transcendental issue in various platforms, however, it has not been addressed systematically. Therefore, the REDD+

Secretariat, with technical support from the WISE project, decided to organize the first "Workshop Defining the design of the critical path for addressing gender in the REDD+ process in 2016."

The overall objective of the workshop was to explore the gender considerations that should be taken into account by REDD+ processes in Costa Rica and to propose a plan to address these considerations appropriately.

As a result of the workshop, 10 gender considerations were identified that should be integrated into the construction and implementation process for REDD+. These considerations were grouped into four main areas:

- Recognition and empowerment of women as PIRs
- Institutional strengthening and sensitization to promote gender equality, respect for women's rights and women's empowerment
- Establishment of a process to ensure that women participate in decision-making during the design, implementation, and monitoring of REDD+ processes.
- Design of a gender-responsive benefit-sharing mechanism.

Figure 8 shows how the 10 gender considerations identified are articulated along these four areas. It is important to emphasize that the four areas should not be seen as separate dimensions and it is not recommended that actions be proposed for one area if these actions are not part of a process that includes implementing actions in the other areas. To obtain the expected positive results, actions must be promoted in parallel in each area.

These 4 areas can be seen as the key results that form part of a theory of change that will lead to compliance with the actions proposed in policy 6 of the REDD+ Strategy for Costa Rica (Figure 10).

This process allowed Costa Rica to have a Gender Action Plan (GAP) for the National REDD+ Strategy, which was built and validated with the communities, with the support of the World Bank in 2018 - 2019. The process of building the GAP made it possible to identify gaps and propose three interrelated lines of action, namely: gender analysis, capacity building and the design of the GAP. As a result, the proposed actions for gender analysis and capacity building were progressively implemented; this was necessary before designing the action plan, in order to address national gender and forest gaps. This means that the expected results and concrete actions of the first two lines of action were the enabling conditions necessary to design the GAP and implement its actions.



FIGURE 10. AREAS AND CONSIDERATIONS TO ADDRESS GENDER IN THE NATIONAL REDD STRATEGY.

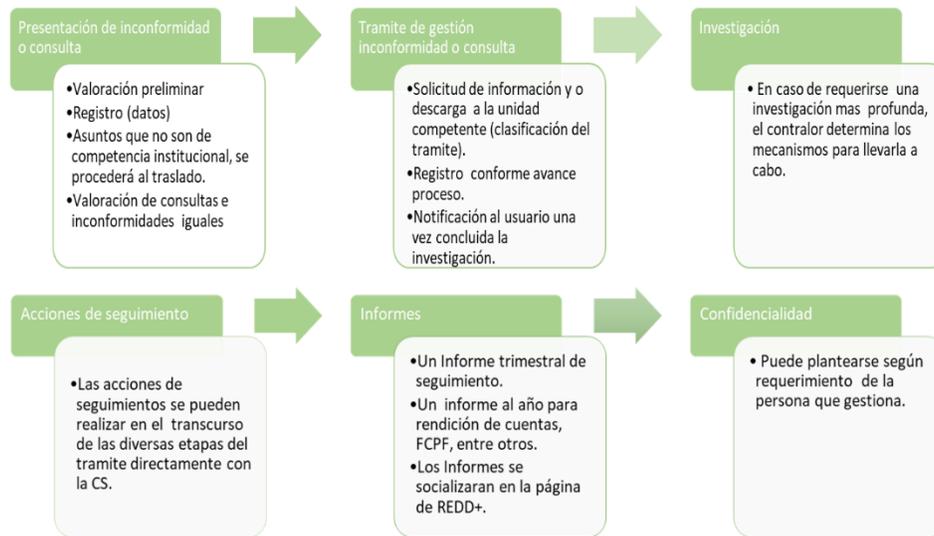
The REDD+ Secretariat has recognized that working with a gender perspective implies not only mentioning the issue as a priority or as a principle, but that it is necessary to identify relevant gender considerations and propose concrete actions to promote gender equality as part of the implementation of the National REDD+ Strategy. *This Gender Action Plan for the EN-REDD+ Costa Rica*, reaffirms Costa Rica's commitment to human rights and gender equality, and shows how a country can implement its gender-sensitive climate policies through a gender-responsive climate strategy. However, *the GAP of the National REDD+ Strategy is not only a compliance instrument, it is a concrete and innovative proposal for social and environmental transformation, based on the reality, needs and priorities of the women and men who contribute day by day to the true conservation and sustainable management of Costa Rican forests.*

An important actor in this process has been ACOMUITA, who are the political union of the Bribís - Cabécares women to learn and teach, strengthen culture, conserve nature and promote the family and community wellbeing of Talamanca. The strategy of this alliance is to give expression to the recognition of indigenous women based on their experiences and the reality in which they live. The women of ACOMUITA have independently managed to participate and influence most of the REDD+ processes in Costa Rica. Therefore, ACOMUITA has become the main voice of women's groups in the country in REDD+ platforms.

### 3.7 REDD+ INFORMATION, FEEDBACK AND NONCONFORMITIES MECHANISM

The Information, Feedback and Noncompliance Mechanism (IRMM) is a mechanism that allows the REDD+ Executive Secretariat to receive and address concerns, contributions, complaints, and claims from stakeholders about the consultation process and implementation of the National REDD+ Strategy, in order to have an appropriate instrument that may eventually affect their property, participation, or access rights. In collaboration with the Territorial Blocks, a specific implementation mechanism was designed for the indigenous sector, designating cultural mediators, ADIs and territorial coordinators as actors responsible for assisting indigenous people in presenting their concerns, contributions and complaints through the mechanism.

