



GREEN
CLIMATE
FUND



minaē
MINISTERIO DE AMBIENTE Y ENERGIA

AnnexXIII(I) Indigenous People Plan



COSTA RICA
GOBIERNO DEL BICENTENARIO
2018 - 2022



REDD+
COSTA RICA
REDUCCIÓN DE EMISIONES
POR DEFORESTACIÓN Y
DEGRADACIÓN DEL BOSQUE
Y MÁS.

Ministry of Environment and Energy Costa Rica National REDD+ Strategy

ENVIRONMENTAL AND SOCIAL MANAGEMENT FRAMEWORK (ESMF)

Indigenous Peoples Planning Framework (IPPF)

SEPTEMBER 2018

Contact Information

Jorge Mario Rodríguez Zúñiga

Executive Director and National Focal Point REDD+

FONAFIFO, MINAE

jrodriguez@fonafifo.go.cr

Héctor Arce Benavides

National REDD+ Strategy Coordinator

FONAFIFO, MINAE

harce@fonafifo.go.cr

Collaborators in the development of this document

a. Secretariat team expert in Safeguarding issues

María Elena Herrera Ugalde. REDD+ Secretariat Professional.

Guisella Quirós Ramírez. REDD+ Secretariat Professional.

José Joaquín Calvo. REDD+ Secretariat Professional.

b. Consultants

Ricardo Ulate Chacón. REDD+ Secretariat Consultant

German Obando Vargas. REDD+ Secretariat Consultant

Leví Sucre Romero. REDD+ Secretariat Consultant

Carlos Borge. REDD+ Secretariat Consultant

Mario Nanclares. World Bank Consultant

Contents

Index of Tables

- Table 1: Analysis of gaps between national legislation and the requirements of the World Bank's environmental and social operational policies applicable to ESMF. **Error! Bookmark not defined.**
- Table 2: Assessment of social and environmental impacts of the National REDD+ Strategy Implementation Plan, recommendations for its management and monitoring. **Error! Bookmark not defined.**
- Table 3: Procedures and instruments to address potential risks of the National REDD Strategy measures, with their respective institutional focal points. ... **Error! Bookmark not defined.**
- Table 4: Institutions and roles for the implementation of ESMF (Same as the implementation of the National REDD+ Strategy and the Emissions Reduction Programme). **Error! Bookmark not defined.**
- Table 5: Institutions with responsibility for the implementation of safeguards management instruments. **Error! Bookmark not defined.**
- Table 6: Information and communication plan for ESMF. **Error! Bookmark not defined.**
- Table 7: ESMF costs per year. **Error! Bookmark not defined.**

Index of Figures

- Figure 1: Main causes of deforestation and degradation in Costa Rica **Error! Bookmark not defined.**
- Figure 2: Proposed organization chart of operation of the REDD+ Secretariat. **Error! Bookmark not defined.**
- Figure 3: Organizational Chart of the National System of Conservation Areas. **Error! Bookmark not defined.**
- Figure 4: Organizational Chart of the National Forest Financing Fund. **Error! Bookmark not defined.**
- Figure 5: Elements of the Information System on addressing and respecting REDD safeguards during the process of development and implementation of the REDD Strategy, measures and activities. **Error! Bookmark not defined.**
- Figure 6: General outline of the process for processing requests for information, feedback and nonconformities. **Error! Bookmark not defined.**

List of acronyms

- ABRE:** Areas under special administrative regimes
ADI: Association of Indigenous Comprehensive Development
AFE: State Forestry Administration
ASVO: Association of Volunteers for services in protected areas.
ASP: Wild Protected Areas



AnnexXIII(I) Indigenous People Plan

BM: World Bank

BTR: Regional Territorial Blocks

CATIE: Tropical Agricultural Research and Higher Education Center

CCF: Costa Rican Forestry Chamber

CBD: Convention on Biological Diversity

CI: Conservation International

CIAgro: College of Agricultural Engineers

ISIC: International Standard Industrial Classification of all Economic Activities.

FPIC: Free, Prior and Informed Consent

UNFCCC: United Nations Framework Convention on Climate Change

NNSF: National Commission on Forest Sustainability

CONAGEBIO: National Commission for Biodiversity Management

CONAI: National Commission for Indigenous Affairs

COP: Conference of the Parties

COVIRENAS: Natural Resources Vigilance Committees

CPLI: Free, Prior and Informed Consent

CREFs: Forest Emissions Reduction Contracts.

CUSBSE: Conservation, Sustainable Use of Biodiversity and Ecosystem Services

DCC: Directorate of Climate Change

DHR: Defensoría de los Habitantes de la República (Office of the Ombudsman of the Republic)

EIA: Environmental Impact Study

EN-REDD+: Costa Rica's National REDD+ Strategy

ERPA: Emissions Reduction Payments Agreement

ERPD: Emissions Reduction Programme Document

FCPF: Forest Carbon Partnership Facility

FC: Carbon Fund

FONAFIFO: National Forest Financing Fund

IAP: Potential Environmental Impact

ICE: Costa Rican Electricity Institute

IMN: National Meteorological Institute

INBio: National Biodiversity Institute

INDER: Rural Development Institute of Costa Rica

ISDS: Integrated Safeguards Data Sheet (ISDS)

ITCO: Institute of Lands and Colonization

JAPDEVA: Board of Port Administration and Economic Development of the Atlantic Slope

MAG: Ministry of Agriculture and Livestock

MDB: Benefit Sharing Mechanism

MEIC: Ministry of Economy, Industry and Commerce

SFM: Sustainable Forest Management

ESMF: Environmental and Social Management Framework

MGCPI: General Mechanism for Consultation with Indigenous Peoples

MJP: Ministry of Justice and Peace

MINAE: National Ministry of Environment and Energy



AnnexXIII(I) Indigenous People Plan

MIRI: Information, Feedback and Nonconformities Mechanism for Relevant Stakeholders of the National REDD+ Strategy

MOPT: Ministry of Public Works and Transport

IPPF: Indigenous Peoples Planning Framework

MPRI: Involuntary Resettlement Planning Framework

MRV: Measurement, Reporting and Verification

NdP: Rules of Procedure

ILO: International Labour Organization

OP: World Bank Operational Policy

OTIS: Indigenous Territorial Organization

ONF: National Forestry Office

UN-REDD or UNREDD: United Nations REDD+ Programme

WoR: Resettlement Plan

PdRA: Abbreviated Resettlement Plan

IPs: Indigenous Peoples

PIR: Relevant Stakeholder

PN: National Parks

PNDF: National Forestry Development Plan

PNE: Natural Heritage of the State

UNDP: United Nations Development Programme

IPP: Indigenous Peoples Plan

PPP: Prevention, Protection, Control

PES: Payment for Environmental Services

RB: Biological reserves

RBA: Absolute biological reserve

REDD+: Reducing Emissions from Deforestation and Forest Degradation and more.

RIBCA: Bribrí Cabécar Indigenous Network

R-Package: Preparedness package for reducing emissions from deforestation and forest degradation.

R-PIN: Preparation Project Idea Note

R-PP: Readiness Preparation Program (R-PP) Document

SAF: Agroforestry Systems

Se-REDD: REDD+ Secretariat

SESA: Strategic Environmental and Social Assessment

SETENA: National Environmental Technical Secretariat

SINAC: National System of Conservation Areas

SIS: Safeguard Information System

TEC: Technological Institute of Costa Rica

TI: Indigenous Territories

UCR: University of Costa Rica

IUCN: International Union for Conservation of Nature

UNA: National University

UNAFOR: National Agroforestry Union

UNED: Distance State University, (In Spanish, Universidad Estatal a Distancia)



AnnexXIII(I) Indigenous People Plan

Contents

INDIGENOUS PEOPLES PLANNING FRAMEWORK (IPPF)	1
1. INTRODUCTION	7
2. SCOPE AND DEVELOPMENT OBJECTIVE	8
2.1. <i>Scope</i>	8
2.2 <i>Development Objective</i>	8
3. DEFINITIONS	8
4. CHARACTERIZATION OF THE INDIGENOUS PEOPLES OF COSTA RICA	11
4.1 <i>Indigenous Populations in Costa Rica</i>	11
BRIBRI.....	14
BRUNCA	14
CABÉCAR	14
CHOROTEGA	15
HUÉTAR	15
MALEKU.....	15
NGÄBE.....	15
TERIBE	15
4.2 <i>Relationship between indigenous and non-indigenous peoples living in the territories</i>	18
4.3 <i>Identification of indigenous peoples among possible areas of intervention</i>	19
5. REGULATION AND INSTITUTIONAL FRAMEWORK IN COSTA RICA FOR INDIGENOUS PEOPLES	20
6. INDIGENOUS CONSULTATION	27
6.1 <i>First and Second Stage of the Consultation Process with Indigenous Territories</i>	27
6.2 <i>Main results</i>	35
6.3 <i>Third phase</i>	37
6.4 <i>REDD+ Strategy Implementation Phase</i>	41
7. STRATEGIC SOCIAL AND ENVIRONMENTAL ASSESSMENT	49
7.1 RISKS AND IMPACTS OF THE NATIONAL REDD+ STRATEGY.....	52
POLICY 1. PROMOTION OF LOW-EMISSION PRODUCTION SYSTEMS	54
POLICY 2. STRENGTHEN PROTECTED WILDERNESS AREAS (ASP) AND LAND-USE CHANGE AND FIRE PREVENTION AND CONTROL PROGRAMS	56
POLICY 3. INCENTIVES FOR CONSERVATION AND SUSTAINABLE FOREST MANAGEMENT	58
POLICY 4. LANDSCAPE AND FOREST ECOSYSTEM RESTORATION	59
POLICY 5. PARTICIPATION OF INDIGENOUS PEOPLES.....	61
8. INSTITUTIONAL IMPLEMENTATION ARRANGEMENTS	63
9. GUIDELINES FOR SOCIAL ASSESSMENT, CONSULTATION AND IPP (INDIGENOUS PEOPLES PLAN) DEVELOPMENT	65
9.1 <i>Social Assessment</i>	65
A. <i>Objective of Social Evaluation</i>	66
9.2 <i>Indigenous participation and consultation</i>	68
10. GRIEVANCES AND SUGGESTIONS MECHANISM.....	73
11. MONITORING AND DISSEMINATION MECHANISM.....	75
11.1 <i>Indigenous Monitoring and Evaluation</i>	76
11.2 <i>Participatory indigenous monitoring and evaluation model</i>	77
11.3 <i>Disclosure Mechanisms</i>	77
12. PERIODIC MONITORING AND REPORTING	78

1. Introduction

The Costa Rican National REDD+ Strategy was built from a long consultation process during its preparation from 2011 to 2015. Firstly, as a product of the systematization of the multiplicity of social, political and environmental risks, and of the commitments derived from the applicable safeguards. Secondly, going through a process of reorganization and adjustment of actions and measures in order to simplify it and for the PAMs to respect the legality, the tasks and the budgeting of the responsible institutions, as well as the official planning framework for the Costa Rican Forest Sector (the PNDP 2011-2020) so that both complement each other.

The National REDD+ Strategy aims to contribute to the implementation of national policies and priorities for the maintenance and sustainable enhancement of forest ecosystems and their associated goods and services, including their fundamental contributions to adaptation needs and enhancement of resilience, forest carbon stocks, and improving legal security by supporting the clarification of land tenure regimes and the rights and responsibilities of public and private landowners and holders in the conservation and sustainable management of forest resources, promoting forest entrepreneurship throughout the value chain of the activity and generating additional social, environmental and economic co-benefits, with a view to improving the quality of life of the inhabitants.

The above is intended to be achieved through the implementation of a series of measures, activities and policies that include working with different public and private actors, including Indigenous Territories, and therefore this Planning Framework for Indigenous Peoples (IPPF) should be prepared as part of the ESMF, which will serve as an instrument to comply with the policies and regulations for indigenous peoples of the country, including the commitments assumed with the ratification of ILO Convention No. 169¹, as well as with the World Bank's Operational Policy for Indigenous Peoples (OP/BP 4).10); at the time of implementation of the actions proposed in the policies of the National REDD+ Strategy, given that the preliminary study carried out has determined the presence of Indigenous Territories and Peoples in the areas where actions derived from the National REDD+ Strategy would be implemented and the collective attachment of indigenous peoples to those areas.

The purpose of this Framework is to ensure that the process of implementing the actions derived from the National REDD+ Strategy are carried out with absolute respect for the dignity, human rights, economies and cultures of Indigenous Peoples who may be affected by conducting a free, prior and informed consultation process that generates broad community support.

The objective of this IPPF is to provide guidelines for institutions and units participating in the implementation of the Strategy's PAMs on how to avoid and/or minimize negative impacts, maximize potential benefits and ensure full respect for the rights related to Indigenous Peoples, ensuring compliance with OP 4.10 of the World Bank on Indigenous Peoples, as well as the Cancun safeguards related to the issue and current regulations.

¹ Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries of the International Labour Organization (ILO). Ratified Law N°7316 of 1992.

Finally, it is pointed out that this IPPF is part of the Environmental and Social Management Framework (ESMF) of the Strategy, which applies to all the actions contemplated in it. Its scope is in line with that of the Strategy, which will be implemented throughout the national territory.

2. Scope and Development Objective

2.1. Scope

The National REDD+ Strategy will be implemented throughout the country, in public and private forest areas, including collectively owned indigenous territories and Costa Rican Natural Heritage areas.

2.2 Development Objective

The development objective of the Indigenous Peoples Planning Framework (IPPF) is to avoid potential adverse effects or risks on indigenous communities and to maximize the benefits of the implementation of the Indigenous Peoples (IPs) Strategy; and where these cannot be avoided, reduced, mitigated or compensated for. In addition, that affected indigenous communities can be consulted in a culturally appropriate manner, through free, prior and informed consent, to obtain broad community support.

3. Definitions

The definitions that will be used in this Indigenous Peoples Planning Framework come from ***Executive Decree 40932-MP-MJP***, in which the National Consultation Mechanism for Indigenous Peoples is formalized and therefore adheres from its development to the country guidelines that have been defined and agreed with the Indigenous Peoples and are presented below:

a. Indigenous peoples: Indigenous peoples are understood as those collective groups made up of indigenous people, direct descendants of pre-Columbian civilizations with their own identity and whose social, cultural, economic, spiritual and political conditions distinguish them from other sectors of the national community. Indigenous peoples are governed wholly or partly by their own customs or traditions or by special legislation and, in turn, retain all or part of their own social, economic, spiritual, cultural and political institutions. Awareness of their indigenous identity should be considered as a fundamental criterion for determining the peoples to whom the provisions of the present Mechanism apply.

b. Indigenous territories: In the broadest sense, indigenous territory is understood as the collective property of indigenous peoples that includes lands and natural resources that have

AnnexXIII(I) Indigenous People Plan

been traditionally occupied or used by indigenous peoples, without being reduced to their political-administrative delimitation.

c. Indigenous person: People who constitute ethnic groups and that are direct descendants of pre-Columbian civilizations and who preserve their own identity.²

d. Consultation of indigenous peoples. It is the obligation of the Government of Costa Rica to consult, in good faith, indigenous peoples in a free, prior and informed manner, through culturally appropriate procedures and through their representative institutions, whenever administrative measures are envisaged, bills promoted by the Executive Branch, as well as private projects, likely to affect them.

e. General Mechanism for Indigenous Consultation: A legal instrument that previously regulates the steps to be taken by the State and private natural or legal persons in the face of administrative measures, bills promoted by the Executive Branch or private projects that may affect their collective rights, in order to obtain the consent and/or agreements of the indigenous peoples in a prior, free and informed manner.

f. Free, Prior and Informed Consent/FPIC: A culturally appropriate collective decision-making process following a meaningful process of good faith consultation and informed participation regarding the preparation and implementation of the National REDD+ Strategy.³ In the case of our country, this principle is governed by Law No. 7316 approving ILO Convention No. 169, the Convention on Biological Diversity (CBD) ratified in 1994 by Law No. 7416 and the Biodiversity Law.

g. Affectation: A bill, administrative measure or private project is considered to affect the rights of indigenous peoples when it contains elements that may imply changes in their legal status, collective rights, way of life, culture, spirituality and social dynamics.

As well as measures that, without being implemented strictly within indigenous territories, result in an affectation of the collective and cultural rights of indigenous peoples.

h. Collective rights: Those rights that are subject to a particular group or set of people who share cultural, social, spiritual or historical characteristics. The collective rights of indigenous peoples shall be understood as those recognized by the current national or international legal framework or by the world view of the indigenous people as part of their cultural heritage.

i. Administrative measures: Includes, among other things, administrative acts, public policies, executive decrees and development projects, promoted by the public institutions of the Executive Branch.

j. Bills promoted by the Executive Branch: All those bills promoted by the public institutions of the Executive Branch. It shall be understood that the consultation of draft laws must be

² Indigenous Act No. 6172 of 1977, Article 1.

³ OP 4.10 for Indigenous Peoples of the World Bank.

AnnexXIII(I) Indigenous People Plan

done prior to their referral to the Legislative Assembly, and that time, the obligation to consult shall correspond to the Legislative Power.

k. *Private project:* Any initiative or project generated by a natural or legal person subject to private law; within the scope of this concept and also included are projects promoted by the Comprehensive Indigenous Development Associations.

l. *Organizations or institutions representing indigenous peoples:* All those legally or culturally recognized instances of representation of indigenous peoples that, following an internal process of community and participatory decision-making, are elected or appointed by the indigenous peoples.

These are recognized by the indigenous people, for the representation of their affairs, rights, interests and decisions.

m. *Technical Unit for Indigenous Consultation:* Body of the Ministry of Justice and Peace responsible for the technical and financial management of the Indigenous Consultation processes, as well as the other functions regulated by this Decree, for the exclusive purposes of Consultations with Indigenous Peoples.

n. *Indigenous Territorial Consultation Body:* Indigenous territorial counterpart responsible for acting as the interlocutor with the Government of the Republic in each indigenous territory, during a specific Indigenous Consultation process and for the specific purposes of the Consultation. These bodies shall be elected within each of the indigenous territories according to their own rules and representation mechanisms. The Indigenous Territorial Consultation Instance fulfils a role of logistical coordination and specializes in Indigenous Consultation issues and does not replace the roles and functions of other pre-existing organizations, as established in article 21 et seq. of this Decree.

o. *Stakeholder:* Public Institution or subject of Private Law, interested in carrying out a process of Consultation with Indigenous Peoples, for having a project or measure within their work plans, which is likely to affect the collective rights of Indigenous Peoples.

p. *Observers and Guarantors:* National or international public or private organizations that request to be part of the consultation process because they have a direct interest in or compliance with the General Consultation Mechanism, as well as the defence of the collective rights of indigenous peoples in relation to the administrative measure or private project consulted.

q. *Resolution to initiate the consultation process:* This is the resolution issued by the Indigenous Technical Consultation Unit (UTCI), communicating to interested parties, once verified, the admissibility requirements of the consultation request, as well as the approval by the relevant Indigenous Territorial Consultation Body.

r. *Consultation Plan:* Document resulting from the stage of Preparatory Agreements, product of the dialogue between the UTCI and the Indigenous Territorial Consultation Instance,

AnnexXIII(I) Indigenous People Plan

taking into account the inputs of the interested counterpart, which establishes the steps and agreements for carrying out a specific consultation.

s. *List of agreements:* Document resulting from the stage of Dialogue, Negotiation and Agreements, which lists the different agreements reached between the parties involved in a given consultation process.

t. *Revocatory appeal:* This is the ordinary appeal provided for in Title Eight, chapter one of the General Law of Public Administration, regulated between articles 342 to 352. The revocatory appeal shall be resolved by the same body that issued the act, which may revoke its decision or confirm it by dismissing the appeal.

u. *Appeal:* This is the ordinary appeal provided for in Title Eight, chapter one of the General Law of Public Administration, regulated between articles 342 to 352 and is based on the administrative hierarchy. The appeal shall be decided by the superior of the organ that issued the act, who shall review the performance of the act. The superior may dismiss the appeal and confirm the contested act or amend or annul the act.

