
Indigenous Peoples

Guidance Note



European Bank
for Reconstruction and Development

The EBRD is an international financial institution that supports projects from central Europe to central Asia. Investing primarily in private sector clients whose needs cannot be fully met by the market, we foster transition towards open and democratic market economies. In all our operations we follow the highest standards of corporate governance and sustainable development.

About this guidance note

This Guidance Note is aimed at providing practical guidance to EBRD specialists, consultants and clients on the processes and standards that should be applied and considered when planning and implementing projects that involve Indigenous Peoples. The Guidance Note also provides examples of good practice.

Also included in this note is some more detailed information about Indigenous Peoples in Russia.

The EBRD intends to update this Guidance Note to reflect any changes and developments and would welcome feedback and comments from users to contribute to this process. Comments should be sent to: environmentandsocial@ebrd.com.

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Indigenous Peoples

Guidance Note

Overview

International human rights instruments such as the Universal Declaration of Human Rights have not been sufficient to guarantee the survival and well-being of Indigenous Peoples. Most international human rights instruments protect the rights of individuals, whereas Indigenous Peoples have sought the recognition of specific collective rights to ensure the survival of their distinctive identities as groups, their cultures and ways of life.

For the past 20 years, the international community has recognised that special attention has to be paid to protecting the individual and collective rights of Indigenous Peoples.¹ The main legally binding document entirely focused on the rights of indigenous peoples is the International Labour Organization (ILO) Convention No. 169 (see Section 3). In September 2007, the General Assembly of the United Nations adopted the United Nations Declaration on the Rights of Indigenous Peoples. This recognises the rights of Indigenous Peoples on a wide range of issues and provides a universal framework for the international community and States. Both the ILO's Convention 169 and the UN Declaration recognise Indigenous People's rights to own and control their lands and the natural resources on those lands, to differing degrees. According to the Declaration, it is a responsibility of the States to establish the mechanism to guarantee those rights.

Introduction

The purpose of this Guidance Note to Performance Requirement 7 (PR 7) on Indigenous Peoples is threefold:

- to provide more detailed guidance to EBRD staff, clients and their consultants on how to address the requirements of PR 7 in planning and implementing projects that involve Indigenous Peoples

- to provide further explanation and information on the key concepts that underpin PR 7 and to explain their application to various types of projects
- to define the respective roles and responsibilities of EBRD and those of its clients.

Indigenous Peoples rely on their land and environment to sustain themselves both physically (in terms of food, fuel and habitat) as well as culturally. Their economic systems exist separately to that of the mainstream community, and they tend to have minimal if any interaction with the socio-economic and legal systems of national governments. Health and education indicators are much lower than those of the rest of the community, often due to difficult access. This means that they are particularly vulnerable to changes in their socio-economic and physical environments. The PR is generally meant to provide specific protection to Indigenous Peoples in the context of EBRD financed projects.

The collective relationship Indigenous Peoples have with their lands, territories and resources is both multi-faceted and profound. It has dimensions which are material, social, cultural, economic, political and spiritual in nature. This relationship is intergenerational and critical to the identity, economic sustainability and survival of Indigenous Peoples as distinct cultural communities with their own world view and spirituality. Without access to their lands, territories and resources, the physical and cultural survival of Indigenous Peoples is threatened. Traditional occupations such as pastoralism, hunting, gathering and fishing have evolved in balance with specific ecosystems. Land provides food and fuel, but also materials for clothing, construction, medicine and spiritual life. Many Indigenous Peoples are highly dependent on their lands and natural resources: any changes in the ecosystem may impact upon their way of life, and any environmental degradation can contribute to poverty. Indigenous Peoples may live in areas that are rich in biodiversity and particularly vulnerable to changes in the environment, including those due to climate change, particularly in areas such as the Arctic.

¹ In addition to this legal framework several UN agencies and international financial institutions, including the Asian Development Bank, the Inter American Development Bank, the World Bank, the United Nations Development Programme (UNDP) and World Health Organization (WHO), have developed specific policies for guiding their approach and actions towards Indigenous Peoples.

Much of the territory of Russia is Indigenous People's ancestral lands. These areas are also where much of the oil and gas, hydropower, mineral and timber resources are located, thus many extractive, energy or logging projects in Russia have the potential to impact on these lands and as a result, on Indigenous Peoples.

The UN Declaration on the Rights of Indigenous Peoples calls upon States to consult with Indigenous Peoples to obtain their Free, Prior and Informed Consent (FPIC) prior to the approval of any project affecting their lands and resources. EBRD's PR 7 recognises the principles of the UN Declaration on the Rights of Indigenous Peoples and the special approach that needs to be adopted in relation to Indigenous Peoples.