To this end, during 2014 the REDD+ Executive Secretariat coordinated a series of actions such as training activities, analysis of the current legal framework in this area, organization of workshops, and socialization of the mechanism at the indigenous sector level. This is done in order to analyse existing mechanisms, identify gaps and needs of each relevant stakeholder, and thus design an appropriate instrument consistent with the country's institutions and legislation to address this requirement.



**FIGURE 11. PROCESS FOR ADDRESSING CONSULTATIONS, COMPLAINTS, OR NONCONFORMITIES DURING THE IMPLEMENTATION PHASE OF THE REDD+ STRATEGY.**

The following means of receiving the Facility were defined

- Any legitimate PIR may contact us by the following available means to lodge a complaint or consultation:  
Telephone: 2545-3512.  
Email: to be defined.  
Website: [www.fonafifo.go.cr](http://www.fonafifo.go.cr) or [www.reddcr.go.cr](http://www.reddcr.go.cr)

- Suggestion box: Located in the Regional Offices of FONAFIFO.

Headquarters: San Vicente de Moravia, from Lincoln Plaza Mall 200 meters west, 100 meters south and 200 meters west, next to the National Symphony.

*All the processes mentioned in chapter III above were carried out with technical resources provided by the REDD/CCAD/GIZ Program and financial resources from the FCPF grant, which represent an amount of approximately US\$400,000.*

#### IV. RESULTS OF THE PRE-CONSULTATION STAGE OF THE FIVE SPECIAL THEMES

In Costa Rica, the REDD+ Strategy information and pre-consultation process with indigenous peoples has generated important results.

#### 4.1 MAIN ACHIEVEMENTS



**Observing the principle of self-determination of peoples and of Free, Prior and Informed Consent.**

Allowing Indigenous Territories to create their own organizational structures, as well as to plan and direct their own processes of participation, was a fundamental measure of the process.

A sufficiently strong and recognized indigenous organization such as the RIBCA, assuming a leadership role at the national level and supported by the remaining indigenous territories at the national level

- FONAFIFO's political will to establish a truly participatory process, respecting its worldview, values and organizational and governance structures (both legal and traditional) of the indigenous territories.
- The development of the Mechanism for Information, Feedback and Nonconformities (MIRI).



**Strengthening people's knowledge on various issues related to the process of building the National REDD+ Strategy**

- Implementation of the Cultural Mediators Programme as a fundamental methodological tool in the information and pre-consultation process, allowed for the understanding and assimilation of various issues by the indigenous peoples.
- Recognition of the various problems and needs, as well as the cultural differences between the eight indigenous peoples of Costa Rica made it possible to adapt how information is presented.



**Strengthen indigenous peoples' organizational and governance structures.**

- FONAFIFO delegated important programmatic, administrative, financial and implementation responsibilities to the Territorial Blocks (BTRs), ACOMUITA and the Comprehensive Development Associations (ADIs).
- It contributed to greater credibility, greater recognition and better positioning at the territorial, regional and national levels.
- The visibility of the women who participated in the process not only strengthened their knowledge related to REDD+ issues, but also made them aware of their right to express their opinions and be heard.



**The strengthening of dialogue spaces and negotiation platforms between the leaders of the 24 Indigenous Territories and the Government.**

- To strengthen FONAFIFO's relations with the indigenous territories by taking into consideration recommendations for the improvement of contracts and procedures that respect the worldview of these territories in the use and management of their cultural, social and economic resources within the PES.
- The territorial information and pre-consultation workshops constituted community spaces for discussion not only of REDD+ but also of other issues of interest to each Territory (infrastructure, health, education, etc.).

*"This REDD process has had an amazing added value, and perhaps we still don't dimension how it is strengthening indigenous peoples. For the Indigenous peoples, REDD became a letter of negotiation with the government. Jorge Mario Rodríguez, Executive Director of FONAFIFO.*

#### 4.2 MAIN CHALLENGES

The participation and involvement of indigenous peoples in the information and pre-consultation stages of Costa Rica's National REDD+ Strategy also presented a series of challenges, among which the following stand out:

- **The complexity of REDD+ content and processes.** The development of a National REDD+ Strategy implies the development of complex processes (consultation processes with a diversity of stakeholders, starting with the SESA processes, going through the Feedback and Nonconformities

Information Mechanism (MIRI), the Environmental and Social Management Framework and the Information and Safeguard System, etc. that are developed in parallel, and whose integration is not easy to guarantee or communicate.

Also, the contents of a REDD+ Strategy are highly technical. Specifically for the case of the indigenous peoples, in addition to these general difficulties for the understanding of REDD+ some other specific ones were added such as the difficulty of integrating the traditional worldviews of the indigenous world with the technical-scientific knowledge of the non-indigenous world.

- **Managing expectations and misconceptions about REDD+.** The complexity of REDD+-related processes not only makes them difficult to understand, but also easily gives rise to misinterpretations and generates legitimate fears and concerns. Throughout the process, different stakeholders, external to REDD+, transmitted discordant messages to Indigenous Peoples about the process: that the process would immediately generate many economic resources for the territories; that foreign companies would take over the forests; that participating in REDD+ would mean for Indigenous Peoples an abandonment of their culture and traditional relationship with the forest, etc. These messages generated distrust among some villagers and were translated in the need to constantly provide information and clarification on the process on behalf of FONAFIFO and the REDD+ Executive Secretariat.