For the purposes of this Framework, the definitions considered for Indigenous Peoples shall consider both the criteria set forth in OP 4.10 of the World Bank and those in the national legislation.

4. Characterization of the Indigenous Peoples of Costa Rica

4.1 Indigenous Population in Costa Rica

In Costa Rica, according to the 2011 INEC Census, there are currently a total of 104,143 inhabitants who defined themselves as indigenous, equivalent to 2.4% of the country's total population. The indigenous population settled in its "Reserves"⁴ is 35,943 inhabitants (34.5%) and is located in a land extension 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. A third part of the indigenous peoples live outside the indigenous reserves in the head districts of the cantons such as Bribri, Limón, Turrialba, San Vito, Neily, Buenos Aires, San Isidro and even San José.

⁴ 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 owned by each Indigenous Comprehensive Development Association. The second is a politically appropriate concept by various indigenous organizations to designate the spaces that legally belong to them and those that have traditionally been enjoyed or that have cultural significance for them. It is also important to differentiate between "indigenous peoples" and indigenous communities; the former designates the ethnicity as such and the latter are the villages within a territory of an ethnic group.

AnnexXIII(I) Indigenous People Plan

There are in total 69,809 indigenous people who self-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, slightly less than half.

There is no quantification of the indigenous population that lives outside its legal spaces (indigenous reserves) but that is located immediately in its surroundings, that is to say in the Indigenous Territories. There are migrant Ngäbe communities of more than 2,000 inhabitants in Sixaola de Talamanca and more than 800 inhabitants in the Los Santos area. In times of coffee harvest this population increases considerably due to seasonal migrations from Chiriqui, Panama. There are also important communities around the Bribri - Cabécar indigenous reserves such as Volio, Olivia, Fila Carbón, Katuair (Talamanca), Vesta (Valle de la Estrellas), Carrandi (Matina), Grano de Oro (Turrialba), Peje, Santa María de Brunca and San Carlos (Buenos Aires). In all the communities mentioned, there is a school with an indigenous school code or with a language and culture teacher, which reveals their situation.

Among all the Costa Rican ethnic groups, the Bribri - Cabécar of the Talamanca Mountain Range stand out with a total population of 35,183 (this represents 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 country's indigenous lands. Without a doubt, this ethnic group⁵ is the most numerous, the one that lives more in its territories (71%) and the one that managed to conserve more of its land extension with forest cover. They also border forests of important protected wilderness 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 size.

In the provinces of Puntarenas and Limón, the largest number of indigenous reserves are concentrated, with the cantons of Talamanca and Buenos Aires standing out in the basins of the Sixaola and Térraba rivers⁶. In general, in the southeast of Costa Rica (provinces of Cartago, Limón and Puntarenas) 20 of the 24 indigenous reserves are located⁷.

The indigenous peoples of Costa Rica have the lowest development rates and the highest poverty rates. Also, among the five poorest cantons, the two that concentrate the most indigenous population are Buenos Aires and Talamanca. At the same time, if the 2011 census were to break down the health, education, accessibility and other indicators that measure poverty, separating the general indicators coming from the 104,143 indigenous people reported, with those living within the indigenous reserves, the result is quite discouraging.

⁵ Bribri and cabécar identify themselves as a single cultural and political entity. Anthropologists such as Stone, Bozzoli, Borge and Guevara have thus worked on their cultural corpus. Recently the Indigenous Development Associations (ADI) and other organizations are making efforts to federate all their territories and organizations into an organization called Bribri-Cabécar Indigenous Network (by its acronym in Spanish, RIBCA).

⁶ 18 of the 24 indigenous reserves of the country are located in the Province of Puntarenas, concentrating 12 in the cantons of Talamanca and Buenos Aires and 13 in the basins of Sixaola and Térraba.

⁷ Outside southeastern Costa Rica there are the small indigenous territories of Zapatón, Quitirrisí, Matambú and Guatuso, with a total area of 10,219 hectares (3% of the total) and a population of 2,937 people (4.2% of the total indigenous population of the national ethnic groups).

AnnexXIII(I) Indigenous People Plan

The indigenous peoples living on their lands are the poorest population among the extreme poverty population.

The next page presents 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 by ethnic group

TOTAL INDIGENOUS POPULATION AND SIZE OF TERRITORY BY ETHNIC GROUP							
ETHNIC GROUP	INDIGENOUS TERRITORIES	POPULATION 2000		POPULATION 2011		HECTARES EXTENSION	TOTAL HECTARES
		Per territory	Total	Per territory	Total		
CABÉCAR	High Chirripo	4,619	9.861	5,985	12,707	77,973	177,739
	Low Chirripo	363		752		18,783	
	Tajní	1,807		2,641		16,216	
	Telire	536		533		16,260	
	Talamanca Cabécar	1,335		1,408		23,329	
	Ujarrás	855		1,119		19,040	
	Nairi Awari	346		223		5,038	
	China Kichá	-		46		1,100	
BRIBRI	Talamanca Bribri	6,467	9.645	7,772	12,785	43,690	87,150
	Cocles (Kekoldi)	210		1,062		3,900	
	Saltpetre	1,285		1,588		11,700	
	Cabagra	1,683		2,363		27,860	
BRUNCA (BORUCA)	Boruca	1,386	2,017	1,933	2,593	12,470	23,090
	Curré	631		660		10,620	
TÉRRABA (TERIBE)	Térraba	621	621	1,267	1,267	9,350	9,350
GUAYMI (NGOBE)	Guaymi of 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	
	Osa Guaymi	114		108		2,757	
	San Antonio Heights	-		180		1,262	
HUETARES	Quitirrisí	952	1,006	999	1,354	2,660	5,515
	Shoe	54		355		2,855	
GUATUSO (MALEKUS)	Guatuso	460	460	498	498	2,994	2,994
CHOROTEGA	Matambú	868	868	1,085	1,085	1,710	1,710
TOTAL		27,041	27,041	35,943	35,943	334,447	334,447

Source Carlos Borge, 2018.

A brief description of the 8 Indigenous Peoples existing in the country is presented.

Bribri

It is the largest group with almost 17,000 inhabitants among its 4 territories located on both sides of the Talamanca Mountain Range; on the Caribbean side are the Talamanca Bribri and Kekoldi territories (in the canton of Talamanca) and on the Pacific side, the territories of Salitre and Cabagra (in the canton of Buenos Aires).

The Bribris have similar customs and traditions to the Cabécar people, such as the social organization in matrilineal clans, aboriginal medical specialists, similar languages, cosmology and other traditions. As in other indigenous territories, since their creation, the penetration of non-indigenous settlers has generated social conflicts.

Brunca

The Bruncas, also known as Borucas, are found today in the indigenous territories of Boruca and Rey Curré (in the canton of Buenos Aires of Puntarenas) and in communities outside the indigenous territories such as Puerto Cortés and Palmar Norte, as well as in the large savannahs at the mouth of the Térraba River. The Bruncas and the Teribes are considered to have suffered the greatest impact of territorial dislocation. The presence of religious orders, cattle ranching and the construction of the southern part of the Interamerican Highway later, were triggers of their process of cultural loss and habitable space. There is a great process of cultural revitalization, through crafts and folkloric cultural expressions, which highlights the work of women artisans.

Cabécar

It is the second largest group with almost 14,000 inhabitants within its territories. The Cabécars have occupied very remote areas in both slopes of the Talamanca mountain range. Due to the remoteness of their territories, they have had a lesser degree of acculturation and thus retain their language and many of their traditions.

There are 8 indigenous Cabécar territories: in the Pacific, they are in the indigenous territory of Ujarrás (in the Canton of Buenos Aires of Puntarenas) and China Kichá (in Pérez Zeledón). In the Atlantic, they are found in six territories in three blocks: The first comprises the indigenous territories of Alto Chirripó (in the cantons of Limón Centro and Turrialba), Bajo Chirripó (in the cantons of Turrialba and Matina) and Nairi Awari (in the cantons of Turrialba, Matina and Siquirres); the second block comprises the territories of Tayní (cantons of Limón Centro and Talamanca) and Telire (Talamanca); and the third block comprises the territory of Talamanca Cabécar (MIDEPLAN, 2015).

AnnexXIII(I) Indigenous People Plan

Chorotega

Historically they have been located in the province of Guanacaste and part of Puntarenas. The Chorotegas went through a process of extensive mestizaje that is evident today in the current population of the peninsula of Nicoya; the dances, the music and the food are among the legacies of the Chorotega indigenous people. They live in the indigenous territory of Matambú and surrounding communities (cantons of Nicoya and Hojanca). The chorotegas who identify themselves as such are one of the smallest groups, with approximately 1600 people.

Huétar

The huetares are the indigenous people closest to the Central Valley, in fact, the Huétar people faced the Spaniards and their descendants for the recovery of their lands in the Central Valley in the mid-nineteenth century. They are located in two territories: Quitirisí (Mora canton) and Zapatón (Puriscal canton). They preserve cultural traditions such as working with natural fabrics and dyes, the preparation of meals, forms of natural medicine and community living standards. The language has not been spoken since the eighteenth century, but some of its characteristics have been reconstructed by geographical names, of plants, animals, objects and other expressions that have endured.

Maleku

The Maleku people are also known as "Guatuso", due to a colonial name from the 18th century, related to the place where they were found: La Guatusa hill. It is located in the canton of Guatuso, however, its ancestral territories included part of the canton of San Carlos and Los Chiles. They have three localities or palenques: Tonjibe, El Sol and Margarita. Its inhabitants were not subdued during the colony, so they maintained a strong cultural autonomy until almost into the twentieth century. Despite having been impacted by the dispossession of their ancestral lands, both the young and the old keep their traditions alive. An example of this is the way in which they continue to bury their dead, in an area of the houses, because in the Maleku world view, the spirits continue to influence them in a beneficial way. They have a bilinear or double filiation kinship system.

Ngäbe

The Ngäbes represent the largest group in the so-called Baja Centroamérica (the largest is in Panama); in Costa Rica approximately 5,600 people (citation) were estimated to be living within designated Ngäbes indigenous territories, located in the South Pacific, close to the Panamanian border. There are five territories: Abrojo-Montezuma (in the canton of Corredores), Conte Burica (in the canton of Golfito and Corredores), Coto Brus (cantons of Buenos Aires and Coto Brus), Osa (Canton of Golfito) and Altos de San Antonio (Canton of Corredores). They have a very strong attachment to their traditional culture. The practice of their language is maintained at 100% in all territories and communities, differentiating two languages, Ngawbere and Bokotá (called Buglé in Panama). The traditional system of kinship is very complex, it is a filiation system in reference to maternal and paternal grandparents. (MIDEPLAN, 2015).

Teribe

The Teribe or Térraba people of Costa Rica are descendants of the Teribes who were moved by the Spanish in the seventeenth and eighteenth centuries from Talamanca, in the Caribbean



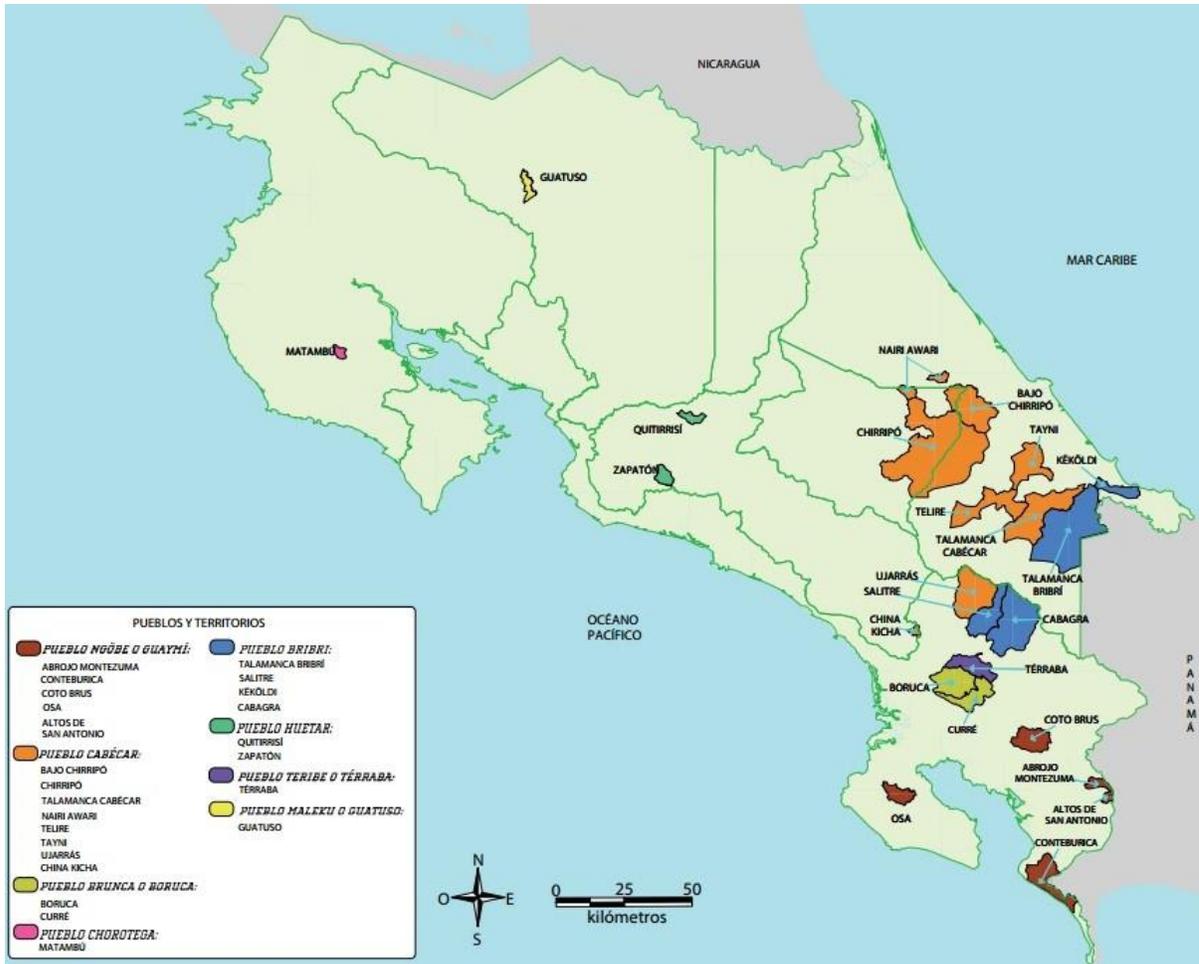
AnnexXIII(I) Indigenous People Plan

slope, to the Pacific slope. The Térraba people of Costa Rica and the naso-Teribe of Panama are related. In Panama they are known as nasos, in Costa Rica as Teribes or Térrabas (Broran). They are located in a single indigenous territory called Térraba (canton of Buenos Aires) on the banks of the Grande de Térraba River. Their language, although it had a few speakers in the 20th century, became extinct. The dismantling of the original culture, like that of other indigenous groups, occurred since colonial times, but to that was added the fact that they were forced to emigrate. In spite of the cultural loss, they make great efforts to revitalize their identity; one of their ways to do this is the exchange with their brothers from the neighboring country, who do conserve their Teribe language, and others are the rescue of oral traditions, the rescue of memories of agricultural work, among others.

These 8 Indigenous Peoples are distributed in 24 indigenous territories located throughout the territory, but mostly in the south-east of the country. The National REDD+ Strategy has a national scope, therefore, the activities that involve the participation of some of these territories, involve a series of actions that respect their entire worldview and autonomy.

Map 1. Location of the 24 existing indigenous territories in Costa Rica.

AnnexXIII(I) Indigenous People Plan



4.2 Relationship between indigenous and non-indigenous people living in the territories

Of the 104,143 indigenous people living in the country, 75 per cent identify themselves with one of the eight indigenous peoples and 25 per cent only declare themselves indigenous without specifying which group they belong to. (According to INEC. X National Population Census and VI Housing Census 2011). It should be noted that this census indicates that there are 12,557 non-indigenous persons living within indigenous territories, representing 35 per cent of the total number of indigenous persons living within their territories.

Another relevant fact is that, of the 104,143 indigenous people registered in the country, only 35,943 indigenous people live within the territories, representing 34.5 per cent of the total number of indigenous people in the country. According to this figure, the indigenous people living in the territories per group are distributed as follows:

- Bribri 35.57%.
- Brunca or Boruca 7.21%.
- Headboards 35.35%.
- Chorotegas 3.01%.
- 3.76% Huetares
- Malekus 1.38 %.
- Ngäbes 10.20
- Térrabas 3.52% %.

Pueblos y territorios indígenas	Población total en territorios indígenas	Población indígena	Población no indígena
Costa Rica	48.500	35.943	12.557
Pueblo Bribri	16.938	12.785	4.153
Territorio Salitre	1.807	1.588	219
Territorio Cabagra	3.188	2.363	825
Territorio Talamanca Bribri	8.368	7.772	596
Territorio Kekoldi-Cocles	3.575	1.062	2.513
Pueblo Brunca o Boruca	4.317	2.593	1.724
Territorio Boruca	3.228	1.933	1.295
Territorio Rey Curré	1.089	660	429
Pueblo Cabécar	13.993	12.707	1.286
Territorio Alto Chirripó	6.341	5.985	356
Territorio Ujarrás	1.321	1.119	202
Territorio Tayni	2.850	2.641	209
Territorio Talamanca Cabécar	1.435	1.408	27
Territorio Telire	545	533	12
Territorio Bajo Chirripó	923	752	171
Territorio Nairi Awari	473	223	250
Pueblo Chorotega	1.685	1.085	600
Territorio Matambú	1.685	1.085	600
Pueblo Huetar	2.417	1.354	1.063
Territorio Zapatón	452	355	97
Territorio Quitirrisí	1.965	999	966
Pueblo Maleku o Guatuso	1.423	498	925
Territorio Guatuso	1.423	498	925
Pueblo Ngöbe o Guaymí	5.643	3.654	1.989
Territorio Abrojo-Montezuma	1.494	610	884
Territorio Osa	159	108	51
Territorio Conte-Burica	1.863	1.144	719
Territorio Coto-Brus	1.785	1.612	173
Territorio Guaymí de Altos de San Antonio	342	180	162
Pueblo Teribe o Térraba	2.084	1.267	817
Territorio Térraba	2.084	1.267	817

Fuente: Instituto Nacional de Estadística y Censos (INEC). Censo 2011.

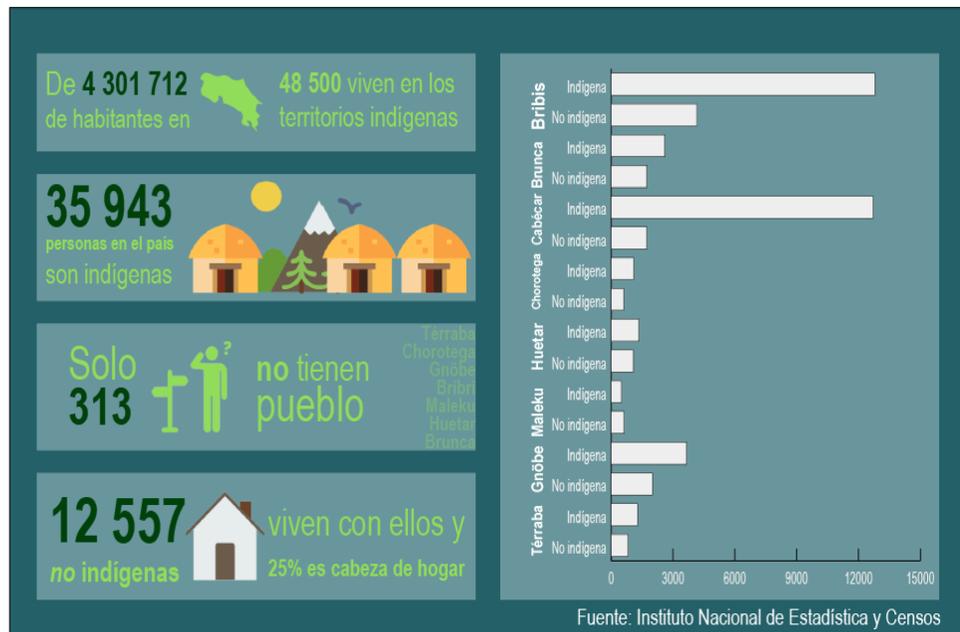
Table N°2. Indigenous population by territory and Group.