Box 1. Definition of Indigenous Peoples

10. In the Policy and in this Performance Requirement (PR), the term "Indigenous Peoples" is used in a technical sense to refer to a social and cultural minority group, distinct from dominant groups within national societies, possessing the following characteristics in various degrees:

- self-identification as members of a distinct indigenous ethnic or cultural group and recognition of this identity by others
- collective attachment to geographically distinct habitats, traditional lands or ancestral territories in the project area and to the natural resources in these habitats and territories
- descent from populations who have traditionally pursued non-wage (and often nomadic/transhumant) subsistence strategies and whose status is regulated by their own customs or traditions or by special law or regulations
- customary cultural, economic, social or political institutions that are separate from those of the dominant society or culture
- a distinct language or dialect, often different from the official language or dialect of the country or region.

² Paragraph 13 of PR 7.

³ Paragraph 13 of PR 7.

The EBRD's requirements

Performance Requirement 7 (PR 7) – Indigenous Peoples

Key requirements

They are as follows:

- carry out an assessment of the impact on Indigenous Peoples²
- avoid impact³
- if avoidance of impact is impossible, prepare an Indigenous People's Development Plan to minimise and mitigate any potential adverse impact and identify benefits
- engage in informed consultation and participation with the affected indigenous communities
- implement a specific grievance mechanism
- identify and determine appropriate modalities of compensation and benefit-sharing.

Other PRs potentially relevant to Indigenous Peoples

In addition to being addressed in PR 7, the following issues are also addressed in other PRs:

- land acquisition, involuntary resettlement and economic displacement in PR 5
- biodiversity conservation and sustainable management of natural resources in PR 6
- commercial use of cultural heritage belonging to or used by indigenous communities in PR 8
- stakeholder engagement in PR 10.

Guidance on application of the PR

Scope of application of the PR

The PR applies to all projects, and is relevant when a project is likely to affect Indigenous Peoples. In practice, the PR is deemed relevant only in Russia as it has been assessed that no group in other EBRD countries of operations (COOs) is known to meet the five criteria set out in para. 10 of PR 7 (see Box 1).

The application of PR 7 outside of Russia may, however, need to be reviewed on a case by case basis if projects in other COOs were observed to impact upon groups that could potentially meet the five criteria of para. 10 of PR 7. Specificities of certain groups in Mongolia and the Western Balkans that have not been extensively studied in the past may, for example, warrant a specific expert review and consultation to check whether they meet the five criteria of PR 7. To be noted is that Roma communities are not considered as “indigenous” as per the Bank’s PR as they do not meet the second and third of the five criteria defining Indigenous Peoples. Therefore, Roma communities are not covered by this note. However, it may be determined that these communities be considered as a vulnerable group, in the context of the way in which a project may affect them and thus specific mitigations and consultation measures would be required.

In Russia all 41 Indigenous Peoples⁴ currently designated under the Federal Law, “On the guarantees of rights of the indigenous small numbered peoples of Russia”, potentially fall within the scope of this PR as they are usually found to meet all five criteria mentioned above. The law was initially intended to include all small-numbered peoples in the whole territory of Russia and it included a list of 45 indigenous groups recognised in 2000, as an annex to the law. This annex was revised in 2006 and now includes groups from the north, Siberia and the far east, thereby excluding some groups from areas such as:

- the north Caucasus Republics
- the southern Ural and Siberia (Chelyabinsk, Respublika Altai and Respublika Udmurt).

It is not envisaged that the scope of the PR would encompass groups well beyond the 41 peoples designated by the law. However, a case by case analysis may be required when a group which although not designated by the current annex to Russian law may meet the PR’s five criteria and is potentially affected by a project.

“Titular nations” of Russia (for example, the Buryat in the Respublika Buryat or the Komi in the Respublika Komi) are usually not considered as indigenous according to the EBRD’s PR. However, sub-groups of these groups⁵ could be considered as Indigenous Peoples for the purposes of the application of PR 7 if they were to meet the

five criteria, even if they are not listed in the current version of Russian IP law.

Social specialists should be consulted as early as possible (prior to EBRD Concept Review, where possible) for all projects in Russia which are located both: a) in one or several of the Russian entities listed in Annex 1; b) outside of major cities; and c) would fulfil any of the following criteria:

- requiring land acquisition or occupation
- potentially impacting natural habitats, even if they are not protected under national law
- requiring workforces of more than 100 at any given stage in the project cycle
- involving significant construction.