- **The management of process schedules.** The schedules defined by donors and the international community for the development of REDD+ processes do not necessarily coincide with the schedules necessary for their implementation in the territories, which generated gaps and overlaps in processes that are not easy to manage.

- **The complexity of indigenous governance and representation structures.** The disagreements among indigenous peoples on the issue of the representativeness of the ADIs as legitimate governance entities of the territories caused the initial refusal of some of them to participate in the process under the plan proposed by the RIBCA. However, FONAFIFO did not refuse dialogue with these territories, but rather held bilateral talks throughout the process aimed at finding an alternative way to incorporate them, recognizing traditional forms of representation as equally legitimate.

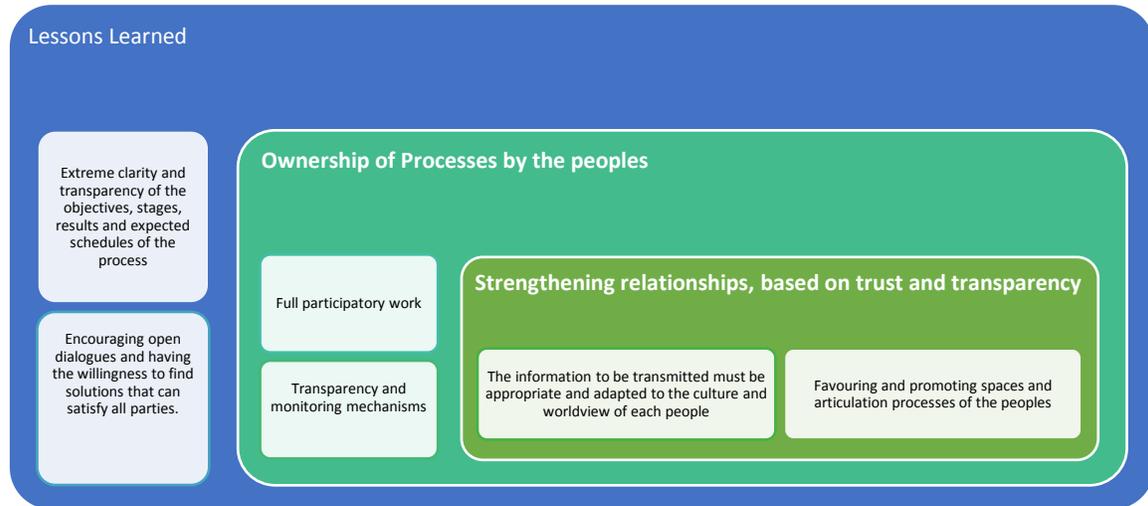
At the same time, the work with the territories represented by the ADIs was not free of complexities and challenges, particularly because they are renewed every two years, which generated a certain instability in terms of the continuity and permanence of the processes.

Finally, some sectors interpreted the decision to delegate the direct administration of resources for the implementation of the process to the ADIs and the BTRs as a mechanism for **buying leaders**. This in turn generated occasional confrontations between leaders and at the community level, politicising a strictly technical process whose purpose was precisely to leave decision-making in the hands of the organisations themselves.

- **The high costs of the process.** Many more resources are needed in order to be able to carry out a truly participatory consultation process with indigenous peoples. The reason is that there are great difficulties in travelling from one place to another, within and outside the Territories, in order to attend meetings in the country's capital.

#### 4.3 MAIN LESSONS LEARNED

As a result of the process of participation and engagement of Indigenous Peoples in the information and pre-consultation phases of Costa Rica's National REDD+ Strategy, including its successes and results, as well as its challenges and obstacles, several lessons can be learned. These can feed back into the consultation phase in Costa Rica and/or facilitate the information and pre-consultation processes with Indigenous Peoples in other countries.



## V. COMPLETION OF THE INDIGENOUS PEOPLES' CONSULTATION AND PARTICIPATION PHASE IN THE DEVELOPMENT OF THE NATIONAL REDD+ STRATEGY.

The last stage of the consultation process corresponds to the consultation carried out in the communities of each of the indigenous territories in relation to the 5 special themes. Its main objective is to submit the road maps that will be established for the implementation phase of the National REDD+ Strategy for knowledge, discussion and validation so that may achieve the agreements with the territories.

At this stage of transition to consultation, the country goes into a difficult economic condition, as the country's fiscal situation establishes a series of conditions and requirements that must be met by natural and legal persons offering professional services to the Government. This makes the process difficult because the representatives of the Associations of the Indigenous Territories, agreed at the workshop held at ICAES on May 16, 2017, that the consultation process would be carried out from each local government of the territories, that is, each ADI. Except for the South Pacific Block which decided to continue operating as it had done in the previous stages.

So the ADIs that have administrative offices, must be up to date with the employer and employee contributions to the Costa Rican Social Security Fund (CCSS) for all the staff. In addition, they must be registered with the Costa Rican Tax Administration and submit electronic invoices, and have a bank account to which payments can be made for the development and implementation of work plans for the consultation.

This stage begins in 2018, with the objective that each territory, in use of its principle of autonomy and respecting the cultural particularities of each one, analyses from its territory perspective, the results of the first two stages and defines accurately, the most adequate aspects for its territory in relation to the 5 special themes.

Terms of reference were prepared for contracting ADIs for the consultation stage with the objective of "organizing, implementing and providing logistical, technical and cultural support for the implementation of the last stage of the consultation process around the 5 special indigenous themes in the framework of the National REDD+ Strategy. This is achieved through the development of community consultations and the systematization of these consultations. The ADIs prepared a financial and a technical offer in order to consult the territorial accuracy on the five special themes that were developed in the first stage.