AnnexXIII(I) Indigenous People Plan

If we look more closely at the existing information, we can see that there is a high percentage of non-indigenous people in the territories, what we cannot determine is the number of hectares of land that are in the hands of non-indigenous people, next, in the infographic, we can see the relationship of indigenous and non-indigenous people in the territories of our country.

4.3 Identification of indigenous peoples among possible areas of intervention

The initial identification of the presence of indigenous peoples in the areas where the National REDD+ Strategy actions will be implemented will be carried out through the use of technical criteria that will first define the priority areas for achieving the objectives of the National REDD+ Strategy and the subsequent verification of the presence of indigenous communities in them.



In a preliminary review, all indigenous territories in the country are located in rural areas that may potentially be REDD+ action areas, below is a table of all indigenous peoples in the country, their territories, population and land extension.

The indigenous territories were created by executive decrees which are the legal basis for the territories, and which have been modified by other decrees due to the advance in technologies that allow a more precise delimitation of the areas, but because of the distrust that has existed between the Indigenous Peoples around their lands, keeps them paying close attention to possible situations of legal security in their territories. For this reason, there is a permanent struggle to generate new mechanisms to consolidate this legal right to land. This is how the failed attempt to approve the bill on Indigenous Autonomy came about. Recently, two initiatives have emerged that seek this legal consolidation of lands, such as the National Plan for Land Recovery of the Institute of Rural Development (INDER) and the decree of the General Mechanism of Consultation for Indigenous Peoples of Costa Rica published in 2018.

Table 3 below presents the details for each Indigenous Territory, the decree that created it, the number of hectares in each territory and the date on which it was constituted.

Table 3. Breakdown by indigenous territory in Costa Rica of the areas of which it is composed and the decree creating it.

Superficie en hectareas de los territorios y base Legal				
	Territorio	Hás	DECRETO EJECUTIVO	Fecha
1	Talamanca Bribri	43,690	D.E 16307-G	16/05/1985
2	Talamanca Cabecar	22,729	D.E 16306-G Y 29448	16/05/1985 y 21/03/2001
3	Kekoldi	3,538	D.E 2267.G Y 25296-G y29956	09/08/1977 y 15/07/1996 y 22/3/2001
4	Nairi Awari	5,038	D.E 16059-G	20/05/1991
5	Bajo Chirripo	19,710	D.E 21904	26/12/1992
6	Alto Chirripo (Duchi)	77,973	D.E 21905-G	7/1/1993
7	Tainy	16,216	D.E 16058-G	3/12/1984
8	Telire	16,260	D.E 16308-G	16/05/1985
9	Zapaton	2,855	D.E 13569 .G y D.TSE 29453	30/04/1982 y 21/03/2001
10	Quitirrisi	963	D.E 10707- G y N° 29452-G	24/10/1979 y 21/3/2001
11	Matambu	1,623	D.E 11564 y 37372	02/02/1980 y 04/09/2012
12	Maleku(Guatuso)	2,994	D.E 5904 -G y 7962-G	11/3/1976 y15/12/1977
13	China Kicha	1,200	D.E. 29447	21/03/2001
14	Ujarras	19,040	13571-G	30/04/1982
15	Cabagra	27,860	13571-G	30/04/1982
16	Terraba	9,355	13571-G	30/04/1982
17	Boruca	12,470	D.E 22203	16/04/1993
18	Rey Curre	10,620	D.E 22203	16/04/1993
19	Salitre	11,700	13571-G	30/04/1982
20	Alto San Antonio	800	D.E 29451	22/03/2001
21	Coto Brus	7,500	D.E 12751 -G	26/06/1981
22	Conte Burica	11,910	D.E 13545-G y 29450-G	3/5/1992 y 22/03/2001
23	Abrojo Montezuma	1,480	D.E 29960	26/10/2001
24	OSA	2,757	D.E 22202	26/12/1992
	TOTALES	330,281		

5. Regulation and institutional framework in Costa Rica for Indigenous Peoples

Over the past four decades, Costa Rica has distinguished itself by its dynamism in the adoption of conventions and the recognition of rights for various sectors of the population, including indigenous peoples. Legislation in this area has been developed at two levels: on the one hand, the instruments framing international protection in favour of indigenous peoples and, on the other, the national legal provisions consistent with those rights (Chacón, 2012).

That is why Costa Rica has promoted its national institutions, ensuring respect for these peoples and their customs, therefore, it has been cautious in processes involving the participation of indigenous communities. As a result of the foregoing, Costa Rica has ratified a series of international agreements in which it is the guarantor of compliance and in which they are found, among other things, (taken from the recitals of the National Consultation Mechanism for Indigenous Peoples):

Annex XIII(I) Indigenous People Plan

- The United Nations Declaration on the Rights of Indigenous Peoples of September 13 2007, in which articles 10, 15, 17, 18, 19, 30, 32, 36 and 38 establish the duty of States to consult in good faith with indigenous peoples and through their representative institutions before adopting and implementing legislative or administrative measures affecting them, in order to obtain their free, prior and informed consent.
- Act No. 7316 of 3 November 1992, in which the Legislative Assembly of the Republic of Costa Rica approved the adoption of Convention No. 169 of 27 June 1989 concerning Indigenous and Tribal Peoples of the International Labour Organization (hereinafter referred to as "ILO"). This convention establishes that "Governments shall assume responsibility, with the participation of the peoples concerned, for developing coordinated and systematic actions with a view to protecting the rights of these peoples and ensuring respect for their integrity ...".
- Article 6.1(a) and (b) of ILO Convention No. 169 establishes the duty of Governments to "... (a) to consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever legislative or administrative measures likely to affect them directly are envisaged; (b) establish the means by which the peoples concerned may participate freely, at least to the same extent as other sectors of the population, and at all levels in decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them ...". Article 6.2 of ILO Convention No. 169 states that "Consultations under this Convention shall be carried out in good faith and in a manner appropriate to the circumstances, with a view to reaching agreement or obtaining consent on the proposed measures. "
- The 1966 UN International Covenant on Economic, Social and Cultural Rights (which is not specific to indigenous peoples, but it is the first to include cultural rights and, therefore, to involve a large part of their issues).

Costa Rica has national legislation in which indigenous peoples are formally recognized, beginning with **Indigenous Act No. 6172 of 1977**, which defines indigenous peoples as "*persons who constitute ethnic groups that are direct descendants of pre-Columbian civilizations and who retain their own identity; in addition, the limits of "indigenous reservations" or indigenous territories are established (art. 1).*

In addition, the Comprehensive Development Associations (ADIs) have the legal representation of indigenous communities and act as their local government. These indigenous communities have full legal capacity to acquire rights and undertake obligations of all kinds. They are not State entities; in addition, the reserves mentioned in the first article of the Act are declared the property of the indigenous communities (art. 2).

The indigenous reserves in Costa Rica are inalienable and imprescriptible, non-transferable and exclusive to the indigenous communities that inhabit them. Reserves shall be governed by indigenous peoples in their traditional community structures or by the laws of the Republic that govern them, under the coordination and advice of CONAI" (art. 4). This law was regulated by Executive Decree No. 8487 of May 10, 1978 and by Executive Decree No. 13568 of May 17, 1982.

AnnexXIII(I) Indigenous People Plan

However, the regulations to the indigenous law that for the exercise of rights and the fulfilment of obligations, the indigenous communities will adopt the organization provided for in Law No. 3859 of the National Directorate of Community Development Associations and its Regulations; leaving traditional community structures to operate within the respective communities; and Development Associations, once legally registered, to represent these communities judicially and extra-judicially.

However, at the national level there is also a Commission that was created before the law, which states that among the main objectives of this institution is to "*promote the social, economic and cultural improvement of the indigenous population; to serve as an instrument of coordination between the various public institutions obliged to carry out works and provide services for the benefit of indigenous communities; to ensure respect for the rights of indigenous minorities, stimulating State action in order to guarantee these populations individual and collective ownership of land; to ensure compliance with any current or future legal provisions for the protection of indigenous cultural heritage, collaborating with the institutions responsible for these aspects; to create local administrative councils to resolve in principle the multiple problems of indigenous localities; and to serve as an official liaison body with the Inter-American Indian Institute and other international agencies working in this field*" **(Act No. 5251. Art. 4). Establishment of the National Commission on Indigenous Affairs (CONAI) in 1973).**

Article 1 of the Political Constitution of the Republic of Costa Rica states that "Costa Rica is a democratic, free, independent, multi-ethnic and multicultural Republic". Article 7 of the Constitution of the Republic of Costa Rica states that "Public treaties, International agreements and concordats, that are duly approved by the Legislative Assembly, shall have superior authority over laws, from the date of their promulgation or from the day they were designated by the Legislative Assembly. "

The jurisprudence of the Constitutional Chamber has determined that "... all State bodies, including the Executive, and the Legislative must be guarantors of conventionality control, in order to respect and guarantee the protection and effective exercise of fundamental rights in the exercise of an independent judiciary ... "(Resolution n.0 2013-06274 of 14:15 on May 9, 2013).

The Chamber, through its jurisprudence, has determined that "... international human rights law in our legal system, unlike other instruments of international law, not only have a value superior to that of the law in accordance with article 7 of the Constitution, but its provisions, insofar as they provide greater coverage, protection or tutelage of a given right, must prevail over them; the foregoing, taking into account the provisions of article 48 of the Constitution ... '!' (Resolution No. 2007-01682 of 10:34 a.m. on 9 February 2007).

Not less important, the Law of Biodiversity, Law N^o.7788 of the 23 of April of 1998, establishes in its art. 83 that the duty of: (...) define a participatory process with indigenous and agricultural communities to determine the nature, scope and requirements of these



AnnexXIII(I) Indigenous People Plan

rights for their definitive regulation. The Commission and the organizations involved will arrange the form, the methodology and the basic elements of the participative process".

The following is a summary of the rights recognized to Indigenous Peoples and the main related legislation, which shows the progress the country has made in this area. This data is taken from the 2017 State of the Nation report.

Table 4. Summary of the rights recognized to Indigenous Peoples and the main related regulations.

AnnexXIII(I) Indigenous People Plan

Derecho	Normativa que la contempla
Al desarrollo propio	Pacto DESC ^{4/} : 1.1 y 1.2 Convenio 169 ^{5/} : 7.1 Declaración DI-ONU ^{6/} : 23 Constitución Política: artículos 20 y 33
Al trabajo	Pacto DESC: 6.1, 6.2, 7. A.I, 7.b, 7.d, 8.a, 8.d y 9 Convenio 169: 20 y 20.4, entre otros Declaración DI-ONU: 17.1 y 17.3 Constitución Política: artículos 56 y 63 Varios preceptos incluidos en el Código de Trabajo; por ejemplo, la prohibición de la discriminación étnica es establecida en el título XI, 618, 619, 623
Protección especial de mujeres, niños, niñas y adolescentes	Pacto DESC: 10.1 y 10.2 Convenio 169: 20.3.d Declaración DI-ONU: 22.2 Constitución Política: artículos 51 y 55 Derecho de protección especial al adolescente, decreto ejecutivo n° 33318, de 2006 (faculta al IMAS para que incorpore a familias de adolescentes pertenecientes a poblaciones indígenas que deseen participar como beneficiarios del programa de transferencias monetarias condicionadas).
A los recursos naturales	Pacto DESC: 11.2.a Convenio 169: 15.1 Declaración DI-ONU: 26.1, 26.2 y 32.3 Constitución Política: artículos 56 a 63 Ley Indígena (1977): 6 y 7 Ley de Biodiversidad (1998) Reglamento a la Ley de Biodiversidad (2008) Reglamento para el Aprovechamiento del Recurso Forestal en Reservas Indígenas (1999) Decreto 32386 (2005), sobre autorizaciones de aprovechamiento de madera caída que se encuentra dentro de la circunscripción territorial de la Reserva Forestal de Golfo Dulce, del Área de Conservación Osa, incluido el territorio indígena de Osa Reglamento a la Ley de Conservación de la Vida Silvestre (2005) Decreto Ejecutivo 33775 (2005): autoriza la caza por parte de personas indígenas de un territorio, siempre que cuenten con permiso del Sinac-Minaet Reglamento de Asociaciones Administradoras de Sistemas de Acueductos y Alcantarillados Comunes: 50 a 53.

Continued

AnnexXIII(I) Indigenous People Plan

A la salud	Pacto DESC: 12 Convenio 169: 25.2 Declaración DI-ONU: 24.1 Constitución política: artículos 46 y 73 Decreto Ejecutivo 33121, del 19 de abril de 2006: crea el Consejo Nacional de Salud de los Pueblos Indígenas
A la educación	Pacto DESC: 13, 13.3 y 14 Convenio 169: 28.1 Declaración DI-ONU: 13.2 y 14.1 Constitución Política: artículos 77, 78, 83, 84, 85, 86 y 88 Decreto Ejecutivo 22072 (1993): crea el Subsistema de Educación Indígena Decreto Ejecutivo 23489 (1994): crea el Departamento de Educación Indígena del MEP y dispone la contextualización del currículo a las características y necesidades de la población indígena
A la cultura propia	Pacto DESC: 15 Convenio 169: 1.2, 2, 5, 8.2, 9, 28 (derecho a las costumbres tradicionales, al idioma, a la identidad y valores indígenas, a la justicia tradicional) Declaración DI-ONU: 2, 3, 4, 5, 11.1, 13.1, 16.1, 20.1, 25, 33.1, 34, 35, 36.1, 40 Constitución Política: título VII Decreto ejecutivo 32454-C, del 27 de mayo de 2005 Decreto Ejecutivo 20645 (1991) Ley del Día de las Culturas (1994) Ley de la Diversidad Étnica y Lingüística (2000) Decreto ejecutivo 22072 (1993): reconoce el derecho al idioma propio. Ley 7878, de 27 de mayo de 1999, reforma al artículo 76 de la Constitución Política (sobre el idioma)
A la consulta	Convenio 169: 6, 15.2 y 17.2 Declaración DI-ONU: 19 y 30.2 Constitución Política: artículos 9 y 27 Decreto ejecutivo 32966 (2006), "Manual de Instrumentos Técnicos para el Proceso de Evaluación del Impacto Ambiental", que en su artículo 9.7 establece la obligación de consultar a la población indígena
Al territorio	Convenio 169: 8.2.b, 8.2, .c, 10.13, 14, 16, 17.1, 18, 26.1, 26.2, 27, 28.1, 29.2, 30.1 y 32.1 (derecho a la tierra y los recursos, formas de repeler invasiones de tierras, prohibiciones de traslado de tierras, derecho a las relaciones transfronterizas, derecho a que no se almacenen sustancias peligrosas en las tierras indígenas, derecho de reparación, restitución e indemnización por tierras o recursos) Ley Indígena: artículos 3 a 5, sobre las características de las tierras indígenas Más de veinticinco decretos de demarcación de territorios indígenas
<p>a/ Pacto DESC: Pacto Internacional de Derechos Económicos, Sociales y Culturales de la ONU (1966). b/ Convenio 169: Convenio sobre Pueblos Indígenas y Tribales en Países Independientes, nº 169, de la OIT (1989). c/ Declaración DI-NU: Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas (2007).</p>	

It should be noted that one of the most severe problems in the indigenous territories of Costa Rica is their occupation by non-indigenous persons. This situation has been addressed since the 1970s, however efforts have failed because in order to resolve the land conflict, it is necessary to have the participation not only of the Rural Development Institute (Inder) and the National Commission for Indigenous Affairs (CONAI), but also of the Government of the Republic. The situation is so complex that this issue has transcended Costa Rica's borders and Costa Rica has entered into international obligations regarding indigenous rights, such as the 1969 ILO Convention and the 2007 United Nations Declaration, just to mention a few examples (Plan for the recovery of indigenous lands, INDER 2015).

At the national level, the results of the study conducted by the Office of the Comptroller General of the Republic in 2006, which generated the DFOE-ED-07-2007 report, should not be overlooked. This report addressed many themes, one of these being related to the obligations of the Inder with regard to the indigenous issues. Later, following up on the provisions of the Office of the Comptroller General of the Republic, in 2015 the institutional

AnnexXIII(I) Indigenous People Plan

proposal to obtain a National Plan for the Recovery of Indigenous Territories (PLAN-RTI) was initiated. This proposal was further strengthened on 30 April of the same year, when the Inter-American Commission on Human Rights (IACHR) requested the adoption of precautionary measures in favour of the Teribe⁸ and Bribri de Salitre indigenous peoples, considering the existence of risk to the inhabitants of these peoples due to the actions they are taking to recover their lands⁹. Therefore, considering that their lives and personal integrity were threatened, the IACHR requested:

"...the State of Costa Rica to adopt the necessary measures to guarantee the life and personal integrity of the members of the Teribe and Bribri de Salitre indigenous peoples; to agree on the measures to be adopted with the beneficiaries and their representatives; and to report on the actions taken in order to investigate the alleged facts that gave rise to the adoption of the present precautionary measure and thus avoid their repetition..."¹⁰

In February 2016, INDER, together with the Deputy Ministry of the Presidency and the Ministry of Justice and Peace, convened a number of institutions involved in indigenous issues to submit a proposal for land use planning for indigenous peoples, which would in turn lead to the definitive recovery of those territories. The draft document entitled: "National Plan for the Recovery of Indigenous Territories ([PLAN-RTI](#))" was presented and commented on by the institutions and organizations¹¹.

All these processes carried out during the construction of the REDD+ Strategy, with the Indigenous Peoples, have culminated in an instrument of national consensus, of great consultation on the part of the Indigenous Territories at the national level and in a joint and exclusive manner between the Government of the Republic and the peoples of the twenty-four indigenous territories, which gathers their observations and perceptions of how they have and should carry out the actions that involve their participation.

At the national level, the consultation process established for the work with Indigenous Peoples in the Strategy was a cornerstone of the product that this population has for the processes that are carried out with them.

For this reason, the General Consultation Mechanism for Indigenous Peoples was created and published by Executive Decree 40932- MP-MJP on April 5, 2018. The purpose of this mechanism is to regulate the Executive Power's obligation to consult indigenous peoples in a free, prior and informed manner, through appropriate procedures and through their representative institutions, whenever any administrative measures, bills promoted by the Executive Power or private projects are foreseen and are likely to affect them. It contains

⁸ Refer to the Teribe indigenous people in the Térraba Indigenous Territory (also self-identified as Pueblo Brörán), and the Bribri indigenous people in the Salitre Indigenous Territory.

⁹ <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC321-12-ES.pdf>

¹⁰ IACHR, Precautionary Measure No.321-12 Teribe and Bribri de Salitre Indigenous People with respect to Costa Rica, 2015.

¹¹ Institutions that sent comments: Ministry of Foreign Affairs and Worship, National Council for Indigenous Affairs (CONAI), Special Commission on Salitre of the UCR, Sub-Commission on Indigenous Peoples and Territories of CONARE, Department of Cultural Promotion, Ministry of Culture.

AnnexXIII(I) Indigenous People Plan

articles 2 and 3, which establish a series of definitions and principles applicable to indigenous peoples.