Free Prior Informed Consent (FPIC)

Background

The right of Indigenous Peoples to Free Prior Informed Consent (FPIC) has been reflected in the international legal instruments and decisions described below:⁶

- Within the Declaration on the Rights of Indigenous Peoples, passed by the UN General Assembly in September 2007, there is a specific recognition of the right of Indigenous Peoples to FPIC. Article 32(2) provides that the free, prior and informed consent be obtained from Indigenous Peoples, “prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilisation or exploitation of their mineral, water or other resources”.
- The UN Commission on Human Rights, likewise, has stated in relation to FPIC that: “Transnational corporations and other business enterprises shall respect the rights of local communities affected by their activities and the rights of Indigenous Peoples and communities consistent with international human rights standards such as the Indigenous and Tribal Peoples Convention (No. 169). They shall particularly respect the rights of Indigenous Peoples and other similar communities to own, occupy, develop, control, protect and use their lands, other natural resources and cultural and intellectual property. They shall also respect the principle of free, prior and informed consent of the Indigenous Peoples and communities to be affected by their development projects.”⁷

⁴ Please refer to the official list in Appendix 1.

⁵ Such as the Komi-Izhemtsy in the Komi Republic.

⁶ For example the International Convention on the Elimination of Racial Discrimination, jurisprudence of the Inter American Court of Human Rights and the ILO Convention 169.

⁷ UN Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights E/CN.4/Sub.2/2003/38/Rev.2, para 10(c).

Definition of Free Prior Informed Consent (FPIC)

FPIC refers to the process whereby Indigenous Peoples are informed about development activities in a timely manner and provided with an opportunity to approve (or reject) a project without any form of manipulation or coercion prior to the commencement of operations.

The consent needs to be informed; that is, obtained through a process of meaningful participation and consultation based on the full disclosure of relevant information about the proposed project in a form and manner that are understandable and accessible to the indigenous communities.

Scope of Free Prior Informed Consent (FPIC) in PR 7

The PR states that Free Prior Informed Consent (FPIC) is required for the following project-related activities:⁸

- the project is located on, or proposes to commercially develop natural resources located within, customary lands under use, and adverse impacts can be expected on the livelihoods, and/or cultural, ceremonial or spiritual uses that define the identity of the Indigenous People's community
- the project entails relocation of Indigenous Peoples
- the project proposes to use the cultural resources, knowledge, innovations or practices of Indigenous Peoples for commercial purposes.

Other project activities do not require FPIC even if Indigenous Peoples are affected. Typically FPIC will be associated with large projects in the hydropower, mining and oil and gas sectors. However, forest exploitation or industrial projects may require FPIC too, depending on their magnitude and anticipated impact.

Process of obtaining FPIC

Obtaining FPIC implies a process of good faith engagement whereby the parties establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect with full and equitable participation. The process of obtaining the consent of the Indigenous Peoples may require modifications and/or adjustments to the project and/or the adoption of specific Indigenous Peoples development/support measures which might become a component of the Indigenous Peoples Development Plan (IPDP). Hence, FPIC negotiations and IPDP

consultations are often likely to be components of the same consultation process (please see below).

Consultation requires time and an effective system of communication amongst interested parties. Indigenous Peoples should be able to:

- participate either directly or through their own freely chosen representatives and/or customary or other institutions
- specify which of these is entitled to express consent (or lack of) on their behalf.

The inclusion of a gender perspective and the participation of women are essential, as well as the involvement of community members of different ages as appropriate. This will often be best achieved through discussions in focus groups specific to each category (female only groups, youth only groups and so on).

Table 1 summarises some elements critical to the FPIC process.⁹ The process of obtaining FPIC will vary depending upon not only the socio-political context specific to the affected IP community but also the type and magnitude of impacts. Whenever FPIC is required, the client will have to prepare a specific FPIC communication plan outlining the strategy and method for obtaining FPIC and the associated action plan (including the timeline and required resources). Depending upon general timeline requirements, this FPIC communication plan could either be part of the general Project Stakeholder Engagement Plan, or it could be a separate document. In any event, negotiations and discussions relating to FPIC will need to take place within the same time frame as the overall Environmental and Social Impact Assessment (ESIA) consultation process.

FPIC does not necessarily mean that each affected individual formally and individually expresses consent. Referenda or similar processes may be appropriate in a limited number of cases (experience indicates however, they may pose difficult legal issues), but more commonly. Consent will be expressed in a collective manner through community representatives. The process of obtaining FPIC should be validated by local experts, who will have to confirm that the criteria in Table 1 are fulfilled.

⁸ It is important to note that per the Bank's PR, FPIC is associated with certain project "activities" entailing specific impacts on indigenous groups, rather than with the project as a whole.

⁹ Adapted from the report of the International Workshop on Methodologies Regarding FPIC E/C.19/2005/3 and endorsed by the United Nations Permanent Forum on Indigenous Issues at its fourth session in 2005.