The Territories must outline the legal and territorial tools required during the implementation phase of the National REDD Strategy or any initiative in the framework of Climate Change. These tools can be a decree, a plan, a strategy, a policy or a project derived from the specific issues of each territory, or general, applicable to all territories or specific to a particular territory, always providing a guideline for each territory to establish a regulation or a community agreement for internal implementation, so that it is binding on the established legal tool.

A very important aspect to consider is the General Mechanism for Consultation with Indigenous Peoples (MGCPI), Executive Decree No. 40932, which aims to "regulate the obligation of the Executive Branch to consult indigenous peoples in a free, prior and informed manner, through appropriate procedures and through their representative institutions, whenever administrative measures are planned, bills are promoted by the Executive Branch or private projects, which could affect them" and therefore define the rules for carrying out the consultation.

Despite the publication of this decree, there are still some indigenous territories that have not recognized the MGCPI, and therefore the treatment of issues that concern them can still be lethargic, since **article 6** of this decree states that "Application to indigenous peoples. The MGCPI is mandatory for matters that tend to affect the collective rights of indigenous peoples.

The following table summarizes the objectives of the last stage of the consultation with Indigenous Peoples:

**TABLE 3. SUMMARY OF THE FIVE SPECIAL THEMES AND THEIR RESPECTIVE OBJECTIVES FOR THE CONSULTATION PHASE WITH INDIGENOUS PEOPLES AS PART OF THE PRE-CONSULTATION PROCESS**

Special Theme	Objective
1. Payment of Indigenous Environmental Service (IPES).	Develop and implement an IPES from the indigenous worldview that is carried out by indigenous people and discussed in each community, to ensure the traditional form of appropriation of the territory's resources and the distribution of benefits of the communities.
2. Legal security and titling of indigenous territories.	To legally and physically ensure that the territories are for the exclusive use of the indigenous peoples as defined in the current legislation, reclaiming illegal invasion and the overlapping with wild protected areas.

3. Approach and conceptualization of the forests from the indigenous worldview	To generate a conceptualization of forests and their physical and spiritual elements, based on the indigenous worldview, legally protected by existing or future legal mechanisms, to be incorporated in a binding way in public or private project policies.
4. Protected Wildlife Areas and Indigenous Territories.	The State's recognition of the role of indigenous peoples in the conservation of ASPs, and the right to their cultural use, defining plans for sharing responsibilities and benefits of ASPs between stakeholders and the Costa Rican society.
5. Participatory monitoring and evaluation model	That the Government and institutions establish mechanisms for dialogue and high-level follow-up with indigenous peoples to follow up on agendas, actions and projects that are developed with a direct or indirect impact on the territories.

Although this stage begins at the end of 2018, it has not been possible to carry out a good level of execution due to the fact that, in 2019, there were several changes in Boards of Directors, registration processes in the Tax Administration, among others, that have delayed such execution.

*The budget established for this stage of consultation has a total amount of approximately US\$ 332,550 if all the Indigenous Territories participate. At the time of finalizing this report, the status of activities per territory was as follows:*



**FIGURE 12. STATUS OF THE CONSULTATION PHASE OF THE REDD+ PROCESS IN THE INDIGENOUS TERRITORIES OF COSTA RICA**

At the close of this systematization process, there are still no final results from the consultation stage, which is why there is no profiled outcome of the process for each special theme discussed by the indigenous territories.

## VI. CONCLUSIONS OF LESSONS LEARNED: MEDIATORS, LAND TITLING, CO-MANAGEMENT OF ASP, INDIGENOUS PES, COMMISSION ON INDIGENOUS AFFAIRS OF MINAE.

- The training of more than 150 indigenous people as *cultural mediators*, has been and represents a very important human tool for the Indigenous Territories. These provide great convenience at the time of presenting other topics of interest, such as education, health, etc. to the communities.
- Positive impacts have been obtained in the process of development of the REDD+ Strategy after ten years of work with the PIRs. It has been designed in a participatory manner, and its authors have been the users and/or owners of the Costa Rican forest. Work has been done on issues such as the clear definition of roles and organizational structures, capacity building, improving the quality of life of rural populations and strengthening sectoral and intersectoral dialogue. As in any process, lessons have been learned, which drive areas of improvement for the future.
- One of the most important approaches of the Government with the indigenous peoples in environmental matters was carried out with FONAFIFO, from 1997, when the first 420 hectares of forest located in Conte Burica entered the PES program. Later that same year, the indigenous territories of Ujarrás in Buenos Aires and Cabécar in Talamanca were included, the first three ADIs contracts with the program, for a total of 745.19 hectares of forest protection.
- Currently, in current PES contracts with FONAFIFO, 17 of the 24 indigenous territories have an area of 73,081.5 hectares in forest and natural regeneration contracts, and have a potential for the inclusion of **171,207.6 hectares of forest** in the Program, of which in total represent 9% of the national territory (273,580.4 hectares). This represents an investment in the period 1997-2018 of approximately 11.94 billion colones and 35.5 million dollars.
- The SESA process allowed indigenous territories to define the environmental issues and agenda for their participation in the construction of the National REDD+ Strategy. This allowed them to promote changes that would address their concerns and interests while respecting their autonomy and worldview. An example of the processes that were promoted was in 2016, with the regulation of the PES program implemented by FONAFIFO with regard to indigenous territories. At that time, they reached an agreement with the Minister and important changes were incorporated into the Procedures Manual for entering the PES program.
- Another important aspect of the SESA process was the fact that the Government considered the insertion of the vision of indigenous territories within the national forest policy, since they are owners of 9% of the forests in Costa Rica, and until the last National Development Plan, they had been invisible. In the framework of the National REDD+ Strategy, they have a proposed chapter to be consulted with the 24 indigenous territories, which was built with the participation of representatives from 19 of the 24 territories in participatory processes, interviews and local meetings.