The General Consultation Mechanism of Indigenous Peoples is mandatory for the Central Public Administration. Without prejudice to the principle of separation of powers enshrined in the Political Constitution and the corresponding system of autonomy in accordance with the relevant legal and constitutional provisions, the Legislative and Judicial Powers, the Supreme Court of Elections, its dependencies and auxiliary bodies, municipalities, state universities, autonomous institutions, semi-autonomous institutions, public enterprises, as well as private enterprises that administer public goods or execute public powers, may apply these regulations as a frame of reference for their own regulations.

It establishes a series of general procedures for consultation, defines which parties are responsible for the process and within this decree, transitory IV is established. Transitory IV protects the consultation actions carried out within the framework of the preparation of the National REDD Strategy, and in it states verbatim "*The ongoing consultation processes will not be affected by the entry into force of this decree, without detriment to the implementation and review of such consultation, in light of the provisions of this decree.*" Further details can be found in point 6 of this document.

6. Indigenous Consultations

6.1 First and Second Stages of the Consultation Process with Indigenous Territories

In 2008, Costa Rica joined the REDD+ readiness phase through the National Forest Financing Fund (FONAFIFO), a pilot experience led by the Forest Carbon Partnership Facility (FCPF), a global partnership that supports countries with tropical and subtropical forests to develop systems and policies for REDD+ with result-based payments). Costa Rica developed a REDD+ Readiness Proposal (R-PP), in which eight strategic actions were identified:

- Strengthen the management of the National System of Conservation Areas (SINAC) in control of illegal logging and forest fires;
- Integrate carbon sequestration in National Parks and Biological Reserves;
- Registration and regularization of special territories, including indigenous territories;
- Maintain long-term coverage of the Payment for Environmental Services (PES) Program;
- Expand the coverage of the PES Program;
- Sustainable wood production and consumption under certification schemes;
- Strengthen the fiscal management of the Costa Rican College of Agricultural Engineers (CIAgro);
- Create sources of financing for the implementation of the REDD+ Strategy.

AnnexXIII(I) Indigenous People Plan

Executive Decree No. 37352-MINAET established the organizational structure for the preparation phase, as a complementary mechanism to strengthen transparency and active participation of all stakeholders in this phase, in accordance with the rules defined by the FCPF:

- **FONAFIFO** is the lead agency responsible for the REDD+ preparation phase in Costa Rica. Responsible to the Ministry of the Environment and Energy (MINAE) for the preparation 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 design and execution of the Strategy.

- The **Executive Committee**, established to ensure the governance of the Strategy, consists of one proprietary member and their respective alternate member 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, serving as the Advisory Committee.

- In order to promote the inter-institutionality of the REDD+ Strategy, the Decree also established that the public institutions involved in the Strategy appoint liaisons or focal points. Subsequently, these links formed an **Interinstitutional Commission**, in which other actors from the non-governmental sector were also incorporated. The functions of the Commission include supporting, facilitating, implementing and disseminating the Strategy.

Likewise, a National Consultation process was launched, through which all PIRs actively participated, according to their particularities and work schemes, in the deepening of the strategic actions defined in the R-PP and in the definition of the policies and actions to be incorporated into the National REDD+ Strategy.

This consultation process is based on the following principles:

- Free, prior and informed consent, which implies respect for the right of voluntary participation of the actors, as well as for the values, positions and needs of the stakeholders;
- Respect for the legal framework in force in the country and at the international level;
- Respect for the worldview, traditional groups, territoriality and values of indigenous territories;
- Respect for the organizational structures of the various stakeholder groups;
- Protagonistic, transparent, transversal and dynamic participation of the different groups of actors;

AnnexXIII(I) Indigenous People Plan

- Integration of the Cancun Safeguards and World Bank operational policies into the World Trade Organization (WTO) throughout the entire consultation process.

The National Consultation process takes place in three major stages: Informative Stage, Pre-consultation Stage and Consultation Stage.

In the Information Phase, general information was provided to the RIPs on the nature, purpose, coverage, impacts and benefits of REDD+. In addition, the methodological approaches, organizational mechanisms and participation procedures differentiated by each group of actors in the subsequent stages of the consultation process were defined.

In the Pre-consultation Stage, further analysis was made on the strategic actions defined in the R-PP and the special indigenous issues, as well as the political, social and environmental risks associated with them. The compilation and systematization of the information generated in this stage allowed the construction of a proposal of six policies that conform the draft of the National REDD+ Strategy.

One of the main milestones of the process with Indigenous Peoples under the National REDD+ Strategy was the National Social and Environmental Strategic Assessment (SESA) Workshop of the country's readiness proposal. This workshop was held in May 2011, with the

participation of all the PIRs, including indigenous representatives from the 24 territories of the country, and it was the first time that they met in the same place, sharing the same needs and political positions, after years of not converging for a common end.



This activity was of great significance to the indigenous peoples. The objective of the workshop was to conduct a participatory assessment of the social and environmental risks of

AnnexXIII(I) Indigenous People Plan

the readiness proposal and its strategic actions. During the participatory assessment, indigenous leaders from the 8 indigenous groups identified a large number of risks, which were grouped into five major themes that integrate the main needs of all the country's indigenous peoples. These special themes are as follows:

- Indigenous PES;
- Legal certainty and sanitation of the Territories;
- Forest approach and concepts;
- Protected Areas and Indigenous Territories;
- Participatory monitoring and follow-up mechanism.

In the months following the SESA Workshop, the **Bribri and Cabécar Indigenous Network (RIBCA)** prepared a proposal for an Indigenous Consultation Plan in the Development of Costa Rica's National REDD+ Strategy, with the objective of "establishing a political, technical, cultural, organizational and economic order that will allow indigenous peoples and their authorities to be consulted on the National REDD+ Strategy in an orderly manner that will integrate the results of a national REDD+ strategy in a clear, systematized manner for effective monitoring and evaluation". Starting from the need to establish an organizational mechanism at the national level while taking into account the particularities of each territory, the Plan defined a five-level organizational structure for the development of the Strategy consultation process:

First level: made up of the Indigenous Territorial Organizations (by its acronym in Spanish, OTI), or Comprehensive Development Associations (ADIs), as institutions facilitating the consultation process in the Territories and to which FONAFIFO transferred its logistical and financial responsibilities.

The official administrative and governance entities 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, unrepresentative 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 along with entities formally recognized by law.

- **Second level:** made up of 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:** 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.

AnnexXIII(I) Indigenous People Plan

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

Four workshops were held on the proposal, which was again reviewed by territorial leaders in September 2012. This proposal was worked out between RIBCA and the REDD+ Secretariat.



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

Due mainly to their disagreement on the representativeness of ADIs as indigenous governance entities, four Central Pacific territories (Rey Curré, Boruca, Salitre and Cabagra), led by the Dikes Aboriginal Regional Association (ARADIKES), decided not to join the consultation process proposed by RIBCA and requested that REDD+ be included in their dialogue table with the government. Two other territories (Quitirrisí and Térraba) did not have updated legal representation at the time of approval of the Plan. Subsequently, the Territory of Térraba joined the ARADIKES group in its refusal to participate in the process as defined in the RIBCA proposal. For its part, the Territory of Quitirrisí joined the dialogue process as part of the Central-North Regional Territorial Block (BTR).

Cultural Mediators Program

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 Indigenous Territories, RIBCA and the Tropical Agricultural Research and Higher Education Centre (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 a national level, adapting the Programme to the context and reality of the different Territorial Blocks. The Cultural Mediators were selected by the territorial authorities based on requirements such as broad knowledge of the culture, worldview and language of their own Territory and the capacity to integrate and transmit to their communities traditional indigenous knowledge and non-indigenous technical-scientific knowledge. These representatives were trained on the issues associated with climate change and REDD+. Educational materials and tools were also developed, contextualized to the culture and cosmogony of each indigenous group, enabling mediators to facilitate and systematize information and pre-consultation workshops in their respective communities.

This program ended in 2017, with the support of IUCN, for the creation of cultural mediators with the indigenous territories of the Central Pacific Block, who for various reasons had delayed the REDD process in their territories.

Implementation of Regional Consultation Plans

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

From April 2014 until the first months of 2015, social specialists from the REDD+ Executive Secretariat, ADIs leaders and Cultural Mediators began to develop multisectoral workshops, informative workshops and pre-consultation workshops in the different Territories. The main outcome of this series of workshops was a first step forward in the proposal for an approach, at the level of each Indigenous Territory, with respect to the five special themes defined in the SESA Workshop of May 2011.

AnnexXIII(I) Indigenous People Plan

Parallel to the activities developed at the territorial level, the REDD+ Executive Secretariat coordinated a series of national training, information, monitoring, updating and feedback activities of the information and pre-consultation process throughout the year. Bilateral dialogues were also held with some Territories and sectors to clarify doubts, 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 (Central Pacific) 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 per block, but directly per community.

Support was also given to the Bribrí and Cabécar women in the development of a proposal for the participation of indigenous women in REDD+. Finally, in the months of November and December, dialogues were held with the Bribrí communities of Talamanca, in order to clarify fundamental information about REDD+ to sectors that are negatively influenced by other external actors.

REDD+ Information, Feedback and Nonconformities Mechanism

The Information, Feedback and Nonconformities Mechanism is a mechanism that allows the Executive Secretariat to receive and address concerns, contributions, complaints and grievances from interested parties about the consultation process and implementation of the National REDD+ Strategy, through a form available in different reception channels (physical, digital, telephone). 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 peoples in presenting their concerns, contributions and claims through the mechanism.

To this end, the Executive Secretariat of REDD+ coordinated various training and socialization activities of the mechanism at the indigenous sector level during 2014.

- trainings for BTR coordinators,
- cultural mediators and representatives of ADIs;
- design of informational materials specifically aimed at indigenous peoples, etc.

Drafting of the National REDD+ Strategy

Based on the inputs generated by the consultation process with the RIPs, the REDD+ Executive Secretariat systematized the multiplicity of social, political and environmental risks identified, leading to the identification of 5 risk axes to address and to which six policies were identified. Policies were in turn disaggregated into actions and activities. The axes of risk, policies, policy actions and activities were integrated into the National REDD+ Strategy for Costa Rica draft document, which was presented, together with the final SESA document, the Framework for Environmental and Social Management and the Emissions Reduction Program, to the Expanded REDD+ Committee.

Giving continuity to the transparency of the process, the policies defined in the draft Strategy were presented and consulted with the coordinators of the BTRs. At this meeting, it was decided to include an Indigenous Chapter in the Strategy, in which a critical route will be defined for each special theme. This critical path will be the one that will lead to consultation in the third and final stage of the process.

It should be noted that during the process of development of the REDD+ Strategy, a process of dialogue and indigenous participation was carried out throughout the national territory. Its methodology was built by them in a participatory manner and spaces for national participation were identified in it, which are currently operating with the presence of representatives of indigenous peoples, such as the Citizens' Advisory Council on Climate Change and the Committee on Indigenous Affairs with MINAE institutions.

AnnexXIII(I) Indigenous People Plan

Figure 3. Timeline of the Information and Pre-Consultation Process with Indigenous Peoples for the National REDD+ Strategy



6.2 Main outcomes

In Costa Rica, the REDD+ Strategy information and pre-consultation process with indigenous peoples has generated important direct and indirect results. The following stand out:

- ✓ **Compliance with the principle of self-determination of peoples and Free, Prior and Informed Consent (FPIC).**

The main success of the process of information and pre-consultation with indigenous peoples promoted by FONAFIFO was that it allowed the Territories to create their own organizational structures, as well as to plan and direct their own participation processes. This was made possible by the presence of two fundamental factors: on the one hand, a sufficiently strong and recognized indigenous organization such as RIBCA, which assumed a leadership role at the national level in the proposed Indigenous Consultation Plan and managed to bring together the majority of the Territories through a process of dialogue and consensus-building.

On the other hand, the political will of FONAFIFO to establish a truly participatory process, based on respect for the world view, values and organizational and governance structures (both legal and traditional) of indigenous territories and in which the REDD+ Executive Secretariat assumed the role of facilitator of the process; generating and coordinating key spaces and actions that accompanied the implementation of the Indigenous Consultation Plan (the Information, Feedback and Nonconformities Mechanism; the Cultural Mediators Program; the Communication Strategy, etc.).

Complying with aspects highlighted by Mr. James Anaya, United Nations Special Rapporteur on the Rights of Indigenous Peoples, between 2008 and 2014, refers to the "consultation on the consultation", understood as "an open and comprehensive dialogue between the parties

AnnexXIII(I) Indigenous People Plan

on the various aspects of the consultation procedure to be established, including the definition of the various stages of the consultation, the corresponding deadlines and the specific modalities of participation, among others".

According to Anaya, the need for consultation on the consultation "derives not only from the State's obligation to consult indigenous peoples in relation to any administrative or legislative decision likely to affect them directly, but is also another necessary element in achieving a climate of trust and mutual respect in consultations, and the consultative procedure itself should therefore be sought as the result of consensus".

- ✓ **Strengthening indigenous peoples' knowledge of climate change issues and the National REDD+ Strategy.**

Another important success of the information and pre-consultation process was the recognition of the different problems and needs, as well as the cultural differences between the eight indigenous peoples of Costa Rica, the adaptation of the contents transmitted to the worldview of each group, and the promotion of the discussion of territorial and regional issues between Territories with common characteristics, problems and needs. To this end, the Cultural Mediators Program played a very important role as a fundamental methodological tool in the information and pre-consultation process.

- ✓ **Strengthening indigenous peoples' organizational and governance structures.**

For the implementation of the National Plan and the Regional Consultation Plans, FONAFIFO delegated to the Territorial Blocks (BTRs), ACOMUITA and the Comprehensive Development Associations (ADIs) important programmatic, administrative, financial and implementation responsibilities.

This transfer of responsibilities was developed along with a constant process of support, training and technical accompaniment by the Technical REDD+ Secretariat. On the one hand, this allowed the strengthening of the management and administration capacities of both the first level bodies (ADIs) and the second level bodies (BTR and ACOMUITA), and, on the other hand, it contributed to a greater credibility, greater recognition and better positioning of these bodies at the territorial, regional and national levels.

- ✓ **Strengthening indigenous women**

Especially in the case of the Atlantic BTR, where ACOMUITA developed information and pre-consultation processes directly with the Bribrí and Cabécar women, spaces were created in the communities so that women could freely express their opinions and clarify their questions. The women who participated in the process not only strengthened their knowledge related to REDD+ issues, but also became aware of their right to express their opinions and be heard, thereby strengthening their self-esteem and some of them even their leadership position in the community.

AnnexXIII(I) Indigenous People Plan

✓ Strengthening FONAFIFO and its relationship with indigenous peoples

The management of this complex process has also strengthened FONAFIFO itself, both in the administrative aspect and in terms of its human resources and its understanding of the needs of indigenous peoples in relation to forest management.

An indirect result of this greater understanding is that in the process of implementing the Payment for Environmental Services Program, recommendations have been taken into consideration for the enhancements of contracts and procedures that respect the worldview of these territories in the use and management of their cultural, social and economic resources.

✓ The strengthening of spaces for discussion at the territorial level on issues relevant to Indigenous Peoples.

The territorial information and pre-consultation workshops developed within the framework of REDD+ constituted community spaces for discussion on climate change, on the five special themes identified within the framework of the REDD+ Strategy, and also on other themes of interest for each Territory (infrastructure, health, education, etc.). These discussions led to the development of Territorial Plans that define the vision for the development of each Territory and that will constitute the frame of reference for future negotiations and conversations between the Territories and the Government.

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

The national indigenous workshops and meetings promoted as part of the information and pre-consultation process of the REDD+ Strategy constituted a platform for the meeting and creation of links, positions, common agendas and exchanges of experiences among the leaders of the different Territories and Territorial Blocks.

Work processes have been established with institutions that have national competencies related to the five special themes, making REDD a space for strengthening internal structures within the territories and for national dialogue. This has resulted in a substantial change in the relationship between the Territories and the Government: whereas previously dialogue processes were fragmented and bilateral, there is now a platform for joint dialogue at the national level.

6.3 Third phase

Implementation of the third phase of the Consultation

AnnexXIII(I) Indigenous People Plan

Within the process of construction of the National REDD+ Strategy, in consensus, the indigenous territories present a proposal to address the last phase of the consultation process to the Government (FONAFIFO). This proposal is based on the results obtained in the workshops held in the indigenous communities, in which each special theme was analysed during the information and pre-consultation phase ([systematization of results of the information and pre-consultation phase, Annex 4, Leví Sucre, consultant report](#)).

The activities carried out with indigenous territories at the national level, which generated the input for the development of the last phase, were the result of more than 145 dialogue activities at the community level, 8 meetings of national leaders and 39 workshops of territorial leaders, in which the 5 special themes were widely discussed during the period of 2014-2015.

These activities and their results of the information and pre-consultation stage are also interpreted from the indigenous worldview, so that by socializing them in the final stage of consultation, they can be better understood by the communities in the indigenous territories and can be found in document [Annex 2, "Interpretation from the indigenous worldview of the results of the information and pre-consultation stage and the proposal for the socialization of the results"](#).

Once these actions had been carried out, the need to move forward with the final consultation process was raised, but the leaders agreed to develop an Indigenous Chapter in which their line of action with respect to the 5 special themes is established within the National REDD+ Strategy. This position is agreed upon by indigenous leaders at the national level at the meeting of March 29, 2017, in which they define that the 5 special themes will be the basis of the consultation for the indigenous chapter of the national REDD+ Strategy. FONAFIFO presents the policies, activities and measures (PAM) and the proposed approach to each special theme.

This approach proposal consists of a critical route for a special theme which has an objective, as described below:

Table 4. Detail of the special theme with its respective objective

Special Theme	Objective
Indigenous Payment Environmental Services (IPES)	Develop and implement a PIES from the indigenous worldview that is carried out by indigenous people and discussed in each community, in order to ensure the traditional way of appropriation of the territory's resources and the distribution of benefits to the communities.
Legal Security and Sanitation of Indigenous Territories	Legally and physically ensure that the territories are for the exclusive use of indigenous peoples as defined in current legislation, sanitizing illegal invasion and the

AnnexXIII(I) Indigenous People Plan

	overlap with Protected Wilderness Areas (ASP, by its Spanish acronym).
Forest approach and conceptualization from the indigenous worldview.	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.
Protected Wilderness Areas and Indigenous Territories	Recognition by the State 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 between Related Stakeholders and the Costa Rican society.
Participatory monitoring and evaluation model	The Government and its institutions should establish a high-level dialogue and monitoring mechanism with indigenous peoples to follow up on agendas, actions and projects that directly or indirectly affect the territories.

To this end, the Indigenous Territories finalized aspects of the execution of the last one in the workshops held:

"Workshop to define the schedule and budget for the II stage of the REDD+ consultation process", was held on Tuesday, May 16, 2017, at the ICAES facilities from 6:30 a.m. to 4:30 p.m. The budget was discussed, a work schedule was defined, for the development of the territorial plans for this final stage.

"Workshop on July 20 and 21, 2017", ICAES. The goal was to socialize the plan of the final stage with other institutions, the vice-ministry of the presidency and indigenous leaders. In addition to providing the financial information, procurement procedures and formalization process of the final stage.

Workshop on September 26, 2017, ICAES. "Review of the Terms of Reference and contracts to the ADIs". With the objective of analysing the terms of reference and contracts that would be established with the ADIs for the execution of the final stage of the consultation, in addition to delivering the first documentation such as the systematization per special theme of what was expressed in the first stage.

The national agreement indicated that, in this final stage, unlike the two previous ones, which was executed in blocks by BTR, it would now be carried out directly with each ADI, therefore, FONAFIFO established the respective direct coordination with each ADI for the definition of the administrative processes, with the exception of the South Pacific Block (Ngäbes) that agreed to continue working as a BTR and therefore the contract would be managed by one of the 6 ADIs that make it up.