Table 1: Elements of FPIC

Free	Prior	Informed	Consent
No manipulation.	None of the following should be undertaken before consent has been obtained: <ul style="list-style-type: none"> • authorisation or commencement of activities • land acquisition • finalisation of development plans. <p>Specific time requirements of the consultation/consensus process.</p>	Information to be provided should: <ul style="list-style-type: none"> • be accurate • be in an appropriate language • include information, when available,¹⁰ on social, economic, environmental and cultural impacts and reasons for proposed activities, duration, affected locality, proposed benefits sharing and legal arrangements and people likely to be involved • be in a form that is understandable and that takes into account traditions of the community. 	Form may vary for different communities: so may be oral or written but will always involve consultation and participation.
No coercion.			The process should be participatory.
No incentives.			Decision-making should not exclude or marginalise individuals due to gender, ethnicity or other factors.
No intimidation.			

Grievance mechanisms

Generic principles applicable to the design and implementation of grievance mechanisms should be used. However, where PR 7 applies, the client would also need to assess:

- whether a specific grievance mechanism would need to be established for Indigenous Peoples
- and/or what cultural or linguistic specificities of affected indigenous communities might need to be reflected in specific features of the grievance mechanism.

A specific grievance management mechanism may be necessary if certain aspects of the general community grievance process (such as language issues or the need to file a grievance in writing) are deemed unsuitable and /or inappropriate for the indigenous community in question.

Whatever the preferred arrangement, that is, a separate or common grievance mechanism, the Bank will have to be satisfied that the grievance management system is sensitive and appropriate for the specific cultural requirements of the indigenous community or communities for which it has been developed.

Indigenous People's Development Plan (IPDP)

The Indigenous People's Development Plan (IPDP or the Plan) is the key document that shall

outline and communicate how, within an agreed timeframe, any adverse impacts are to be minimised, mitigated and/or compensated by the client as well as how benefits are to be identified and shared with the affected indigenous community.

Responsibilities

The respective responsibilities of the Client and EBRD for the preparation, agreement and monitoring of the Plan are as follows:

The Client's responsibilities are to:

- develop the Plan (usually via consultants) and fund the process of its preparation
- consult on the Plan with stakeholders, with special attention paid to including affected indigenous communities and relevant Government agencies
- disclose the Plan as part of the ESIA disclosure package
- ensure the Plan has adequate resources to enable effective implementation
- monitor the implementation of the Plan, including arranging and paying for any independent monitoring that might be deemed necessary
- notify the Bank of any substantial change in the course of the Plan implementation.

The Bank's responsibilities are to:

- review the draft Plan
- make sure that consultation and disclosure requirements pertaining to the Plan are satisfied
- monitor the implementation of the Plan, including the review of any internal and external monitoring reports and Bank staff site visits if necessary.

¹⁰ Where the development stage of the project does not allow providing a sufficient level of detail, arrangements must be made to provide initial information on project principles and sites in so far as it is available and to complement this information as it becomes available.

Themes and issues to be addressed by an IPDP

Land rights

As elsewhere, one of the most sensitive issues indigenous communities have to face in Russia is securing long-term land user rights that meet their social, economic and cultural requirements, including the need for hunting, gathering, fishing and possibly grazing grounds comprising large areas of land and/or water. The provision of support to the Indigenous People's efforts to secure land rights is an area where community development activities sponsored by private companies can really create substantial added value. This is a legally complex subject and one where extensive consultation efforts with a broad range of stakeholders would be necessary.

For decades, indigenous communities («общины») of the USSR were allocated legally recognised grazing, hunting, fishing and other usage rights by local authorities. However, the Russian Land Code («Право бессрочного пользования земельным участком») no longer recognises the “right to indefinite use of land” which had been intended as the vehicle for local authorities to grant free and permanent rights of use to indigenous communities.

Leasehold rights to vast areas of land in the Russian north, Siberia and the far east are currently supposed to be granted by regional authorities. While indigenous communities are by law given a pre-emptive right, they often fail to assert their rights due to a lack of information and/or sometimes a lack of funding. Thus user rights can end up being purchased by commercial operators with a view to profiting from any actual or potential logging activities. However, the legal status of user rights derived from previous legislation is somewhat unclear and a thorough legal review may be required. In principle, these rights were allocated on an indefinite basis, and so could still be asserted, however, they are not always recognised by local authorities. Legal support to indigenous communities is, therefore, critical to their securing of existing or future rights of use.

Activities related to land rights that could be included in an IPDP might include the provision of legal support to indigenous communities of the project area with respect to:

- identification of pre-existing land rights
- identification of most appropriate legal procedures to ascertain land rights
- assistance in application and other legal proceedings.