- It is important to consider in the development of any project, that the time frames of donors and the international community for the development of processes do not necessarily coincide with the time frames necessary for the implementation of actions within indigenous territories. Also, that many processes exceed the time frames of local governments, which again deserve the transfer of information and training to new members.
- In order to continue with a successful and transparent process, it is necessary to validate the organizational structures of the indigenous territories, as well as the political vision and methodology for the national consultation processes.
- There is a Gender Action Plan that considers the vision of indigenous women, and in which spaces for their growth and development are promoted. This plan is the first action plan with a climate vision and promotes the participation of indigenous women in the 5 special indigenous themes.
- There is currently a Commission on Indigenous Affairs of the Ministry of the Environment and Energy, created by a ministerial directive and which allows the territories to be a platform for working with the Government on environmental issues by monitoring environmental safeguards of interest to these populations.
- There is an information, feedback and nonconformities mechanism that was designed to receive and address concerns, contributions, complaints and claims from stakeholders about the consultation process and implementation of the National REDD+ Strategy, in order to have an appropriate instrument that may eventually affect their property, participation or access rights. The figure of a cultural mediator is used.

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## VIII. ANNEXES

Annex 1. National Indigenous Agreement for the Development Process of the National REDD+ Strategy. San Jose, December 18, 2012.

### **Acuerdo Nacional Indígena**

Para la Consulta Indígena en el proceso de Elaboración de la Estrategia Nacional de REDD+ de Costa Rica  
San José, 18 de diciembre 2012.

Nosotros líderes indígenas electos por nuestros Pueblos como representantes de 18 territorios indígenas de Costa Rica, y la Asociación Comisión de Mujeres indígenas de Talamanca, en el amparo de la legislación nacional, el convenio 169 de la OIT y otros instrumentos jurídicos nacionales e internacionales que tutelan nuestros derechos. Reunidos en el ICAES en Coronado, San José, acordamos lo siguiente:

- 1) Que reconocemos y entendemos que los Pueblos y territorios indígenas en Costa Rica se rigen por las leyes nacionales e instrumentos internacionales que tutelan los derechos indígenas.
- 2) Que en el ejercicio de los derechos de representación de los pueblos indígenas que ostentamos, de acuerdo a la legislación nacional vigente, tomamos revisión de lo planteado por el gobierno para la Elaboración de la Estrategia Nacional de REDD+ para lo cual elaboramos un plan para la Consulta Nacional Indígena que garantiza que nuestros pueblos sean consultados adecuadamente.
- 3) Que de acuerdo al principio del Consentimiento Previo Libre e Informado, la consulta debe ser dirigida a los y las indígenas de cada territorio coordinado por las Asociaciones de Desarrollo de cada territorio.
- 4) Que las Asociaciones de Desarrollo Integral (ADIs) como representantes legales de los territorios indígenas establecida por ley, seremos los coordinadores y facilitadores del proceso de consulta.
- 5) Que para efectos de mejor coordinación nos hemos organizado por Bloques Territoriales Regionales (BTRs) quienes conformaran una junta de dirección para cada bloque respectivo, con autonomía de estructurar su propia forma de trabajo.
- 6) Que todos estamos de acuerdo con el Plan de Consulta (Anexo #1), en su abordaje, enfoque, sistema organizativo, presupuesto y plan operativo, que ahí se establece. Que dicho plan se convierte en el plan general de implementación del proceso de consulta en todos los territorios que representamos.
- 7) Que el gobierno aportara \$1.1 millones de dólares provenientes de los fondos del FCPF para la implementación del proceso de consulta que se distribuirá de acuerdo al plan de consulta del anexo #1, mas sin embargo para efectos de mejorar la cobertura y calidad de las propuestas indígenas el Gobierno puede aportar recursos adicionales en la medida de lo posible.
- 8) Que el representante indígena ante el grupo de trabajo (junta Directiva de REDD+) hemos elegido como propietario al indígena Bribri, señor Hernán Carlos Cascante Layan cedula de identidad 7 093 544 y como suplente a la indígena Ngöbe la señora Juliana Andrade Montezuma con cedula de identidad 9-105-161.
- 9) Que elaboramos los criterios de selección para ser incluidos en el Término de Referencia, con el cual se contratará al coordinador Indígena que liderara el proceso de consulta indígena a nivel nacional, el cual adjuntamos en anexo #2.

10) Que cada BTR elegirá su asistente técnico, el cual será parte de la secretaria técnica nacional, que será notificada por escrito firmada por representantes de todos los territorios miembros del BTR respectivo.

11) Que el Gobierno de Costa Rica debe ajustar el Plan Nacional de Desarrollo Forestal (PNDF) a lo negociado en el marco del proceso de REDD+, por ser el PNDF una política pública vinculante a la estrategia REDD+ y por lo tanto una salvaguarda indígena.