The territorial plans are those prepared by the Indigenous Associations (ADIs) based on the agreements that their leaders agreed with FONAFIFO at the national level, it is the implementation plan of the final stage in their territory, these plans must be aligned with the approach established for the final stage and must integrate into its methodology the analysis of the government's proposal on each special theme, all this in the quest to achieve an expected result in each theme, namely:

AnnexXIII(I) Indigenous People Plan

- ✓ **Indigenous Environmental Service Payment (IESP):** A decree or specific information agreement in the official program documents, done annually, on how IESP will be applied in indigenous territories.
- ✓ **Legal Security and Sanitation of Indigenous Territories:** Ensure that each indigenous territory has a work plan to achieve the objective.
- ✓ **Forest approach and conceptualization from the indigenous worldview:** That the indigenous forest approach be inserted in the indigenous chapter that is prepared for the National Forest Development Plan, in the National Biodiversity Strategy and the Strategy of Protected Wild Areas.
- ✓ **Protected Wilderness Areas and Indigenous Territories:** Ensure that the Protected Wilderness Areas in which Indigenous Territories exist incorporate the following into their territory management plans so that responsibilities and benefits are shared with the Government through a co-management agreement.
- ✓ **Participatory monitoring and evaluation model:** To ensure there is a dialogue mechanism at the national level with the Central Government, institutions and regional entities.

This will be sought through the application of a series of activities that were established as a methodological guide for the work of each Indigenous Association in their territories, so that the results obtained from the final process of discussion with their populations on special issues can be systematized. Each territory will review each recommendation from its reality as



AnnexXIII(I) Indigenous People Plan

Indigenous Peoples and will extract and define the recommendations and norms applicable to its territory.

Figure 4. Diagram of the approach of the final stage of the consultation process on the 5 special themes of the National REDD+ Strategy with indigenous territories in Costa Rica.

Source: Leví Sucre, 2018.

In this final stage, a critical path will be defined for its implementation. The steps or guidelines for consensual work are listed below:

- #1:** The approach of the Final Stage is presented to the participants in the activities established by each territory in its work plans.
- #2:** Each of the five special themes are reviewed in the communities.
- #3:** The participants analyse the proposals by theme and define the critical route to carry out each one along with the relevant institutions.
- #4:** The person in charge of the workshop or activity will be taking notes on each point and will issue a report.
- #5:** A work plan is established with the institution responsible for the theme in order to reach a consensus and define the following actions.
- #6:** A regional systematiser will be established, who will take all this information and group and organize it by theme, this document will become the final draft on which the Indigenous Peoples Plans will be established.
- #7:** The final revision and validation of the document will be given in the leaders' national workshop.

Once a proposal for the implementation of the critical route of the special theme has been agreed with the government or the corresponding authority, it is then included in the procedures established in the decree of the General Consultation Mechanism for Indigenous Peoples (MGCPI) and described below. Once the MGCPI consultation process is completed, the results will be what is implemented in the respective territories as the Indigenous Peoples Plans (see section 9.2).

6.4 REDD+ Strategy Implementation Phase

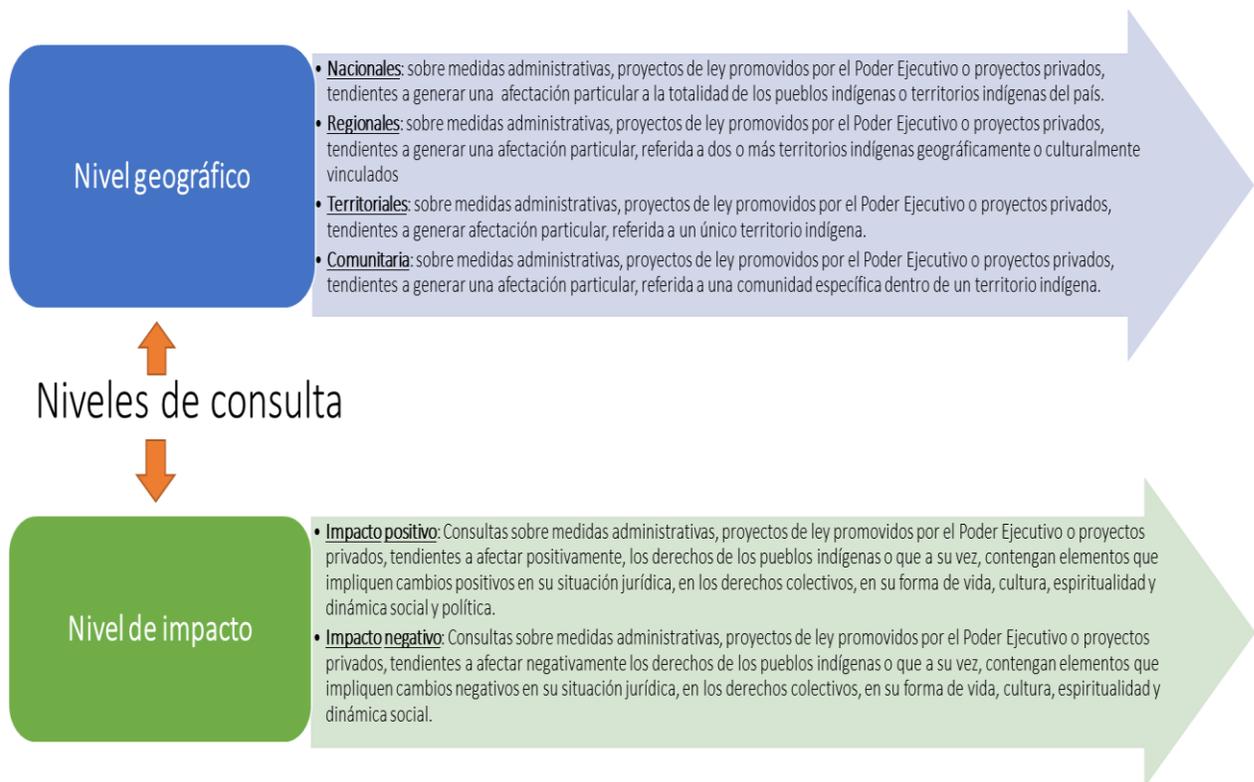
Consultation processes in Costa Rica are regulated recently with the publication of Executive Decree 40932- MP-MJP on April 5, 2018. The purpose of this National Consultation Mechanism for Indigenous Peoples (MGCPI) is "to regulate the Executive Branch's obligation to consult indigenous peoples freely, in advance and in an informed manner, through appropriate procedures and through their representative institutions, whenever administrative measures, bills promoted by the Executive Branch or private projects that could affect them are foreseen".

Annex XIII(I) Indigenous People Plan

Article 7 of this decree establishes the binding nature of the consultation process, stressing that "all agreements reached between indigenous peoples, public institutions and private companies, whether preparatory agreements for consultation, final agreements, monitoring and inspection agreements or any agreement reached throughout the process, shall be fully binding on all parties involved.

This decree defines a series of principles on which any of the consultations established by the decree must be carried out, since its application is mandatory for the Central Public Administration, and it will be fully binding for all parties involved, all those agreements that have been reached between indigenous peoples, public institutions and private companies, whether preparatory agreements for consultation, final agreements, monitoring and control agreements or any agreement reached throughout the process. This consultation is delimited at the geographical level and at the level of impacts, as presented in figure 5 below:

Figure 5: Consultation levels established in the General Consultation Mechanism for Indigenous Peoples in Costa Rica.



Source: Prepared by the authors.

In order to ensure due representation of the interested parties in the consultation processes and to promote the transparency of these processes, this Decree establishes three bodies that are linked to the consultation processes carried out at the national level, being the Technical Unit of the Indigenous Consultation, which determines by means of the preliminary resolution initiating the consultation process, which are detailed below:

Figure 6: Bodies responsible for the consultation process defined by the General Consultation Mechanism for Indigenous Peoples in Costa Rica.

Responsables del proceso de Consulta Indígena

Unidad Técnica de Consulta Indígena (UTCI).	Instancias Territoriales de Consulta Indígena (ITCI)	Contraparte Interesada
<ul style="list-style-type: none"> • Es el órgano del Ministerio de Justicia y Paz, encargado de la gestión técnica y financiera de los procesos de Consulta Indígena, así como del resto de funciones normadas por el presente Decreto, para los efectos exclusivos de las Consultas a pueblos indígenas. El Ministerio de Justicia y Paz, a través de la UTCI, ejerce la rectoría del proceso en todas sus etapas. • Las funciones se detallan en el artículo 19 del decreto. 	<ul style="list-style-type: none"> • Los pueblos indígenas crearán una Instancia Territorial de Consulta Indígena por territorio. Cada territorio tendrá la facultad de elegir dicha instancia según sus propias costumbres, criterios internos y de acuerdo con sus particularidades culturales. • Las funciones de las ITCI, sin perjuicio de otras normadas en el presente Decreto, son: <ul style="list-style-type: none"> • Fungir como interlocutor del territorio indígena respectivo para los efectos de Consulta Indígena. • Organizar de acuerdo con las particularidades culturales de su pueblo indígena, los procesos de Consulta Indígena. • Emitir resoluciones en relación con las solicitudes de consulta puestas bajo su conocimiento, de manera fundamentada y respetando lo estipulado en su reglamento interno sobre el procedimiento para la toma de decisiones. • Propiciar la resolución transparente, pacífica y de buena fe, de todas aquellas diferencias surgidas en el marco de una consulta, haciendo uso de los mecanismos normativos vigentes, de previo a acudir a la vía jurisdiccional. 	<ul style="list-style-type: none"> • Institución Pública o sujeto de Derecho Privado, interesado en la realización de un proceso de Consulta a Pueblos Indígenas, por tener un proyecto o medida administrativa dentro de sus planes de trabajo, que sea susceptible de afectar los derechos colectivos de los Pueblos Indígenas.

Source: Prepared by the authors.

It also establishes mandatory steps to be established for matters that tend to affect the collective rights of Indigenous peoples at the national level, which are delimited in specific measures that are consulted in:

- I. Specific measures contained in international treaties.

AnnexXIII(I) Indigenous People Plan

All those specific administrative measures contained in Convention 169 of the International Covenant on Civil and Political Rights of the International Labour Organization on indigenous and tribal peoples, namely:

- Exploration or exploitation of natural resources within the Territories (Art. 15 Convention 169);
- Transfer or relocation of indigenous peoples (Art. 16 of Convention 169);
- Alienation of lands or transmission of land rights outside the community (Art. 17 of Convention 169);
- Vocational training programmes (Art. 22 of Convention 169);
- Educational institutions and own means of education (Art. 27 of Convention 169);
- Teaching of the indigenous language (Art. 28 of Convention 169)

II. Specific measures contained in International Declarations.

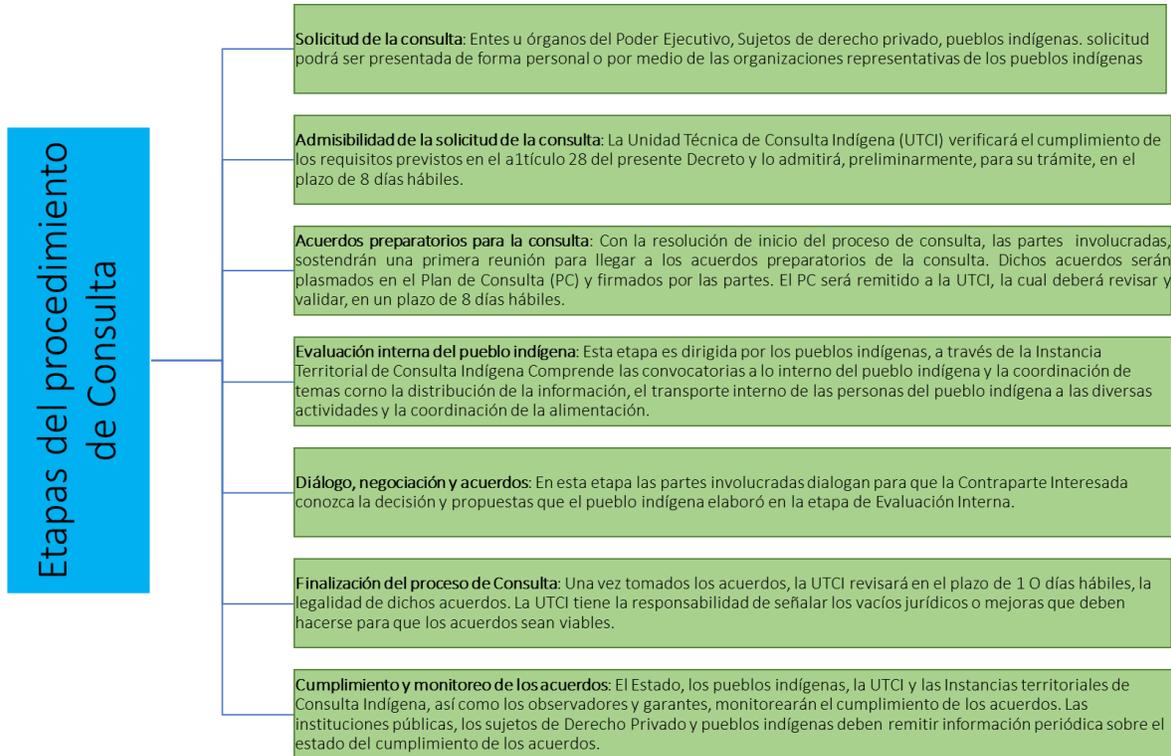
In addition, all specific administrative measures contained in the UN Declaration on the Rights of Indigenous Peoples should be consulted, namely:

- a. Measures related to the adaptation of domestic legislation to achieve the ends of this Declaration (Art. 38 of UNDRIP);
- b. Measures related to combating prejudice, eliminating discrimination and promoting tolerance (Art. 15 of UNDRIP)
- c. Measures related to the labour exploitation of children (Art. 17 of UNDRIP)
- d. Measures relating to redress, restitution or just and fair compensation for lands, territories and resources which they have traditionally owned or occupied or used and which have been confiscated, taken, occupied, used or damaged. (Art. 28. I of UNDRIP)
- e. Measures to provide for the storage or disposal of hazardous materials in indigenous lands or territories. (Art. 29.2 of UNDRIP)
- f. Measures related to the use of territories of indigenous peoples for military activities (Art. 30 of UNDRIP)
- g. Measures related to the affectation of lands or territories and other resources, related to the development, use or exploitation of mineral, water or other resources.
- h. Measures related to the rights of Indigenous Peoples across borders (Art. 36 of UNDRIP).

In addition, in accordance with the provisions of the Decree, there are a series of phases that must be included in any consultation process involving indigenous communities, as shown in the following figure, and which is presented in greater detail in article 26 of this Decree:

Figure 7: Stages of the consultation process established in the General Consultation Mechanism for Indigenous Peoples in Costa Rica.

Annex XIII(I) Indigenous People Plan



This instrument also establishes the obligation to consult (Art. 12), and defines that without prejudice to the provisions of the current regulatory framework, the obligation to consult must include at least the following characterizations:

- a. Consultation is the right of indigenous peoples to be consulted. Consultation is exclusive to indigenous peoples liable to be affected by the administrative measure, bill promoted by the Executive Branch or private project.
- b. The obligation to consult rests with the Government. The obligation to carry out the consultation processes falls on the Government of the Republic. This obligation cannot be delegated to third parties or subjects of private law of any kind and, under no circumstances, represents the possibility of resorting to coercive measures to carry out the consultation.
- c. Information Consultation processes involve exchanges in “good faith” of all useful, relevant and timely information between the parties involved during all stages of the process. The stakeholder should convey complete and culturally appropriate information to indigenous peoples.
- d. Public announcements. Calls for the information and decision-making stages of consultation processes must be public and wide-ranging, using various forms and means of communication and taking into account the linguistic diversity, geographical factors and representative organizations of each indigenous people. The call will be made with a reasonable period of time that guarantees its wide dissemination; the mechanisms of the call

AnnexXIII(I) Indigenous People Plan

will be agreed between the Territorial Instance of Consultation and the UTCI, in order to guarantee a wide participation.

e. Publicity of the consultation process. In compliance with the human right of access to public information, the following information shall be publicly accessible and published proactively: the consultation plan, the information exchanged between the parties involved, the agreements derived from the consultation, as well as any other information considered appropriate during the process.

The implementation of the MGCPI establishes a transitory article for the consultation processes they initiated prior to its enactment, as is the case with the REDD+ Strategy.

Transitory IV states verbatim: "The *consultation processes that are in progress shall not be affected by the entry into force of this decree, without prejudice to the implementation and review of such consultation, in the light of the provisions of this decree*".

However, this final paragraph "without prejudice to the implementation and review of such consultation, in light of the provisions of this decree" can be interpreted that the government can at any time review the consultation process carried out in REDD+, in order to verify that they were implemented under the basic principles of consultation established in the decree. Let's review the principles of the decree and what happened in the REDD+ consultation process.

For this reason, table 5 presents a comparison of the actions carried out in the construction process of the REDD+ Strategy, which makes it possible to strengthen what has been done:

Table 5: Principle of the General Consultation Mechanism for Indigenous Peoples versus the consultation process carried out in the development of the REDD+ Strategy.

Principles of the MGCPI decree	REDD+ Consultation Process
<p>Art#3 A) Good Faith: Consultation processes must be carried out by all parties involved, in accordance with the principle of Good Faith as an instrument to generate trust. Good Faith is the state of conviction as to the truth or accuracy of the actions and manifestations of the persons or institutions involved, in the absence of any kind of coercion. Likewise, Good Faith presumes acting in the face of truth, without concealing information and in the absence of hidden ulterior motives, as practices tending to restrict the outcome of the consultation.</p>	<p>From the beginning, the stakeholders involved, ADIs and FONAFIFO, took the consensus agreements for the entire implementation in REDD+.</p> <p>FONAFIFO, as executing entity, always made the technical studies of consultants, the project budget, and the documents that were delivered to the FCPF, available to the indigenous territories. Acting with complete transparency and truth.</p>
<p>Art#3 B) Free, prior and informed character: i. free, is voluntary and without the use of coercive measures to that effect;</p> <p>ii. prior, as soon as possible in the process of formulating an administrative measure, bill promoted by the Executive Branch or private project, i.e. in the early stages of the plan and not only when the need to obtain the approval of the indigenous people arises; and,</p> <p>iii. informed, as an element that implies full knowledge on behalf of the indigenous peoples about the characteristics and implications of the administrative measure, bill promoted by</p>	<p>The call to the peoples was always free, and as evidence of this, only 19 indigenous territories initiated the REDD+ consultation process, afterwards the remaining five were incorporated.</p> <p>In this last process of closing the consultation ADITIBRI decides to take more time than the others and remains on an "on hold" status.</p> <p>All this shows that the decision to participate or not, is completely free, and that FONAFIFO is not applying a coercive measure.</p> <p>The fact that since 2010, FONAFIFO begins delivering information on the REDD+ Strategy, prior to the formulation of the consultation agreement reached in December 2014, which shows more than three years where the issues identified by the same</p>

AnnexXIII(I) Indigenous People Plan

<p>the Executive Branch or private project, in an accessible and understandable language and format.</p>	<p>representatives of Indigenous Territories, are discussed and analysed among the actors. The principle of <i>precedence</i> is very well demonstrated because there is still no REDD+ implementation project and a lot of information has been shared and built jointly with the actors.</p> <p>FONAFIFO not only provided information, but also allocated a budget of \$1.1 million dollars for the peoples to decide what type of study or technical resource they needed in order to continue the discussion, which was applied with the direction of indigenous leaders, on the other hand, more than 100 cultural mediators were trained and integrated to the process, in order to facilitate communication from the cosmogonic approach of each people and their respective language.</p>
<p>Art#3 C) Intercultural dialogue. It is the relationship between cultures that implies the ability to understand the particularities of two or more cultural frames of reference, in order to identify meeting points, in an environment of recognition of the dignity and human rights of the participants.</p>	<p>For the construction of the REDD+ Strategy, FONAFIFO maintained a dialogue with the 8 indigenous peoples, in which 146 activities were carried out at the community level, 8 national leadership meetings, 39 induction workshops for territorial leaders, and 100 cultural mediators were trained to accompany the community process.</p> <p>In addition, to complement the dialogue, a series of activities were maintained with small forest owners, universities, institutions, among others, so the Strategy is the product of a broad intercultural dialogue.</p>

Continued...