NGOs specialising in Indigenous People's issues, including land rights, are usually best placed to provide this type of support. They often collaborate with lawyers who are highly specialised in this area and who, therefore, would be the most competent to provide this advice.

Other themes

Taking into consideration the local needs and expectations and depending upon project priorities and policies, other IPDP themes could include:

- enhancement of local community members' employability, particularly as workers for the project, through education and training programmes
- enhancement of procurement opportunities potentially benefiting indigenous communities (by unbundling procurement contracts to make them manageable for local small businesses, establishing appropriate procurement procedures and processes), and associated business development programmes such as training and microfinance
- Support to cultural activities intended to maintain and enhance indigenous groups' cultural heritage, particularly:
 - language and related education (supporting publications in indigenous languages such as dictionaries, textbooks, local tales and songs and so on)
 - support to local cultural events such as festivals and to local cultural groups
 - support to ethnographic museums and other forms of cultural heritage conservation
- health assistance, potentially including check-ups, strengthening the local care system through equipment and better hygiene awareness
- infrastructure (access, water supply, social infrastructure, and so on)
- enhancing sustainability in the use of natural resources (forestry, hunting and fishing)
- targeted assistance to the most vulnerable in the community.

Institutional framework

The capabilities of existing institutions with respect to implementing an IPDP should be carefully assessed. Not all activities under the IPDP need necessarily be implemented by the same institution. For example, local government agencies could implement educational or health components, whereas a local microfinance organisation might be the best placed to implement a microcredit component. Nonetheless, it is usually preferable to have one organisation take overall responsibility for the whole programme. Depending upon local circumstances and capabilities, this could be the project sponsor themselves or an NGO with experience in this area. In some cases and particularly for major projects and/or where long term activities and funding might be required, such as mining, it might be most effective if a dedicated entity were created.

To achieve the best outcomes for all concerned, it is advisable that those working on the development of an IPDP be aware and cognisant of the specific socio-economic characteristics and cultural context of local indigenous communities and consider providing cultural awareness training to sensitise their colleagues.

Funding of an IPDP

The preparation of the IPDP is usually funded by the client as part of the general ESIA process.

The implementation of the IPDP will also be principally funded by the client and is ultimately their responsibility. However, other complementary sources of funding can be sought so as to facilitate multi-stakeholder involvement and “buy-in” from other parties such as:

- local and provincial authorities, either from their budget or from specific funds put at their disposal for activities targeting indigenous communities
- the beneficiary communities themselves¹¹
- federal funds might also be available for such purposes: in Russia these funds are usually channelled through the State Committee for Northern Affairs (ТочКомСевер), which has branches in all provinces of the north and Siberia where Indigenous Peoples are found.

Additional funding may also be available from external donors, such as bilateral aid agencies, private foundations and NGOs.

An important way to ensure the successful implementation of an IPDP is by encouraging and facilitating the beneficiaries to contribute to the programme themselves. If funding is to be sought from external sources, it is recommended that the project sponsor involves the beneficiary communities in the identification of, and negotiation with, potential donors.

Equally as important as obtaining adequate resources for the implementation of the IPDP is the process by which funds are then channelled to the implementing partners and the beneficiaries for each of the different IPDP activities. Attention needs to be paid to this component of the IPDP so that the following criteria are met:

- long-term sustainability of the funding beyond the project proponent’s contribution (which may be limited in scope and time)
- transparency, accountability and fairness.

Developing the Plan

The development of the Plan will need to involve extensive consultation, which has to be properly planned in terms of:

- types of communication to be used
- representation of the indigenous community by the appropriate organisations (are existing organisations adequately representing all affected Indigenous Peoples or may political or other issues jeopardise representation?)
- feedback to the broader community at the right milestones in the process.

To develop an IPDP, it is highly recommended to use a combination of local experts, with a good knowledge and understanding of the local indigenous communities and their lives, together with national or international experts with exposure to international good practice cultural awareness. Diversity training to sensitise colleagues to the specific issues of the Indigenous People’s community will always be useful and beneficial.

The IPDP, as prescribed in the PR (paragraph 21) should comprise the following components, as set out in Table 2.

¹¹ Good practice indicates that a contribution of beneficiary communities is a key factor of buy-in and success. International experience of community development in poor areas of the FSU indicates that levels of up to 50 per cent contribution can be achieved in basic infrastructure projects, and that in a preliminary stage at least 10 per cent contribution should be collected. Arrangements must be in place to avoid potential misuse of such funds. Where communities are unable to contribute in cash, other forms of participation should be sought (labour).