Estando todos de acuerdo con lo expresado en esta carta y sus anexos, firmamos en el pleno uso de todas nuestras facultades, firmamos a las 16 horas del día 18 de diciembre del 2012

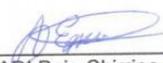
  
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ADITICA

  
2. ADI Bribri Talamanca  
ADITIBRI

  
3. ADI Tayra

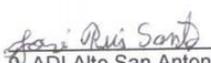
  
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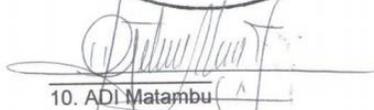
  
5. ADI Nairy Awari

  
6. ADI Bajo Chirripo.

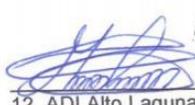
  
7. ADI Kekoldi

  
8. ADI Conte Burica

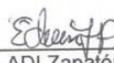
  
9. ADI Alto San Antonio.

  
10. ADI Matambu

  
11. ADI Maleku, Guatuso

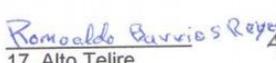
  
12. ADI Alto Laguna

  
13. ADI Abrojo Montezuma

  
14. ADI Zapaton

  
15. ADI China Kicha

  
16. ADI Ujarras

  
17. Alto Telire

  
18. ADI Coto Brus

  
19. ACOMUITA

## Annex 2. Statement Issued



**COMUNICADO**

Durante reuniones celebradas con los pueblos indígenas en el pasado me comprometí a retomar algunos temas relacionados con la iniciativa global que pretende aumentar los esfuerzos para fortalecer el papel de los bosques en la lucha contra el cambio climático (mejor conocida como REDD+), y aclarar las dudas externadas por ustedes. A continuación me permito abordar algunos de los temas planteados, de manera que podamos ir construyendo una visión conjunta sobre esta iniciativa, que es de gran interés para el país.

- REDD+ es una iniciativa internacional acordada por todos los países en la Convención Marco de Naciones Unidas sobre Cambio Climático, con miras a identificar políticas e incentivos positivos para mejorar la participación del sector forestal en los esfuerzos globales de reducción de emisiones y reconocer los múltiples beneficios económicos, sociales y ambientales de los bosques. REDD+, es de carácter voluntario para los países que deseen participar; y nuestro país se adhirió desde sus inicios como una forma de fortalecer la Estrategia Nacional de Cambio Climático y buscar oportunidades para atraer recursos adicionales de inversión para fortalecer los programas existentes y generar nuevas alternativas para buscar la mayor participación de todos los actores y sectores en este esfuerzo. Como tal, este es uno de los componentes que se refleja en el Plan Nacional de Desarrollo y en el Plan Nacional de Desarrollo Forestal.
- El Programa de Bosques y Desarrollo Rural, enmarca la Estrategia REDD+, la cual consta de un conjunto de políticas, acciones y tareas desarrolladas de forma participativa para enfrentar las causas de la deforestación y la degradación forestal, promover un desarrollo verde, social y económico, fomentar la conservación y el manejo sostenible de los recursos naturales y aumentar reservas de carbono forestal.
- Durante la fase de preparación de la Estrategia REDD+ el referente oficial es el Fondo Nacional de Financiamiento Forestal, a través de Jorge Mario Rodríguez en su calidad de Director Ejecutivo de FONAFIFO. Recordemos que el proceso REDD+ ha entrado en una segunda etapa de la fase de preparación, y en este sentido lo anterior sigue siendo válido.
- El proceso REDD+ ha entrado en una fase de transición como resultado de la negociación de los recursos de preparación para la II Etapa con el Banco Mundial, que ha llevado más tiempo del previsto y ha significado que no tengamos recursos para garantizar la continuidad de todos los diálogos que teníamos previstos, incluyendo el proceso de consulta con los pueblos indígenas. Estamos esperanzados en que este proceso de se retome muy pronto, una vez terminado los trámites pertinentes para la gestión de dichos fondos, muy posiblemente a partir del próximo mes de Mayo.
- Conforme se avance en lo antes mencionado, tenemos previsto que en junio se inicie la retroalimentación de la metodología de la consulta. Desde noviembre, la Secretaría Ejecutiva REDD+ ha estado trabajando en la sistematización de los talleres realizados en las comunidades en el marco de la etapa de información y el análisis de la pre-consulta, así como también en una propuesta metodológica, culturalmente apropiada para presentar dichos resultados.
- Debido al gran aporte y trabajo participativo recibido durante los talleres con los Pueblos Indígenas realizados en el marco de la etapa de información, se propone la elaboración de un Capítulo Indígena en la Estrategia REDD+, al igual que se pretende hacer con el Plan de Desarrollo Forestal, exclusivo para los pueblos indígenas, y en el cual se recojan los resultados del proceso realizado hasta la fecha con los pueblos indígenas, incluyendo los cinco temas especiales identificados: tenencia de la tierra y saneamiento, PSA Indígena, Áreas Protegidas y Territorios Indígenas, Integración de Bosque de acuerdo a la cosmovisión de los Pueblos Indígenas, monitoreo y evaluación participativa. Cada tema especial, incluye una ruta crítica que será parte de los insumos para la consulta.
- Acciones que estamos promoviendo para incorporar de ahora en adelante algunos de los elementos que se han identificado para el PSA indígena, y que se incluyen en las nuevas disposiciones del Reglamento del PSA:
  - Las solicitudes de PSA para reservas indígenas que no cuenten con plano catastrado serán tramitadas utilizando los derroteros establecidos en el respectivo decreto de creación de la Reserva.
  - Cuando la solicitud se refiera a un proyecto de protección de bosque en áreas que hayan sido objeto de PSA en los últimos cinco años, no será necesario aportar un nuevo estudio técnico, ni un contrato de regencia forestal. Para formalizar el contrato, bastará con que el personal de FONAFIFO verifique que se cumple con la definición de bosque establecido en la Ley Forestal N° 7575. Lo anterior no aplica en el caso de áreas nuevas, en las que se seguirá el trámite regular. Esos contratos contienen muchos avances de lo que significa un PSA Indígena.
  - Los contratos suscritos por las Asociaciones de Desarrollo Indígenas no serán inscritos ante el Registro Nacional como una afectación al inmueble.
  - Se permitirán los usos tradicionales en las áreas bajo PSA, incluyendo cultivos agrícolas para subsistencia, en tanto no superen el 2% del área total contratada, bajo supervisión de funcionarios de FONAFIFO.
  - Finalmente, se incluyen algunos criterios para mejorar la transparencia y la rendición de cuentas sobre las inversiones realizadas a través del PSA en territorios indígenas.