<p>Art#3 D) Respect for representative organizations of Indigenous Peoples. Consultations should include organizations representing indigenous peoples, respecting the forms of organization established in the legal system and the structures recognized by indigenous peoples themselves. This does not imply that the participation of the indigenous people is excluded or that decisions are taken exclusively by the representative organizations.</p>	<p>From the basis of legal representation of the indigenous territories, FONAFIFO always acted under the direction established by national legal regulations and established the work with the ADIs (as local governments and maximum authority in each Territory), establishing the contents of the consultation, the calls for activities were open to groups of elders, women and youth, as well as the people in general, who participated proactively in each phase of the consultation.</p>
<p>Art#3 E) Inclusion of traditional authorities: Any process of consultation and intercultural dialogue shall take into account traditional community structures and institutions that are customarily recognized by an indigenous people as a source of advice or decision-making; these include, without prejudice to other existing ones, councils of elders recognized by the indigenous people.</p>	<p>The invitations and dialogues with the traditional authorities took place in the same territorial dialogues that were planned and executed by the indigenous people of the respective territories, however, the conditions of authority recognized by the people only in a few cases occur and in others there is much internal debate about the legitimacy of these authorities. However, any group or person considered to be a traditional authority was invited to the process so that together with the people they could present their opinions, visions and proposals on the subject of the National REDD+ Strategy consultation.</p>
<p>Art#3 F) Self-determination: It constitutes the right of indigenous peoples to freely determine their political status, to freely achieve their economic, social and cultural development and to take part in the decision-making processes that affect them, as well as to participate fully, if they so desire, in the political, economic, social and cultural life of the State. This right implies, in turn, the obligation of States to ensure that indigenous peoples are duly consulted on matters that affect or may affect their cultural and social life, in accordance with their values, customs and forms of organization.</p>	<p>In the REDD+ Strategy, the indigenous issues were based on 5 special themes defined by the indigenous leadership team from the beginning of the construction process, during the SESA Workshop and discussed throughout the consultation process, where they participated and conducted the indigenous discussion even with cultural mediators. FONAFIFO provided technical and financial resources, so that everything expressed during the consultation is the product of an internal dialogue between the indigenous territories.</p>
<p>Art#3 G) Intergenerational participation: Within all stages of the consultation process, as well as in the integration of the representative and decision-making bodies included in this</p>	<p>One of the important characteristics of the consultation process was the integration of young people through the work of cultural mediators, as well as in the implementation of activities in the</p>

Annex XIII(I) Indigenous People Plan

<p>decree, the active and effective participation of indigenous youth, as well as of the different age groups, must be guaranteed, recognizing them as indispensable populations for the achievement of the aims of inclusion and informed participation that motivate the General Consultation Mechanism.</p>	<p>territories, also in the territorial workshops where both young and old met to discuss the issues in consultation.</p>
<p>Art#3 H) Gender equality: The active, effective and equal participation of indigenous women must be guaranteed at all stages of the consultation process, as well as in the integration of the representative and decision-making bodies covered by this decree, as an indispensable population for the achievement of the aims of inclusion and informed participation that motivate the General Consultation Mechanism. The indigenous people must guarantee the appointment of at least 50% of indigenous women, in the conformation of their Territorial Instances.</p>	<p>For the purposes of the consultation process of the Strategy, FONAFIFO bases the work on the participation of the ADIs, which according to Costa Rican legislation must include 50% of women on their boards of directors, in addition, in the territories where there are women's groups, these were also included in the process, even with their own plans and activities. This was the case with the Association of Indigenous Women of Talamanca (ACOMUITA) which led the participation of women in the framework of the Bribri and Cabécar Indigenous Network (RIBCA).</p>

Continuation.....

<p>Art#3 i) Culturally appropriate procedures. A procedure shall be understood to be culturally appropriate when it allows for the free and adequate expression of Indigenous Peoples' systems of cultural, social and political organization, as well as their forms of communication and language, within the framework of their worldview. All stages of the consultation process should be appropriate and tailored to the cultural, socio-economic, geographical, demographic and climatological particularities of the indigenous territories consulted. In addition, all the technical characteristics of the administrative measure, the bill promoted by the Executive Power or the private project to be consulted must be taken into account in order to adapt the consultation procedure to the reality of the indigenous peoples.</p>	<p>Among the aspects that FONAFIFO implemented for culturally appropriate procedures we can mention:</p> <ul style="list-style-type: none"> • The incorporation of more than 100 cultural mediators. • Maintain a permanent dialogue with the indigenous leadership throughout the consultation process. • A national implementation agreement with a national implementation framework, but each territory developed its territorial implementation plan that took into account the particularities of each territory. • To have allocated economic resources to implement the territorial plans, as well as technical support from indigenous professionals.
<p>Art#3 J) The consultation process shall be governed by the principles of trust, mutual respect and transparency, through indigenous peoples' representative institutions, through culturally appropriate and accessible procedures, in accordance with their customs and traditions, in order to ensure the full expression of indigenous peoples' views.</p>	<p>The fact that from 2010 to 2018, FONAFIFO maintains a permanent dialogue with indigenous peoples and their leaders in relation to the discussion of the REDD+ Strategy, where only 8 territories began and today the 24 territories have been incorporated, is irrefutable proof of the application of the principles of <i>trust, mutual respect and transparency</i> between FONAFIFO and indigenous peoples.</p>

The principles of the General Mechanism of Consultation are its backbone, the rest establishes a procedure that will not affect the consultation process of the REDD+ Strategy. However, it is worthwhile to highlight what is expressed in Article 39.- Territorial regulation of the mechanism. "The present decree must be respectful and applied in conjunction with the regulations or rules specific to each territory if they exist. The absence of internal regulations in a given territory will not represent an impediment for the realization of a Consultation. Faced with this situation, the parties involved will establish the rules applicable to such consultation during the Preparatory Agreements Stage.

It is clear that, when the consultation process was initiated, there were no Community rules or regulations for this purpose, therefore, "In view of this situation, the parties involved will establish the rules applicable to such consultation during the Preparatory Agreements Stage". It is precisely what was done between the indigenous peoples and FONAFIFO, which

AnnexXIII(I) Indigenous People Plan

is evidenced by reports of meetings, territorial implementation contracts, reports and others, therefore, the REDD+ consultation process will conclude as agreed with indigenous leaders from December 2012.

In terms of the application of Operational Policy 4.10 of the World Bank, the activities and measures that are implemented, as well as the identification of known sites should obtain broad community support and develop and implement the Indigenous Peoples Plans, which will already have an application base since the construction process.

The objective of the indigenous consultation process of the REDD+ Strategy was based on informing, dialoguing, providing feedback and consulting the Indigenous Peoples of the country on the objective and components of the Strategy and how to participate in it in a way that visualizes their worldview in a comprehensive way; so that, on the basis of the vision, suggestions, opinions and proposals they presented, their voluntary participation, support and strengthening of the "action measures" could be achieved so that they could be implemented to confront the engines that generate forest degradation and deforestation and increase forest carbon reserves, identifying the risks and benefits that could potentially be generated in their territories.

7. Strategic Environmental and Social Assessment

The Strategic Environmental and Social Assessment (SESA) was developed as part of the National REDD+ Strategy construction process, and aimed to identify and integrate into the REDD+ design the environmental, social, legal and policy risks and benefits that are directly linked to and relevant to the development of the REDD+ Strategy. This process was carried out by FONAFIFO, an entity designated by the Ministry of the Environment and Energy, for its development.

The Strategic Environmental and Social Assessment (SESA) is an analytical methodology that includes a participatory process, which supports the readiness phase and contributes to the design of the National REDD+ Strategy from the perspective of key stakeholders.

The SESA in Costa Rica was composed of the following specific objectives:

1. Identify possible social and environmental risks of REDD+ policies and actions.
2. Obtain feedback to address social and environmental risks and impacts.
3. Enhance the benefits of REDD+ and minimize risks and impacts to people, communities and the environment.
4. Support and promote the institutional capacity of the relevant actors for the implementation of the strategy.
5. Update the RPP and include it in the readiness package (R-Package)

The SESA National Workshop was attended by 35 officials from different State institutions; 31 representatives of traditional and non-traditional indigenous structures; 20 representatives of NGOs; 15 leaders of the private and agricultural sectors; universities with

AnnexXIII(I) Indigenous People Plan

17 academic representatives, for a total of 118 PIRs, on May 4 and 97 representatives on May 5, 2011. Participants prioritized the identified strategic risks from highest to lowest impact for the development of REDD+ activities.

Number of participants by sex in the SESA National Workshop.

Name of the event	Date	Number of Participants	Men	Women
National Workshop on Socialization of the Strategic Environmental and Social Assessment System of the REDD+ Strategy for Costa Rica SESA	May 4th, 2011	118	76	42
			64.4	35.5
	May 5, 2011	97	54	43
			55.6	44.4
	Totals	215	130	85
		<i>Average percentage:</i>	<i>60,47</i>	<i>39,53</i>

A process was designed for the assessment. It was centred on the identification and participation of key actors, who, through participatory instances of information gathering, through the mapping of actors related to forestry activities and who could have a link with the processes of deforestation, degradation, sustainable forest management and the increase of carbon stocks, action measures, risks, adverse impacts and the potential benefits of the activities.

As can be seen, there was a clear representation of all the different relevant sectors. The risks, benefits and threats, based on 10 strategic actions listed in the R-PP were identified during the workshop. These strategic actions were revisited within the framework of this activity.

These are:

1. Integrate carbon sequestration in national parks and biological reserves into the REDD+ strategy.
2. Maintain coverage of the Payment for Environmental Services Program.
3. Expand PES coverage.
4. Increase carbon sequestration through the induction of natural regeneration and the establishment of forest plantations to produce raw materials for national consumption, in lands devoid of forests.
5. PES to retain forest regeneration and for secondary forest management
6. Encouraging the substitution of high carbon footprint products for sustainable wood from primary, secondary and reforestation natural forests.
7. Strengthen the management of SINAC in the control of illegal logging and forest fires.

8. Strengthen the fiscal management of the CIAgro.
9. Create fresh, predictable and long-term funds to finance the implementation of the REDD+ strategy.
10. Coordinate with the Special Lands Cadastral and Regularization Initiative; among them, the indigenous lands in order to reach the 24 indigenous territories.



In the approach made by the PIRs in this workshop, the indigenous issues emerged strongly and very strongly positioned within the axes of risks identified as key risks.

This activity was of great importance for the indigenous peoples, since they were gathered in one same place for the first time, sharing the same needs and political positions. During the participatory assessment, indigenous peoples identified a large number of risks, which were grouped into five major themes that integrate the main needs of all indigenous peoples in the country.

As part of this process, a recommendation came out from the indigenous peoples and part of the conservation sector that the REDD Strategy should not be addressed exclusively at global carbon markets, based on improving carbon stocks and reducing emissions from avoided deforestation, but that it should include compensation mechanisms for the maintenance of reserves, aimed at forest conservation, in public protected wilderness areas. This aspect coincides with the position that the country had maintained before the Framework Convention on Climate Change with regard to financing mechanisms.

An analysis of the strategic options by the Indigenous Territories participating in the [SESA workshop](#) was carried out and which they considered to be binding on them. It should be noted that, despite their comments to them, they submitted to the Government a proposal of the issues that were related to REDD and on which they wished to establish as their work axes. There is also a [summary](#) and [matrix](#) of the risks and observations made during the information and pre-consultation phase in the indigenous territories per [theme](#).

Of the strategic options presented at the SESA workshop in 2011, the representatives of the 24 indigenous territories did not agree on their conceptualization, as for them it was still an exclusionary proposal on the relevant aspects of discussion related to the real situation of indigenous peoples. That is why, during the workshop, this group presents 5 special themes,

AnnexXIII(I) Indigenous People Plan

which will be the basis, based on consensus, of work on the National REDD+ Strategy, namely:

1. Indigenous Payment for Environmental Services that recognizes their worldview.
2. Sanitation of indigenous territories and land recovery
3. Protected Wilderness Areas and Indigenous Territories (Overlapping – Co-management)
4. Indigenous Forests and Worldview Integration Strategy
5. Participatory monitoring and evaluation

In the construction of Costa Rica's National REDD+ Strategy, central importance is given to the sectors that are directly affected by the policies, programs and actions it develops. Therefore, the National Forest Financing Fund (FONAFIFO) with the implementation of the National Consultation process, through which all relevant stakeholders actively participate in the definition and feedback of policies and actions to be incorporated into the National REDD+ Strategy, establishes three major stages: Informative stage, Pre-consultation stage and Consultation stage. FONAFIFO considered it was important to document and systematize the process developed with the indigenous peoples who inhabit the country. This document systematizes the process of participation of indigenous communities in the information and pre-consultation stages of Costa Rica's National REDD+ Strategy, with the dual objective of providing feedback to the third stage of the process at the national level and identifying lessons learned that could be useful for other countries that wish to implement a similar process.

7.1 Risks and Impacts of the National REDD+ Strategy

The entire process carried out since the SESA Workshop with the analysis of the "Strategic Options" by the Relevant Stakeholders (PIRs), has been the object of information and pre-consultation during successive and participative processes that started in 2011. The focus of the dialogues has been on the identification of social and environmental impacts, both positive and negative, that could result from the actions.

The REDD+ Secretariat proceeded to systematize the multiplicity of social, political and environmental risks identified in the process starting in 2011, with the aim of developing broader categories to group related issues that would facilitate the establishment of policies and actions to be finally incorporated into the National REDD+ Strategy. Five risk axes were identified. Methodologically, the exercise was carried out using a table that includes all environmental, social, environmental and political risks, positive and negative, identified throughout the process, and that through it, traceability and consistency can be guaranteed between individual risks and the proposed axes.

The identification of risks during the process of information and pre-consultation on REDD+ raised the adequacy of policy measures or actions to address risks or impacts as an underlying objective. The way risks and safeguards are addressed in the case of Indigenous Territories has been explained in the Consultation section.



AnnexXIII(I) Indigenous People Plan

This analysis allowed the definition of 6 policies, with 17 measures and 47 activities (MAPs) of the National REDD+ Strategy, which were conceived to be a guiding framework to subsequently establish specific plans to address the 5 REDD+ activities. In the case of the indigenous territories, although they have always expressed an interest to the Government in having an explicit policy to deal with the five special themes, an analysis of the risks presented is carried out in the other policies and which is related with these populations.

The following is the analysis of the risks identified when addressing the 5 special cross-cutting themes in the 5 policies of the National REDD+ Strategy:

Policy 1. Promotion of low-emission production systems

Actions	Measurements	Linked Operational Policy. ¹²	Social and/or environmental impacts	Social and environmental management instruments	Monitoring mechanisms
<p>1.1 Implement silvopastoral systems in support of low-carbon livestock strategy and SAF on agricultural land.</p> <p>1.2 Forest Extension</p> <p>1.3 Promotion of deforestation-free supply chains.</p>	<p>1.1.1 Complement to the Guarantee Fund proposed as the axis of the Low Carbon Livestock Strategy.</p> <p>1.1.2. Forest capacity building within other economic activities.</p> <p>1.1.3. Promote financing for trees through the Forest Plantation Development Program.</p> <p>1.1.4. Extend the coverage of comprehensive farms.</p> <p>1.1.5. Extension and improvement of the PPSA SAF.</p> <p>1.2.1. Strengthen MAG's technical assistance to these systems.</p> <p>1.2.2. Develop forest extension work within SINAC.</p> <p>1.3.1. Implementation of monitoring protocols for mixed</p>	<p>4.09 Pest Management</p> <p>4.10 Indigenous Peoples</p> <p>4.11 Physical cultural resources</p> <p>4.36 Forests</p>	<p>The activities promoted by this PAM can potentially affect the cultural-physical resources. As the land is for collective use in indigenous territories, as there is a program that promotes production systems, an indigenous individual may use some land for collective use of some cultural value either because it is considered sacred or for the protection of a species or resources necessary for the community, altering a community order.</p> <p>Also, the breeding zoos and minor species, are activities that can occur in these systems that require an adequate management of the species from the cultural and phytosanitary point of view.</p> <p>These risks start from the vision of the collectivity that occurs in the indigenous</p>	<p>It is highlighted that agroforestry systems require the monitoring of forest rangers. The use of agrochemicals in agricultural production systems in Indigenous Territories is supervised by officials from the regional agencies of MAG and SENASA.</p> <p>Territorial Assemblies must approve and certify in the Minutes of the General Assembly, the implementation of all PES projects, including SAF, thus avoiding the affectation of physical cultural resources.</p> <p>The general mechanism for indigenous consultation establishes the guidelines to be followed in the Territorial Assemblies for the adoption of these agreements.</p>	<ul style="list-style-type: none"> • Annual report of the CIAgro for non-compliance with forest and agricultural regencies. • Minutes of approval of the Territorial Assemblies. • Follow-up technical reports of the areas submitted to the PES Program.

¹² OP 4.10 shall apply to all actions and measures involving Indigenous Peoples.



GREEN
CLIMATE
FUND

AnnexXIII(I) Indigenous People Plan

	lands (of agricultural and forest crops). 1.3.2. Promote certification programs at affordable costs for producers.		territories, and in which the respect for the world view and how the productive activities are developed within the territory, so that they do not affect the life and natural resources of the collectivity.		
--	---	--	---	--	--

Policy 2. Strengthen Protected Wilderness Areas (ASP) and land-use change and fire prevention and control programs

Actions	Measurements	Linked Operational Policy. ¹³	Social and/or environmental impacts	Social and environmental management instruments ¹⁴	Monitoring mechanisms
<p>2.1 Strengthening the Forest Fire Control Program</p> <p>2.2 Strengthen SINAC's Prevention, Protection and Control Program.</p> <p>2.3 Strengthening of Protected Wilderness Areas SINAC</p>	<p>2.1.1. Promote the generation and implementation of campaigns for the prevention of forest fires.</p> <p>2.1.2. Monitoring and promotion of voluntary forest fire brigades.</p> <p>2.1.3. Strengthening of the Forest Fire Control Program.</p> <p>2.2.1. Strengthening of the Illegal Logging Control Program.</p> <p>Reactivation of the Natural Resources Vigilance Committees (COVIRENAS).</p> <p>2.3.1. Administration and management of the ASP.</p>	<p>4.10 Indigenous Peoples</p> <p>4.36 Forests</p>	<p>1) The relationship of indigenous peoples' rights in several ways to the Protected Wilderness Areas (ASP, by its acronym in Spanish), where sacred sites were left within the ASP, or the basis of the natural cultural resource is or comes from an ASP, such as the leaves of the ranches, the springs of the rivers, etc. This indicates that any action either to use or to protect these ASPs must include a dialogue with neighbouring indigenous peoples, which links OP 4:10, to the possible restriction of the use of natural resources that are the basis of sustenance for survival.</p> <p>2) The participation of indigenous people in the protection of natural resources from illegal logging and others. Most indigenous territories play a role in buffering protected wilderness areas and it is now common practice for SINAC and ADIs to establish agreements for the protection of ASPs, under the modality of Dualgö Kimö, (Resource Inspectors or Covirenas) this action links</p>	<ul style="list-style-type: none"> Traditional subsistence use is duly regulated in Decree 39871-MINAE, and its implementation through the forest reGENCY system and the control mechanisms of the PES Program. The traditional use of the forest resource is duly regulated by Executive Decree 39519- MINAE (Recognition of Governance Models in Protected Wilderness Areas), which establishes the possibility of Co-management of the ASPs. The implementation of this decree is done jointly by SINAC and Indigenous Peoples, through the development of co-management plans for protected areas. The selection criteria for indigenous reserve rangers (equivalent to COVIRENAS) are duly established in Indigenous Act No. 6172, which stipulates that they must preferably be indigenous persons in order to 	<ul style="list-style-type: none"> Annual report of the CIAgro for non-compliance with forest and agricultural regencies. Minutes of approval of the Territorial Assemblies. Follow-up technical reports of the areas submitted to the PES Program.