Table 2: Components of an Indigenous People's Development Plan (IPDP)

Component required	Guidance on content
Baseline information	This should comprise data on the number and types of indigenous communities in the project area: respective information on demographics, ways of life and livelihood customs, cultural characteristics, use of natural resources, socio-economic characteristics, health and education levels and access and any relevant historical facts.
Analysis of impact, risks and opportunities	<ol style="list-style-type: none"> 1. Describe both the expected physical, economic and/or social impact of the project on each group and the feared impact. 2. Identify risks (physical, social and economic) of the project activities on current lifestyles and livelihood strategies. 3. Identify opportunities that will improve and/or enhance the quality of life of the Indigenous Peoples.
Consultation and participation	<ol style="list-style-type: none"> 1. Describe the approach taken to consult with and the participation of Indigenous Peoples and the special measures taken so as to engage appropriately. 2. Outline the results of consultations and how the issues are to be followed up and addressed. 3. Develop a plan for future engagement and outline how it is to be undertaken, by whom and in what time frame.
Implementation plan	<ol style="list-style-type: none"> 1. Identify the measures to be put in place to avoid or minimise negative impact. Link the measures to the impact; describe why they were chosen and how they will be effective. 2. Identify measures to be developed to enhance positive impact and how these will be implemented: describe how these were selected, by whom and why they will work. 3. Identify and describe measures to be adopted to ensure continuation of community-based natural resource management. Indicate how the measures were selected, how Indigenous Peoples were involved in the process and how they are to be implemented. 4. Identify and describe measures to derive project benefits and/or development opportunities: outline who will be the beneficiaries and in what way, how they are to be implemented and in what framework. 5. Grievance mechanism: outline the proposed process and describe how the mechanism has been developed to suit the indigenous community, using and building on the community's indigenous problem-solving approaches. 6. Costs, budget, timetable and organisational responsibilities: indicate how these were decided and how the IP communities were involved in the decision making process. 7. Monitoring, evaluation and reporting: identify who is to be responsible for internal and external monitoring and evaluation, the involvement, if any, of the indigenous community and how the results are to be disseminated.

The level of detail and scope of the IPDP will vary according to the specific project activities, their expected impact and location and the numbers of people affected.

Time frame

Adequate time will be required to prepare such plans, so as to develop relationships and respect the lifestyles of the indigenous communities. A typical timeframe for developing an IPDP is approximately one year. Depending on the due diligence timeline, the IPDP could be prepared in two stages:

- a first general framework or “road map” to be disclosed and consulted upon within the same timeframe as the ESIA and the FPIC negotiation process
- further details to be submitted within an agreed time frame and probably related to a milestone in the financing process.

Sanctioning the IPDP through a contractual relationship

The IPDP will need to be sanctioned in a specific document. Companies involved in extractive activities in Russia have tended to adopt a contractual approach with indigenous communities and their representative organisations, following a trend initially developed in Canada.

Good practice examples of IPDPs

Although no two IPDS will ever be the same, it can be useful to look at some other IPDS to see what has been developed. Examples of some IPDPs prepared according to good practice include:

- Sakhalin Energy (Russia): www.sakhalinenergy.com/en/documents/doc_lender_soc_4.pdf
- Marlin Mining Project (Guatemala): commdev.org/files/2273_file_Marlin_Gold_IPDP_Guatemala_.pdf

Further information

Indigenous Peoples in Russia

Regional agencies of the Academy of Science of Russia (Российская академия наук) usually have considerable expertise and vast, albeit not always up-to-date information and publications on local indigenous groups. Many of the researchers active in this area are themselves from indigenous groups and often have invaluable insight as well as a useful historical perspective. In addition, research works dating back from the Soviet period are usually available. These would include studies on land use patterns, particularly with respect to transhumant or nomadic practice, as well as ethnographic studies.

Relevant laws of Russia

The following two federal laws apply:

- Federal law “On the guarantee of rights of indigenous small numbered peoples of Russia” – Федеральный закон «О гарантиях прав коренных малочисленных народов Российской Федерации» – Принят Государственной Думой 16 апреля 1999 года – Одобрен Советом Федерации 22 апреля 1999 года (в ред. Федерального закона от 22.08.2004 № 122-ФЗ)
- Federal law “On the traditional territories and the use of natural resources by the indigenous small numbered peoples of the north, Siberia and the Far East of Russia” – Федеральный закон «О территориях традиционного природопользования Коренных малочисленных народов севера, Сибири и Дальнего Востока Российской Федерации» (7 мая 2001 г. № 49-ФЗ).

These laws are available from the Environment and Sustainability Department of the EBRD.

In addition, different regions and localities within Russia may have specific legislation regulating, for example, land use and local government bodies.