*Juan S. Gómez S.*

Annex 3. Ministerial Directive



REPÚBLICA DE COSTA RICA  
*Ministerio de Ambiente y Energía*  
*Despacho del Ministro*

San José, 5 de mayo del 2017  
DM-439-2017

Sra. Patricia Madrigal, Viceministra de Ambiente  
Sra. Irene Cañas, Viceministra de Energía  
Sr. Fernando Mora, Viceministro de Aguas, Mares, Costas y Humedales  
Sr. Diego Mora, Oficial Mayor – Director Administrativo  
Sra. María Virginia Cajiao, Secretaria Sectorial de Ambiente  
Sr. Leonardo Chacón, Director del Despacho Ministerial  
Sr. Álvaro Aguilar Díaz, Director Centro Nacional de Información Geoambiental,  
Sr. Alberto Bravo, Director DGTCC e Hidrocarburos  
Sr. Laura Lizano Directora SubSectorial de Energía  
Sra. Carla Murillo, Directora a.i Asesoría Jurídica, MINAE  
Sra. Shirley Soto Montero, Directora de Gestión de Calidad Ambiental  
Sr. Rubén Muñoz, Director de Cooperación Internacional  
Sr. German Guerra Director de Planificación.  
Sr. Juan Carlos Fallas, Director Instituto Meteorológico Nacional  
Sra. Andrea Meza Murillo, Director de Cambio Climático  
Sra. Ileana Boshini, Directora de Geología y Minas  
Sr. José Miguel Zeledón, Director de Aguas  
Sr. Jorge Mario Rodríguez, Director Ejecutivo FONAFIFO  
Sra. Vianney Loaiza Camacho, Directora de Recursos Humanos  
Sra. Ana Lía Padilla, Directora Financiera  
Sr. Mario Coto, Director Ejecutivo SINAC  
Sr. Ligia Umaña, Presidente Tribunal Ambiental  
Sr. Marcos Arroyo, Secretario General SETENA  
Sr. Randall Zuñiga, Director de Energía  
Sra. Ángela Gonzalez, Directora CONAGEBIO  
Sr. Marco Montero, Proveedor Institucional  
Sr. José Marín, Jefe Dpto. Servicios Generales  
Sr. Walter Zavala, Contralor Ambiental  
Sr. Alexander Moya, Auditor Interno MINAE  
Sra. Karen Espinoza, Auditora Interna SINAC  
Sr. Natalia Corrales, Parque Marino del Pacífico

**Estimadas (os) Señoras Viceministras, señor Viceministro y señores (as) directores (as):**

Con el fin de organizar y gestionar con eficiencia y eficacia los recursos del Ministerio de Ambiente y Energía (MINAE), se considera:

- a) Que es fundamental para el cumplimiento del ordenamiento jurídico atinente al MINAE la acción unitaria y coordinada de sus direcciones y sus órganos desconcentrados, así como materializar los principios de dirección y coordinación que derivan del artículo 140 inciso 8 de la Constitución Política que establece que le corresponde al Poder Ejecutivo "*vigilar el buen funcionamiento de los servicios y dependencias administrativas*", asimismo actuar conforme los pilares del Plan Nacional de Desarrollo 2015-2018 en particular la lucha contra la corrupción y fortalecer el Estado transparente y eficiente.
- b) Que conforme con el artículo 50 constitucional "*toda persona tiene derecho a un ambiente sano y ecológicamente equilibrado. Por ello, está legitimada para denunciar los actos que infrinjan ese derecho y para reclamar la reparación del daño causado y que el Estado garantizará, defenderá y preservará ese derecho*"
- c) Que de conformidad con la Ley Orgánica del Ambiente N° 7554 de 1995 en su artículo primero señala que el "Estado, mediante la aplicación de esta ley, defenderá y preservará ese derecho, en busca de un mayor bienestar para todos los habitantes de la Nación" y "se define como ambiente el sistema constituido por los diferentes elementos naturales que lo integran y sus interacciones e interrelaciones con el ser humano".
- d) Que el MINAE fue creado mediante la Ley Orgánica del Ministerio de Ambiente, Energía, N° 7152 de 1990 y las disposiciones en materia de organización interna están contenidas en su Reglamento Orgánico N° 35669-MINAET del 14 de diciembre del 2009 y sus modificaciones.
- e) Que de conformidad con las estipulaciones contenidas en la Ley General de la Administración Pública, N° 6227 de 1978, en la cual se crean las carteras ministeriales, siendo Ambiente y Energía una entidad del Poder Ejecutivo y conforme el artículo 47 tiene dos Viceministerios uno encargado del Sector Ambiente y otro del Sector Energía; y que por Acuerdo Presidencial N°002-P, publicado en La Gaceta N° 88 del 9 de mayo del 2014, se oficializó el Viceministerio de Aguas, Marés, Costas y Humedales;
- f) Que es función de la Comisión Nacional para la Gestión de la Biodiversidad CONAGEBIO conservar, usar y distribuir justa y equitativamente los beneficios que se derivan de la biodiversidad en sus elementos tangibles e intangibles como el conocimiento asociado.
- g) Que la Estrategia Nacional de Biodiversidad 2016-2025 promueve la participación social en la gestión de la biodiversidad y la distribución justa y equitativa de sus beneficios, reconociendo el respeto al conocimiento tradicional. La ejecución de la ENB pretende rescatar y proteger el conocimiento tradicional, reconocer el modelo de gobernanza de pueblos indígenas a través de áreas de cuidado, uso y manejo de la biodiversidad.
- h) Que la estrategia REDD+ busca desarrollar un conjunto de políticas y programas para enfrentar las causas de la deforestación/degradación forestal, promover un desarrollo verde, social y económico, fomentar la conservación, el manejo sostenible de los recursos naturales y aumentar reservas de carbono. Al implementar la Estrategia REDD+ se espera lograr la reducción de emisiones en tierras privadas e indígenas, mediante la regeneración de bosques y plantaciones