¹³ OP 4.10 shall apply to all actions and measures involving Indigenous Peoples.

¹⁴ It is developed in section 6 where the procedures are established.



AnnexXIII(I) Indigenous People Plan

	<p>2.3.2. Purchase of Lands in Protected Wilderness Areas.</p> <p>2.3.3. Approach and integration to actors in ASP for their incorporation in REDD+.</p>		<p>both OP 4:10 and OP4:36. Therefore, spaces for dialogue must be found to define the use of natural resources in the ASPs and Indigenous Territories that do not contravene in disputes but in agreements of common use under clear guidelines of use and access.</p> <p>3) In the indigenous territories there are primary forests of community conservation, when indigenous PES is applied it allows to make traditional use of subsistence (which can include the change from forest to agricultural use) in 2% of the area under PES contract, against the position of OPs 4.10 and 4.36, referring to the respect of the traditional livelihoods of the indigenous peoples and the protection of the forest resource.</p> <p>5) Purchase of lands in ASP, for those territories that have a legal overlap with ASP it is necessary for INDER to act with its National Plan for the recovery of indigenous lands, in order to define the technical effect and decide on the actions to follow if it is the purchase of land from the indigenous people or if the ASP cedes the affected area to the Territory,</p>	<p>guarantee respect for the uses and customs of indigenous peoples.</p> <ul style="list-style-type: none">• The ADIS together with the INDER, approve the appointments of the indigenous reserve rangers.• Decree No. 40932 - MP - MJP of the General Mechanism for Consultation of Indigenous Peoples (MGCPI), of 06 March 2018, regulates all action with indigenous peoples in accordance with OP 4:10, establishing the activities that must go through a consultation process.	
--	--	--	---	---	--

Policy 3. Incentives for conservation and sustainable forest management

Actions	Measurements	Linked Operational Policy. ¹⁵	Social and/or environmental impacts	Social and environmental management instruments ¹⁶	Monitoring mechanisms
<p>3.1 Expand the coverage and flexibility of economic incentives for conservation, regeneration and forest management.</p> <p>3.2 Promote Sustainable Forest Management</p> <p>3.3 Chain-of-custody system for deforestation-free forest products</p> <p>3.4 Creation and implementation of the REDD+ forest emission reduction instrument</p>	<p>3.1.1. Establish financial mechanisms for SFM.</p> <p>3.1.2. Expansion and improvement of financial mechanisms to support natural regeneration.</p> <p>3.2.1. Updating of management plans in ASPs to enhance the development of REDD+ projects.</p> <p>3.2.2. Review and update the criteria and indicators of SFM according to the types of forests in the country.</p> <p>3.2.3. Strengthen the processing capacity for the use of fallen wood according to decree.</p> <p>3.2.4. Incorporate silvicultural and silvopastoral quality management criteria in the PES evaluation criteria for reforestation and SAF.</p> <p>3.2.5. Strengthen the role of CRA, CORAC, COLAC, and training officials from SINAC, MINAE, CIAGRO in forest management strategies.</p> <p>3.2.6. Strengthen CAC and other regional, local, public and private organisations and support for producers and owners.</p>		<p>The implementation of this PAM does not include Indigenous Territories, since in PAM 5, dedicated specifically to indigenous issues, economic incentives specifically designed for Indigenous Peoples are included.</p>	<p>Not applicable</p>	<p>Not applicable</p>

¹⁵ OP 4.10 shall apply to all actions and measures involving Indigenous Peoples.

¹⁶ It is developed in section 6 where the procedures are established.

AnnexXIII(I) Indigenous People Plan

	<p>3.3.1. Promotion throughout the value chain and forest products.</p> <p>3.3.2. Systems for the recognition of wood from sustainable production, harvesting and marketing.</p> <p>3.3.3. Improvement of the capacities of the auditing bodies (AFE and CI Agro) in the process of processing, execution and follow-up of authorisations for timber harvesting.</p> <p>3.4.1. Creation and implementation of the Forest Emission Reduction Contracts (CREF) instrument for payment by results.</p>				
--	---	--	--	--	--

Policy 4. Forest landscape and ecosystem restoration

Actions	Measurements	Linked Operational Policy. ¹⁷	Social and/or environmental impacts	Social and environmental management instruments ¹⁸	Monitoring mechanisms
---------	--------------	--	-------------------------------------	---	-----------------------

¹⁷ OP 4.10 shall apply to all actions and measures involving Indigenous Peoples.

¹⁸ It is developed in section 6 where the procedures are established.



AnnexXIII(I) Indigenous People Plan

<p>4.1. Restoration and reforestation on degraded lands. 4.2. Restoration and conservation of forest ecosystems in urban areas</p>	<p>4.1.1. Restoration in degraded basins. 4.1.2. Commercial reforestation on land with degradation potential. 4.2.1. Explore mechanisms for influencing REDD+ actions in cantonal regulatory plans. 4.2.2. Promote along with local governments, to develop a tree planting campaign in public infrastructure.</p>	<p>4.10 Indigenous Peoples. 4.36 Forests</p>	<p>This PAM is potentially linked to OP 4.10, the action of this PAM can derive several actions with the PIs. 1) There is an agreement with FONAFIFO to promote projects for the recovery of degraded lands in indigenous territories, this implies reforestation and consultation on the species to be used so that it does not alter the biodiversity of the area. 2) The initiative of municipal regulatory plans, in fact, are linked to indigenous territories, therefore, the regulatory plan must be consulted with PI.</p>	<p>It should be noted that landscape restoration requires the monitoring of forest rangers. The Territorial Assemblies must approve and certify in the minutes of the General Assembly, the implementation of any restoration project with or without PES, thus avoiding the use of culturally unacceptable species by Indigenous Territories. The general mechanism for indigenous consultation establishes the guidelines to be followed in the Territorial Assemblies for the adoption of these agreements.</p>	<ul style="list-style-type: none"> • Annual report of the CIAgro for non-compliance with forest regencies. • Minutes of approval of the Territorial Assemblies. • Follow-up technical reports of the areas submitted to the PES Program.
--	--	---	--	---	---

Policy 5. Participation of indigenous peoples

Actions	Measurements	Linked Operational Policy. ¹⁹	Social and/or environmental impacts	Social and environmental management instruments ²⁰	Monitoring mechanisms
<p>5.1 Indigenous PES (Payment for Environmental Services Program).</p> <p>5.2 Sanitation and legal security of land.</p> <p>5.3 Concept of Forest and Indigenous worldview.</p> <p>5.4 Protected Area and Indigenous Territory</p> <p>5.5 Participatory Monitoring and Evaluation</p>	<p>5.1.1 Indigenous PES Design, Territorial Socialization and Publication of the Indigenous PES Decree.</p> <p>5.2.1 Implementation of INDER's plan for the recovery of indigenous lands.</p> <p>5.3.1 Development of a participatory process for the validation of the National Biodiversity Strategy and Policy.</p> <p>5.3.2 Design of an Indigenous chapter in the National Forestry Development Plan.</p> <p>5.4.1 Updating of management plans to take into account the</p>	<p>OP 4.10 Indigenous Peoples.</p> <p>OP 4:12 Involuntary resettlement.</p> <p>4.36 Forests</p>	<p>This PAM because it is exclusive for Indigenous Peoples activates OP 4:10, because none of the actions can be built or developed and much less implemented, without first being consulted with Indigenous Peoples, actually, the idea is that the actions are generated from Indigenous Peoples themselves.</p> <ol style="list-style-type: none"> 1) In consultation with the Indigenous PES, the conceptualization and approach of this program have been defined. 2) Sanitation and recovery of indigenous lands is an application of existing regulation for indigenous peoples, however, it can activate policy OP 4:12 since non-indigenous people who classify as good faith, must be resettled by the state. 3) The actions of Indigenous Peoples and protected areas activate OP 4.36 since co-management plans can be 	<ul style="list-style-type: none"> • Traditional subsistence use is duly regulated in Decree 39871- MINAE, and its implementation through the forest reGENCY system and the control mechanisms of the PES Program. • The traditional use of the forest resource is duly regulated by Executive Decree 39519- MINAE (Recognition of Governance Models in Protected Wilderness Areas), which establishes the possibility of Co-management of the ASPs. The implementation of this decree is done jointly by SINAC and Indigenous Peoples, through the development of co-management plans for protected areas. • Decree No. 40932 - MP - MJP of the General Mechanism for Consultation with Indigenous Peoples (MGCPI), of 06 March 2018, regulates all action with indigenous peoples. 	<ul style="list-style-type: none"> • MINAE Indigenous Commission where all MINAE directorates jointly analyse and follow up the actions of the different MINAE directorates. • Decree No. 40616 - MINAE "Creation of the Citizen Consultative Council on Climate Change" which has an indigenous representation as a platform for citizen participation seeks to strengthen mechanisms for accountability, availability and access to information. It is a deliberative consultative space, which aims to collaborate with the design and implementation of national policies.

¹⁹ OP 4.10 shall apply to all actions and measures involving Indigenous Peoples.

²⁰ It is developed in section 6 where the procedures are established.



AnnexXIII(I) Indigenous People Plan

	<p>traditional use of indigenous peoples.</p> <p>5.4.2 Implementation of INDER's plan for the recovery of indigenous lands in overlapping protected areas.</p> <p>5.5.1 Develop mechanisms for participation and consultation</p>		<p>established between the state and the indigenous peoples of different areas and even the state can implement actions.</p>		
--	---	--	--	--	--

It is important to note that while OP 4:12 Involuntary Resettlement is activated in the implementation of Policy 5, corresponding to Indigenous Peoples and thus contemplating the five special themes, specifically for the theme of Sanitation and Recovery of Indigenous Territories, this policy and its resettlement framework, with their respective procedural rules, are fully developed in the annex corresponding to the Involuntary Resettlement Framework that is incorporated into the Environmental and Social Management Framework.

According to the analysis carried out in the ESMF, it was identified that both the Program for the Purchase of Lands in Protected Wilderness Areas (PCT-ASP) and the National Plan for the recovery of indigenous territories (Plan-RTI) contemplated in the National REDD+ Strategy, foresee the acquisition of lands and their consequent expropriation of these lands from the legitimate owners. These programs also restrict access to resources and also consider land donations. Through the implementation of this Framework, every reasonable effort will be made to minimize the adverse impacts of these programs.

For more details on this Framework and its application in indigenous territories, please refer to Involuntary Resettlement Framework in [section 3.4](#).

8. Institutional implementation arrangements

The REDD+ Executive Secretariat will be responsible for executing and complying with the IPPF, for formulating the social evaluation and the Plan for Indigenous Peoples, and will carry out the administrative activities for hiring the necessary professional staff that will make up the ESMF follow-up unit for the implementation of the different components, including specific training in safeguards, conflict management and other aspects that may be required.

Table 7. Units responsible for the implementation of the IPPF within the REDD+ Secretariat

Stage	Organization	Responsible Area
Social Evaluation	REDD Secretariat	Safeguards and ESMF Unit
Consultation	REDD Secretariat	Safeguards and ESMF Unit
IPP Design	REDD Secretariat/ Indigenous Peoples	Safeguards and ESMF Unit
IPP Implementation	REDD Secretariat/ Indigenous Peoples	Project Unit
Monitoring and Evaluation	REDD+ Secretariat	Monitoring and Reporting Unit

Although there is an exclusive PAM for Indigenous Peoples, the other PAMs have actions that can consider the implementation and participation of indigenous territories, which is why the following table identifies the institutionality that should be given between the Indigenous Associations (ADIs) and the Government, in an eventual implementation of PAM actions.

Table 7. Policies and actions of the National REDD+ Strategy, and their institutional linkage for monitoring

Policy	Implementation Actions	Potential Indigenous Affection	Institutional implementation arrangements
PAM#1: Promotion of low-carbon production systems	Implement silvopastoral systems in support of the low-carbon livestock strategy and SAF on agricultural land.	YES	REDD+ Secretariat /MINAE/MAG/ADIs
	MAG-SINAC Forest Extension	YES	MINAE- SINAC/ MAG/ ADIs
	Promotion of deforestation-free supply chains	YES	MINAE- FONAFIFO/ ADIs
PAM#2: Strengthen land use change and fire prevention and control programs	Strengthening of the Forest Fire Control Program	YES	MINAE- SINAC/ ADIs
	Strengthen SINAC's land use change control program	YES	MINAE- SINAC/ ADIs
	Strengthening of Protected Wilderness Areas	YES	MINAE- SINAC/ ADIs
PAM#3: Incentives for conservation and sustainable forest management	Not applicable because these mechanisms are analysed in PAM 5		
PAM#4: Forest landscape and ecosystem restoration	Restoration and reforestation of degraded lands	YES	FONAFIFO -MINAE/ ADIs/REDD+ Secretariat
	Conservation and restoration of forest ecosystems in urban areas	YES	FONAFIFO -MINAE/ ADIs/REDD+ Secretary
PAM#5: Indigenous Peoples' Participation	Establish a specific Payment for Environmental Services for Indigenous Territories	YES	FONAFIFO -MINAE/REDD+ Secretariat/ADIs
	Develop and implement a strategy for the sanitation and recovery of lands in indigenous territories	YES	INDER-Ministry of the Presidency/ CONAI/ REDD+ Secretariat/ADIs
	To apply the conceptualization of forest from the indigenous worldview in policies and projects related to forests, forestry and natural resources in general.	YES	MINAE- CONAGEBIO/ REDD+ Secretariat/ADIs
	The definition and implementation of actions on	YES	

overlaps and uses of Protected Areas in relation to indigenous peoples and their territories.		MINAE -SINAC/INDER/ REDD+ Secretariat/ADIs
Participatory monitoring and evaluation	YES	Ministry of Justice and Peace- MINAE-CONAGEBIO/ Secretariat REDD+/ADIs

9. Guidelines for Social Assessment, Consultation and Development of IPP

Below are the guidelines that will be taken into account for the development of social assessments, consultations and development of Indigenous Peoples Plan (IPPs) to be implemented during the preparation of the implementation of the National REDD+ Strategy, whether it includes the development of projects for resource management that involve the participation of Indigenous Peoples at the national or specific level, and that may affect them, once the main components are defined in detail, activities and sub-activities, timeline, budget and intervention methodology:

9.1 Social Assessment

The social evaluation to determine the eventual presence and impact of actions on Indigenous Peoples will be carried out by the REDD+ Secretariat, as the coordinating entity for the implementation of the National REDD+ Strategy, as established in Article 7 of [Executive Decree 40464-MINAE](#) by assigning it among the main functions: to coordinate compliance with the various phases of the Strategy.

- If the presence of Indigenous Peoples is determined in the priority areas established for the implementation of the National REDD+ Strategy or a collective attachment of those peoples to that area, FONAFIFO, as the entity responsible for the coordination of the Strategy through the REDD+ Executive Secretariat, shall ensure that a social assessment is carried out in accordance with the requirements stipulated in operational policy OP 4.10-Annex A, to determine the possible positive or negative effects of the actions of the National REDD+ Strategy on Indigenous Peoples, and to examine mitigation or compensation alternatives when the negative effects may be significant.

- The person responsible for the execution of the ESMF and the corresponding IPPF should: a) Examine the terms of reference for the social assessment, ensuring, in particular, that they allow the participation of the affected Indigenous Peoples through a free, prior and informed consultation process, and b) Offer comments on the qualifications and experience of the social scientists who will carry out the social assessment.
- FONAFIFO's procurement staff carries out the corresponding contracting procedures for the consultancy.
- The person responsible for the execution of the ESMF and the corresponding IPPF will ensure that during the process of development of the social evaluation there is broad support from the community.
- The National REDD+ Strategy coordination reviews the documentation on the social assessment and consultation process, to make sure that during the process there has been broad support from Indigenous Peoples' representatives, as set out in the policy.
- It will coordinate with the established bodies and procedures according to the decree implementing the national consultation mechanism.

Objective of the Social Evaluation

To determine the possible positive or negative effects of the actions and policies derived from the National REDD+ Strategy on the Indigenous Peoples of Costa Rica in order to identify mitigation alternatives for the adverse effects.

The criteria for identifying those PAMs likely to affect PIs will include the identification of PIs in the area of influence according to the criteria set out in OP 4.10, including the identification of indigenous individuals, communities and associations, as well as the preliminary identification of potential impacts on PIs associated with policy or project activities and measures.



Once this has been done, an analysis will be carried out which will include a review of the following elements:

1. Compilation and updating of potential risks and impacts identified during the SESA and review based on detailed technical information on the policy and/or project to be developed.
2. Compilation of initial information on the demographic, social, cultural and political characteristics of the indigenous territories involved. Undertake an examination of the legal and institutional framework applicable to indigenous peoples under REDD+. This examination will include a thorough identification of the history behind existing or potential conflicts over land ownership that may involve them.
3. Especially identify policies related to the possession of land and the territories they normally use or occupy, as well as the natural resources on which they depend. Such background may include formal and informal land tenure claims and developing regularization processes that are being executed as part of the Government's actions in the Indigenous Land Recovery Plan, as well as access to and use of protected area resources, if they exist in potential areas.
4. Collection of complementary information related to the mentioned elements and vulnerability analysis, identification of risks, potential positive and negative impacts of the project and possible management measures to be implemented. To review the topics analysed in the SESA.
5. Mapping of actors, with the identification of relevant stakeholders, from the cultural point of view, of consultation with Indigenous Peoples for the different stages of project implementation, according to the guidelines established under [Executive Decree No. 40932 - MP - MJP](#).
6. Carrying out the prior, free and informed consultation process, and the systematization and analysis of the information gathered regarding possible negative impacts and the measures considered to avoid such adverse effects. It is also important to ensure that the Project considers the culturally appropriate benefits for these territories.
7. Consensual development, along with the community and other people or entities involved around the recommendations and improvements in the different stages of the project. These recommendations may include the modification of the area of intervention and/or the implementation of processes of regularization of property titles or resolution of conflicts, which will be part of the IPP.





National REDD+ Strategy



This analysis will be carried out by the project coordinator, with the REDD+ Secretariat as responsible entity, with the support of the Secretariat's team of professionals, and by the organization or body in which the Source of resources for the implementation of the activities and measures proposed is identified in accordance with the PAM.

In the case where the social evaluation is carried out by the entity interested in the development of the Project, which is not the Government, the working methodology must consider, at least, the following elements:

- a) Designate the technician within the project coordination and part of the social assessment team, which will be supported and supervised by the REDD+ Secretariat. This activity may include the hiring of specialists where required.
- b) Initial compilation of secondary information based on technical information compiled by project managers that will be reviewed by the REDD+ Secretariat and specialists in the subject.
- c) Primary information gathering through field visits, interviews and meetings with community members, always respecting the guidelines established by the Territorial Councils of the indigenous territories created in the consultation decree.
- d) Analysis of all the information gathered for the detailed identification of impacts, opportunities for obtaining benefits, mitigation measures and strategies to be implemented and validated with the community through the mechanism established by the Territorial Councils of the indigenous territories created in the consultation decree (meetings, workshops and other instances deemed necessary).