International conventions, agreements and other instruments

The following international conventions, declarations and guidelines are highly relevant for and to PR 7:



- The UN Declaration on the Rights of Indigenous Peoples, adopted in September 2007, at: <http://www.un.org/esa/socdev/unpfii/en/declaration.html>
- UN Conventions of Relevance to Indigenous Peoples, as follows:
 - International Covenant on Civil and Political Rights
 - International Covenant on Economic, Social and Cultural Rights
 - International Convention on the Elimination of All Forms of Racial Discrimination
 - Convention on the Rights of the Child
 - Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
 - Convention on the Elimination of All Forms of Discrimination Against Women

A list of the six UN Conventions and their texts is available at: <http://www2.ohchr.org/english/law/>. The ratification status of each of these conventions by country is available at: <http://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&lang=en>

The following conventions and guidelines are also of relevance.

- ILO Convention on Indigenous and Tribal Peoples (No. 169) (ILO, 1989) at: www.ilo.org/ilolex/cgi-lex/convde.pl?C169. Note: ILO169 has not been ratified by Russia as of August 2010. Any changes to this status can be found at: <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C169>
- ILO Convention 169 and the Private Sector: Questions and Answers for IFC Clients; IFC. At: [www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/p_ILO169/\\$FILE/ILO_169.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/p_ILO169/$FILE/ILO_169.pdf)

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- Convention on Biological Diversity (1992) – provides information on the convention, lists of signatory nations and biodiversity experts and other useful information, at: www.biodiv.org/default.aspx
 - Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising Out of their Utilization (Secretariat of the Convention on Biological Diversity, 2002) – guidelines on establishing legislative, administrative or policy measures on access and benefit-sharing and/or when negotiating contractual arrangements for access and benefit-sharing, at: www.biodiv.org/doc/publications/cbd-bonn-gdls-en.pdf
 - Akwé Kon Guidelines (Secretariat of the Convention on Biological Diversity, 2004) – voluntary guidelines for the conduct of cultural environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous or local communities, at: www.biodiv.org/doc/publications/akwe-brochure-en.pdf
 - The European Union’s (Council) Resolution on Indigenous Peoples within the Framework of the Development Cooperation of the Community and Members States (1998). This resolution provides the main European Union guidelines for support of Indigenous Peoples. It calls for the integration of Indigenous People’s interests in all levels of development cooperation and the full and free participation of Indigenous Peoples in the development process. The resolution states: “Indigenous cultures constitute a heritage of diverse knowledge and ideas, which is a potential resource for the entire planet.” At: http://ec.europa.eu/external_relations/human_rights/ip/docs/council_resolution1998_en.pdf

Annex 1

List of designated small numbered Indigenous Peoples of Russia

Annex to the Federal Law, “On the guarantees of rights of the indigenous small numbered peoples of Russia.”

Decree of the Government of Russia number 255 dated 24 March 2000, “On the consolidated list of indigenous small numbered peoples of Russia” with changes of Decree of 13 October 2008 number 760 (Постановление Правительства Российской Федерации 24 марта 2000 года № 255 «О едином перечне коренных малочисленных народов Российской Федерации» – Изменения, утв. постановлением Правительства РФ от 13 октября 2008 г. № 760

	Russian name	English name	Subject entities of Russia where such groups are found (indicative)	
1	Алеуты	Aleuts	Камчатский край	Kamchatka Territory
2	Алюторцы	Alyutors	Камчатский край	Kamchatka Territory
3	Вепсы	Veps	Республика Карелия, Ленинградская область	Karelia Republic, Leningrad Province
3	Водь	Vod'	Ленинградская область	Leningrad Province
5	Долганы	Dolgans	Красноярский край, Республика Саха (Якутия)	Krasnoyarsk Territory, Republic Sakha (Yakutiya)
6	Ительмены	Itelmens	Камчатский край, Магаданская область	Kamchatka Territory, Magadan Province
7	Камчадалы	Kamchadals	Камчатский край	Kamchatka Territory
8	Кереки	Kereks	Чукотский автономный округ	Chukotka Autonomous District
9	Кеты	Kets	Красноярский край	Krasnoyarsk Territory
10	Коряки	Koryaks	Камчатский край, Чукотский автономный округ, Магаданская область	Kamchatka Territory, Chukotka Autonomous District, Magadan Province
11	Кумандинцы	Kumandins	Алтайский край, Республика Алтай, Кемеровская область	Altai Territory, Altai Republic, Kemerovo Province
12	Манси	Mansi	Ханты-Мансийский автономный округ, районы Тюменской области, Свердловская область, Республика Коми	Khanty-Mansi Autonomous District, Tiumen Province, Sverdlovsk Province, Komi Republic
13	Нанайцы	Nanais	Хабаровский край, Приморский край, Сахалинская область	Khabarovsk Territory, Primorsk Territory, Sakhalin Province
14	Нганасаны	Nganasans	Красноярский край	Krasnoyarsk Territory
15	Негидальцы	Negidals	Хабаровский край	Khabarovsk Territory
16	Ненцы	Nenets	Ямало-Ненецкий автономный округ, Ненецкий автономный округ, районы Архангельской области, Таймырский (Долгано-Ненецкий) автономный округ, Ханты-Мансийский автономный округ, Республика Коми	Yamalo-Nenets Autonomous District, Krasnoyarsk Territory, Arkhangelsk Province, Khanty-Mansi Autonomous District, Komi Republic
17	Нивхи	Nivkhs	Хабаровский край, Сахалинская область	Khabarovsk Territory, Sakhalin Province
18	Ороки (ульта)	Oroks	Сахалинская область	Sakhalin Province
19	Орочи	Orochs	Хабаровский край	Khabarovsk Territory
20	Саамы	Sami	Мурманская область	Murmansk Province
21	Селькупы	Selkups	Ямало-Ненецкий автономный округ, районы Тюменской области, Томская область, Красноярский край	Yamalo-Nenets Autonomous District, Tiumen Province, Tomsk Province, Krasnoyarsk Territory
22	Сойоты	Soyots	Республика Бурятия	Buryat Republic
23	Тазы	Tazs	Приморский край	Primorsk Territory