forestales, el secuestro de carbono en productos maderables, la deforestación evitada en diferentes tipos de bosque y la promoción de sistemas agroforestales, que permitirán un manejo holístico de los terrenos agrícolas y ganaderos con las actividades forestales.

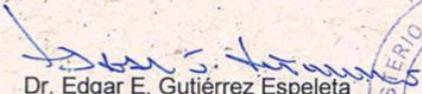
- i) Que en la Cumbre para el Desarrollo Sostenible, que se llevó a cabo en septiembre de 2015, los Estados Miembros de la ONU aprobaron el Acuerdo Internacional "Transformar nuestro mundo: la Agenda 2030 para el desarrollo sostenible", este compromiso fue firmado por Costa Rica, asumiendo la tarea de impulsar y cumplir con los 17 Objetivos de Desarrollo Sostenible para el año 2030, para poner fin a la pobreza, luchar contra la desigualdad y la injusticia, y hacer frente al cambio climático, entre otros.
- j) Entre los Objetivos de Desarrollo Sostenible, el objetivo 15, establece el de "Proteger, restablecer y promover el uso sostenible de los ecosistemas terrestres, gestionar los bosques de forma sostenible de los bosques, luchar contra la desertificación, detener e invertir la degradación de las tierras y poner freno a la pérdida de la diversidad biológica", implantando metas del 2020 al 2030, bajo una gestión prudente de este recurso, clave del futuro sostenible; surgiendo la necesidad de que los Ministerios de Ambiente y Energía, y Agricultura y Ganadería articulen acciones necesarias para garantizar una gestión integral del uso sostenible de los recursos de las costas y mares de nuestro país.

#### **DIRECTRIZ PARA LA CONFORMACIÓN DE LA COMISIÓN DEL MINISTERIO DE AMBIENTE Y ENERGÍA SOBRE ASUNTOS INDÍGENAS**

1. Confórmese la Comisión del Ministerio de Ambiente y Energía MINAE sobre asuntos Indígenas la cual tendrá como objetivo atender los temas de interés de pueblos indígenas que tienen que ver con competencias del MINAE y brindar una respuesta integral, así como dar el seguimiento y acompañamiento correspondiente.
2. Serán funciones de la Comisión:
  - a. Recibir las solicitudes de pueblos indígenas que sean competencia del MINAE. Si la solicitud se refiere a temas que no son competencia del MINAE se trasladará a la institución correspondiente y se informará al solicitante.
  - b. Promover coordinación con las dependencias del MINAE para llevar a cabo programas, proyectos y acciones conjuntas en favor de los pueblos y comunidades indígenas.
  - c. Identificar los pasos a seguir para la ejecución del Capítulo Indígena de la Estrategia REDD+ así como los temas indígenas priorizados de la Estrategia Nacional de Biodiversidad, u otras iniciativas futuras.
3. La Comisión estará conformada por los Directores de las siguientes instancias:
  - a. Sistema Nacional de Áreas de Conservación (SINAC);

- b. Fondo Nacional de Financiamiento Forestal (FONAFIFO)
  - c. Comisión Nacional para la Gestión de la Biodiversidad (CONAGEBIO)
  - d. Dirección de Aguas
  - e. Dirección de Geología y Minas
4. Cada jerarca de las dependencias miembros de la comisión nombrará un suplente para que asista en los casos en que no pueda hacerlo. Dicho suplente deberá contar con poder de decisión así como también con un conocimiento integral de la institución representada. Además, deberá conocer los trabajos realizados por la institución con los pueblos indígenas, así como proyectos en desarrollo relacionados con el tema.
  5. La Viceministra de Ambiente o a quien delegue servirá como coordinadora de la comisión, que deberá facilitar las sesiones así como también darle seguimiento a los acuerdos establecidos durante la misma.
  6. La Comisión reportará al señor Ministro de Ambiente y Energía mediante los informes periódicos que emita, los cuales serán canalizados a través del Viceministerio de Ambiente.
  7. Todas las direcciones del MINAE deberán atender de manera oportuna las solicitudes de la Comisión de Asuntos Indígenas, brindar su apoyo y colaboración.

Atentamente,

  
Dr. Edgar E. Gutiérrez Espeleta  
MINISTRO