9.2 Indigenous Peoples Plan

As part of the indigenous dialogue and participation process, the REDD+ Secretariat, as responsible for the implementation of the National REDD+ Strategy, will develop in a participatory manner the corresponding Indigenous Peoples Plans (IPPs), which should contain all those measures that address different aspects identified, either to mitigate or compensate for negative impacts or to generate opportunities for benefits for communities.

These measures will be agreed during the participatory process that takes place in each indigenous territory in the last phase of consultation of the five special themes (refer to section 6.3) and will establish the broad community support required for the implementation of the measures and activities for Indigenous Peoples.

The objective of the Plans to be developed as part of this last stage of the consultation process is to avoid, reduce, mitigate or compensate the negative effects caused by the sub-projects to Indigenous Peoples in a culturally appropriate manner; and to facilitate that Indigenous Peoples receive the benefits of the initiative in an appropriate and inclusive manner from an inter-generational and gender point of view.

The development of the proposal for the implementation of the five special themes for indigenous communities will be defined according to the following critical path:

- #1:** The approach of the Final Stage is presented to the participants in the activities established by each territory in their work plans.
- #2:** The five special themes will be reviewed one by one in the communities.
- #3:** The participants analyse the proposals by theme and define the critical route to be followed by each one with the relevant institutions.
- #4.** The person in charge of the workshop or activity will keep track of everything shared on each point and will submit a report.
- #5.** A work plan is established with the institution responsible for the theme in order to reach consensus and define the following actions.
- #6:** A regional systematiser will be established, who will take all this information and group and organize it by theme. This document will become the final draft on which the Indigenous Peoples Plans will be established.
- #7.** The final review and validations of the document will take place in the national leaders' workshop.

Once a proposal for the implementation of the critical route of the special theme has been agreed with the government or the corresponding authority, it is included in the procedures established in the decree on the General Mechanism for Indigenous Consultation (MGCI) and which are described below.

Once the consultation process according to the MGCI is completed, the results will be what is implemented in the respective territories.

In addition to the five special themes included in PAM 5, Indigenous Peoples Plans (IPPs) will be developed if it is determined that other activities in the strategy involve and/or affect indigenous peoples.

These IPPs should be prepared flexibly, and their level of detail will vary depending on each territory and the project to be implemented, the nature of the effects to be addressed.

If the social assessment provides the identification of potential or existing conflicts over land tenure or other risk factors that cannot be addressed or resolved during the participatory process, a conflict management/resolution process should be implemented if there is a community agreement for their development. If this is not possible or if the conflict resolution process is not successful, the project should be withdrawn in order to avoid the activation or escalation of the identified conflicts. The conflict management/resolution process will be coordinated with the Grievances and Suggestions Mechanism of the REDD+ Strategy.

The following guideline sets out the steps to ensure that Indigenous Peoples' Plans comply with OP 4.10, Annex B.

- If the presence of Indigenous Peoples in the program area or a collective attachment of these peoples to the program area is determined, FONAFIFO as responsible for the coordination of the Strategy through the REDD+ Executive Secretariat, will ensure that an Indigenous Peoples Plan (IPP) is developed in accordance with the requirements stipulated in operational policy OP 4.10-Annex B.
- The person responsible for the implementation of the ESMF and the corresponding Indigenous Peoples Plan (IPP) should: a) Examine the terms of reference for the IPP, ensuring that it allows for the participation of affected Indigenous Peoples through a free, prior and informed consultation process, and b) Provide comments on the qualifications and experience of the social scientists who will carry out the IPP.
- The person responsible for the execution of the ESMF and the corresponding IPPF will ensure that during the process of development of the IPP there is broad support from the community.
- To this end, he/she will consult the procedures established by the decree for the Indigenous Peoples Consultation Mechanism.
- The National REDD+ Strategy coordination team reviews the documentation on the IPP and the consultation process, to make sure that during the process there has been broad support from Indigenous Peoples' representatives, as set out in the policy.

The IPPs that are developed will promote the inclusion of the following elements:

- a) A review and update (if necessary) of the applicable legal and institutional framework.
- b) A brief description of the information gathered during the social assessment regarding the demographic, social, cultural and political characteristics of the affected indigenous peoples, the land and territories, including those that are legalized, as well as those that are the subject of claims and areas of traditional use. This description will also include the main resources available in the area (including protected areas) that are used by the community.
- c) A summary of the social evaluation of the project.
- d) A summary of the results of the participatory instances carried out in a free, prior and informed manner with the communities of the affected Indigenous Peoples that was carried out during the preparation of the project.
- e) Agreements and work plan regarding activities of the participatory process to be developed during the project, as agreed during the initial consultation.

- f) An action plan with measures to manage, mitigate and compensate the negative impacts and to enhance the positive impacts and benefits on these communities of the initiative to be implemented.
- g) Grievance and Suggestion Mechanism Procedures.
- h) The cost estimate, timeline, and funding plan for the IPP.
- i) Definition of the team in charge of the implementation of the IPP, including responsibilities of the regional implementation teams where appropriate.
- j) Procedures for monitoring and evaluating the implementation of the IPP. This monitoring should consider the evaluation of the suitability of the methodologies used for the implementation of management measures and other strategies to be implemented, monitoring the compliance of agreements generated, time, execution of resources and suitability of the teams in charge of the implementation of IPPs and other elements as mentioned below.

The final IPP document will include agreements and modifications (if applicable) resulting from participatory instances conducted in a prior, free and informed manner of the IPP, as well as the endorsement of evidence related to the broad support of the Indigenous Peoples involved.

Once the final IPP document has been obtained, it should be disseminated to all participants in the process and identified stakeholders, through means and strategies relevant to the local reality, so as to ensure that it is adequately known by the communities.

FONAFIFO for its part will keep the **BM** informed on each of the activities/projects that implement the policy for the presence of Indigenous Peoples in its area of influence.

9.3 Indigenous participation and consultation

As detailed in section 6 of the document and specifically in point 6.3 for the implementation phase, the Government of Costa Rica developed and published a decree establishing guidelines for a national consultation process among indigenous peoples, which clearly

defines the activities in which a consultation process is applied in order to comply with ILO Convention No. 169 and to respect free, prior and informed consent.

The specific measures that are consulted as defined by the decree are:

I. Specific measures contained in international treaties.

All those specific administrative measures contained in Convention 169 of the International Labour Organization on indigenous and tribal peoples, namely:

- Exploration or exploitation of natural resources within the Territories (Art. 15 of Convention 169);
- Transfer or relocation of indigenous peoples (Art. 16 of Convention 169);
- Alienation of lands or transmission of land rights outside the community (Art. 17 of Convention 169);
- Vocational training programmes (Art. 22 of Convention 169);
- Educational institutions and own means of education (Art. 27 of Convention 169);
- Teaching of the indigenous language (Art. 28 of Convention 169)

II. Specific measures contained in International Declarations.

In addition, all specific administrative measures contained in the UN Declaration on the Rights of Indigenous Peoples should be consulted, namely:

- a. Measures related to the adaptation of domestic legislation to achieve the ends of this Declaration (Art. 38 of UNDRIP);
- b. Measures related to combating prejudice, eliminating discrimination and promoting tolerance (Art. 15 of UNDRIP)
- c. Measures related to the labour exploitation of children (Art. 17 of UNDRIP)
- d. Measures relating to redress, restitution or just and fair compensation for lands, territories and resources which they have traditionally owned or occupied or used and which have been confiscated, taken, occupied, used or damaged. (Art. 28. I of UNDRIP)
- e. Measures to provide for the storage or disposal of hazardous materials in indigenous lands or territories. (Art. 29.2 of UNDRIP)
- f. Measures related to the use of territories of indigenous peoples for military activities (Art. 30 of UNDRIP)
- g. Measures related to the affectation of lands or territories and other resources, related to the development, use or exploitation of mineral, water or other resources.
- h. Measures related to the rights of Indigenous Peoples across borders (Art. 36 of UNDRIP).

For those PAMs in which none of the above activities are included but which should link the participation of indigenous peoples, a process of dialogue and indigenous participation is proposed, in order to comply with the provisions of Article 7 of ILO Convention No. 169 and to give rise to broad support and seek such free, prior and informed agreements.

10. Grievance and Suggestion Mechanism

In the indigenous sector, a structure has been established for the process of implementing the mechanism, which in addition to the level of stakeholder participation validated by the PIRs, aims to generate different spaces for the stakeholders to follow the procedures. To this end, it was necessary to gather input from indigenous groups in order to ensure culturally appropriate means of receiving the mechanism. In addition, it is important to point out that from their perception "cultural mediators" play a fundamental role in the whole process.

The mediator was a figure used by the REDD+ Secretariat, with the objective of developing a training process that provides information, disseminates it and promotes spaces for discussion on climate change and its interpretation from the indigenous worldview, in order to improve the contribution to the process of development of the REDD+ Strategy.

The mechanism for grievances and suggestions is based on the figure of the Comptrollers of Services created by Law No. 9158, and obliges public bodies to have one. The objectives of this law are:

- 1) To create the System and regulate the function of its members within it and its articulation as a whole.
- 2) Guarantee the respect of the rights of users with respect to the services they receive from public organizations or private companies that provide public services, registered in the System, through the establishment of their rights.
- 3) Establish the obligation to promote quality policies in the provision of services provided by public organizations and private companies that provide public services, which are registered in the System in accordance with this law, compliance with quality standards of the aforementioned services and their processes of continuous improvement and innovation.
- 4) To create and regulate a Technical Secretariat of the System as an administrative body of the National System.
- 5) Regulate the comptrollers of services of the organizations that according to their nature must have them or those of the organizations that without legal obligation to have them, register them in the System, in accordance with the present law.

6) Establish minimum procedures for the management of persons using the services in the face of the aforementioned comptrollers.

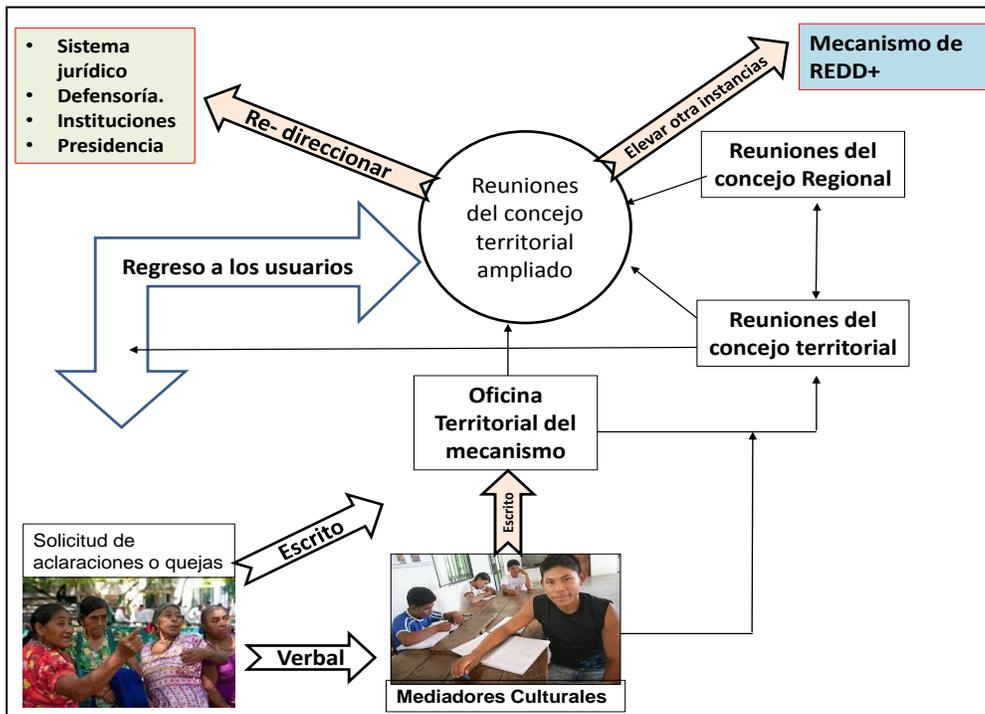
The process was developed based on this mechanism and has some characteristics:

- Train and empower indigenous organizations and groups on the use of the information and consultation mechanism.
- The social actor can take the consultation or complaint to the level of the Indigenous Development Associations (ADs) of their territory. In the case that he/she does not know how to write in Spanish, he will make use of cultural mediators to transcribe his consultation or complaint; a witness is required so that the transcription made by the cultural mediator is a true reflection of reality, and also gives credibility and traceability to the consultation or complaint.
- The social actor may take the consultation or complaint to the Steering Committee level, where it will have the technical support of a representative of Fonafifo.
- The social actor can take the consultation or complaint to the level of Government in the structures that the country has defined (Defensoría de los habitantes and Sala Constitucional).
- Consultations and complaints that cannot be resolved at any of the above levels will be resolved through a national coordination and consultation mechanism in the National Assembly of BTRs.

In FONAFIFO, the Comptroller of Services will facilitate the implementation of the mechanism. This Comptroller's Office has strategies and processing protocols through which complaints, observations and suggestions for any element related to the National REDD+ Strategy will be channelled, thus allowing a permanent channel of communication to be maintained between MINAE's internal bodies, between ministries and the population dependent on or related to forests and/or forest resources, especially Indigenous Peoples and local communities. It will have the responsibility to report on its implementation every quarter.

The following figure shows the proposal of the internal indigenous organization for the implementation of the information and consultation mechanism, once this has been done, it is submitted to the Office of the Comptroller of Services of FONAFIFO, as the coordinating entity of the Mechanism for its respective process.

Figure 8. Scheme for information, feedback and nonconformities in the indigenous territory.



11. Monitoring and Dissemination Mechanism

The monitoring mechanism that will be established for the implementation of the IPPF is that the indigenous peoples of Costa Rica define as part of the follow-up of the 5 special

themes, an initiative that is still in process during the preparation of this IPPF, however, so far, they have established some principles of their proposal on indigenous participatory monitoring and evaluation, as described below²¹:

11.1 Indigenous Monitoring and Evaluation

For indigenous monitoring and evaluation during the implementation of actions of the



National REDD+ Strategy, the structures of the indigenous governments should be strengthened and they should be the first to promote the control of the areas contemplated in the National REDD+ Strategy; they should be governed by the traditional customary rules established for this purpose by each indigenous people, but an audit should be established by FONAFIFO to ensure that the World Bank's operational policies and existing legislation are being properly implemented.

It is important to develop, with broad participation, the environmental and cultural criteria and indicators that communities will establish to ensure that traditional use and management of natural resources are protected in accordance with the agreements established with the communities and in accordance with the legal system. In this new system of control,

this will be carried out at the community level by means of the Dualgö Kimö (resource inspectors), in order to achieve the objectives of the National REDD+ Strategy and to protect biodiversity and habitats of indigenous territories.

In addition, within the framework of the five special themes, indigenous territories have occupied spaces in different commissions that have been formed as part of the information and feedback process of the National REDD+ Strategy, which strengthen the monitoring and evaluation proposed, such as the Commission on Indigenous Affairs of MINAE, the commission with the Institute of Rural Development (INDER) for the sanitation of indigenous territories, the commission on indigenous issues of the Ministry of Justice and Peace, among others.

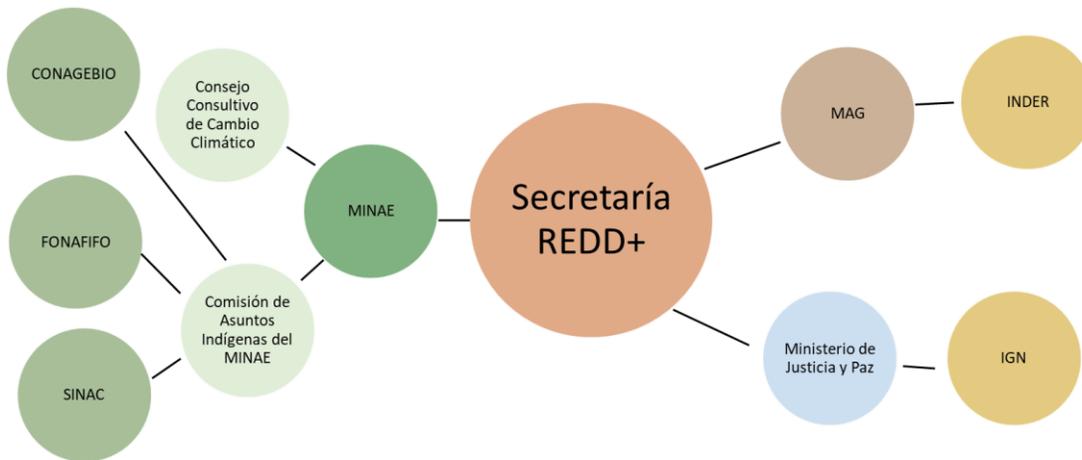
²¹ Rodríguez Romero, Guillermo. "Five Special Themes" Report. October 2014.

11.2 Participatory indigenous monitoring and evaluation model

The link between culture and the environment is evident for the indigenous peoples of Costa Rica, since they share a territorial, spiritual, cultural, social and economic relationship as peoples and with their traditional lands; this historical factor is very important for the monitoring and evaluation process since those who know this reality can establish the criteria and indicators necessary to safeguard the relationship and this conception of life.

To the extent possible, the participation and dialogue of indigenous communities will be promoted through the Territorial Councils created as part of the structures of the National Consultation Mechanism. The local structures recognized by law are the Territorial Assemblies and the Indigenous Comprehensive Development Associations.

Figure 9. Structure of relations between the REDD+ Secretariat and Indigenous Ministries for the follow-up of the IPPF and the National REDD+ Strategy.



11.3 Disclosure Mechanisms

The ESMF follow-up technician, in this specific case, of the Planning Framework for Indigenous Peoples will provide information on the actions of the National REDD+ Strategy that will be affecting indigenous territories in the intervention zones; for which the proposal with culturally adapted methods and instruments will be explained. They will be informed of the potential impacts and legal rights they have, their vision will be listened to and their requests will be included, to the extent reasonable and under the protection of national and international legislation.

Both the ESMF and the accompanying Frameworks and Plans, as well as the culturally adapted instruments used for local-level dissemination, will be available on the National REDD+ Strategy website.

Figure 10. Disclosure mechanism to be considered in the National REDD Strategy for monitoring and communication



These printed materials will not be translated into the language of Indigenous Peoples, because in many territories the level of education is low and they do not know how to read. The cultural mediators will be used to transmit information to communities.

12. Periodic monitoring and reporting

The evaluation of the implementation of the IPPF will be carried out by the REDD+ Secretariat. To this end, the Secretariat will evaluate, through the reception of biannual reports from the internal ESMF monitoring team and its instruments, as well as field verification visits, the following elements:

- a) Existence of an adequate team for the implementation of the different components of the IPPF, considering that there is an adequate number of professionals with training and skills for working with PI.

- b) Identification and invitation of interested parties to the participatory process or consultation, as established in the national mechanisms for the consultation of IPs, considering that it is exhaustive and representative.
- c) Level of participation that achieves the most comprehensive mapping within indigenous communities and meets the criteria established by Territorial Councils and ADIs, so that local organizations, government representatives and traditional authorities are involved throughout the IPP design and implementation process.
- d) Level of participation of Indigenous Peoples (including participation by gender and age groups) in the process and support to the initiatives to be implemented within the framework of the National REDD+ Strategy, in accordance with existing records and meeting minutes.
- e) Level of knowledge of the communities regarding the participatory or consultative instances, agreements achieved, management measures to be implemented, timelines and activities.
- f) Evaluation of the functioning of the processes implemented through the communication, dissemination and conflict resolution channels used by Indigenous Peoples.
- g) Levels of ownership and participation of the beneficiaries in the different stages of the project.
- h) Levels of satisfaction and well-being in the community with regard to mitigation measures and other initiatives associated with the Strategy.
- i) Verification of broad community support by the Indigenous Peoples involved.





National REDD+ Strategy