NOTE: this list may be amended from time to time.

	Russian name	English name	Subject entities of Russia where such groups are found (indicative)	
24	Теленгиты	Telengits	Республика Алтай	Altai Republic
25	Телеуты	Teleuts	Кемеровская область	Kemerovo Province
26	Тофалары	Tofalars	Иркутская область	Irkutsk Province
27	Тубалары	Tubalars	Республика Алтай	Altai Republic
28	Тувинцы-тодзинцы	Tuvans-Todzhins	Республика Тыва	Tyva Republic
29	Удэгейцы	Udege	Приморский край, Хабаровский край	Primorsk Territory, Khabarovsk Territory
30	Ульчи	Ulchs	Хабаровский край	Khabarovsk Territory
31	Ханты	Khants	Ханты-Мансийский автономный округ, Ямало-Ненецкий автономный округ, районы Тюменской области, Томская область, Республика Коми	Khanty-Mansi Autonomous District, Yamalo-Nenets Autonomous District, Tiumen Province, Tomsk Province,
32	Челканцы	Chelkans	Республика Алтай	Altai Republic
33	Чуванцы	Chuvans	Чукотский автономный округ, Магаданская область	Chukotka Autonomous District, Magadan Province
34	Чукчи	Chukchis	Чукотский автономный округ, Камчатский край	Chukotka Autonomous District, Kamchatka Territory
35	Чулымцы	Chulyms	Томская область, Красноярский край	Tomsk Region, Krasnoyarsk Territory
36	Шапсуги	Chapsugi	Краснодарский край	Krasnodar Territory
37	Шорцы	Shorians	Кемеровская область, Республика Хакасия, Республика Алтай	Kemerovo Region, Khakasiya Republic, Altai Republic
38	Эвенки	Evenks	Республика Саха (Якутия), Эвенкийский автономный округ, районы Красноярского края, Хабаровский край, Амурская область, Сахалинская область, Республика Бурятия, Иркутская область, Читинская область, Томская область, Тюменская область	Sakha Republic, Evenskij Autonomous District, Krasnoyarsk Territory, Khabarovsk Territory, Amur Province, Sakhalin Province, Buryat Republic, Irkutsk Province, Zabaikalye Territory, Tomsk Province, Tyumen Province
39	Эвены	Evens	Республика Саха (Якутия), Хабаровский край, Магаданская область, Чукотский автономный округ, Корякский автономный округ, районы Камчатской области	Sakha Republic, Khabarovsk Territory, Magadan Province, Chukotka Autonomous District, Kamchatka Territory
40	Энцы	Enets	Красноярский край	Krasnoyarsk Territory
41	Эскимосы	Eskimo	Чукотский автономный округ, Камчатский край	Chukotka Autonomous District, Kamchatka Territory

The map on the previous page has been developed by the Center for Support of Indigenous Peoples of the North (CSIPN) and the Russian Association of Indigenous Peoples of the North (RAIPON).

See www.csipn.ru/en and www.raipon.org for more information. With thanks to Rodion Sulyandziga.

The designations employed and the presentation of material in the map do not imply the expression of any opinion whatsoever on the part of the EBRD concerning the legal and constitutional status of any country, territory or sea area, or concerning the delimitation of frontiers.

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