

Technical paper

**An analysis of gaps in existing policies, actions and communications under the Convention:
whether and how they incorporate consideration and engagement of indigenous peoples and
local communities**

I. Abbreviations and acronyms

AIPP	Asia Indigenous Peoples Pact
BR	Biennial report of a developed country
BUR	Biennial update report of a developing country
FWG	Facilitative Working Group
IPO	Indigenous Peoples Organizations
IWGIA	International Work Group for Indigenous Affairs
LCIPP	Local Communities and Indigenous Peoples Platform
LDC	Least Developed Country
LT-LEDS	Long-term low greenhouse gas emission development strategy
NAP	National adaptation plan
NAPA	National adaptation programme of action
NDC	Nationally determined contribution
REDD+	Reducing Emissions from Deforestation and forest Degradation
SBSTA	Subsidiary Body for Scientific and Technological Advice
TuCAN	Tuvalu Climate Action Network
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change

1. Executive summary

1. Activity 9 of the LCIPP initial two-year workplan calls for the mapping of existing policies, actions and communications under the Convention with respect to whether and how they incorporate the consideration and engagement of indigenous peoples and local communities.
2. Many documents, including NDCs, NAPs, and other relevant submissions were mapped. All documents that were available before or on 13 September 2020 were mapped, as this technical paper was mandated for the fourth meeting of the FWG, and members needed time prior to that meeting to read it. The FWG may consider including an activity to update this technical paper in the draft three-year workplan for the period 2022–2024 for implementing the functions of the LCIPP.
3. Surveys were sent to Parties and to indigenous peoples, local communities, and other stakeholders to assist with the mapping process. The secretariat received 255 responses. Furthermore, six submissions of views were received as of 13 September 2020, two from two groups of Parties (AOSIS and the EU), one Party (Canada), two submissions from IPOs (one from the Native Women's Association of Canada, and one joint submission from the AIPP and the IWGIA, and one from TuCAN.
4. Gaps that were identified through the mapping include: once-off engagement rather than sustained engagement with indigenous peoples and local communities; a need for greater capacity-building for engagement; a gap in multi-directional training; limited consideration of respective rights; engagement and consideration are not considered throughout the project/process; the conceptualization of engagement with indigenous peoples and/or local communities as a resource, rather than as a process of partnership; a lack of collaboration and partnership with different knowledge holders; lack of evidence of supporting infrastructure to facilitate repeated engagement with indigenous peoples and local communities, and with knowledge of indigenous peoples, traditional knowledge and local knowledge; limited references to indigenous peoples practices and technologies; and limited consideration of gender and youth in relation to indigenous peoples and local communities.
5. The mapping indicated that there is a wide variation in how indigenous peoples and local communities are considered and/or engaged in national-level policy making. In general, most documents reviewed did not contain references to the engagement of indigenous peoples and/or local communities. Some sub-regions, including the Pacific islands, indicate a high level of engagement but do not consistently reference indigenous peoples, nor local communities, in their communications as in these sub-regions, indigenous peoples make up the vast majority of the population. For this reason, this technical paper does not attempt to quantify the mapping of documents as this would not lead to accurate results.

2. Introduction

6. At its first meeting, the FWG proposed an initial two-year workplan for the LCIPP. At SBSTA 51, the workplan was welcomed by the Parties.¹ It is comprised of 12 activities, to be implemented over the course of 2020–2021.
7. As part of the workplan, a mapping was mandated as Activity 9. It examines existing policies, actions, and communications under the Convention, with respect to

¹ FCCC/SBSTA/2019/5, para. 46.

whether and how they incorporate consideration and engagement of indigenous peoples and local communities.

8. The documents that were mapped and analysed include NDCs, national communications, LT-LEDS, BRs, BURs, NAPs, and NAPAs.

9. This technical paper analyses gaps identified during the mapping and is informed by the submissions and surveys received. It was considered and finalised at the fourth meeting of the FWG, held from 14-17 December 2020.

10. Two surveys were developed and disseminated, one targeting National Focal Points from Parties to the Convention, and the other targeting indigenous peoples, local communities, and other stakeholders. The surveys were disseminated in English, French, Spanish and Russian, and numerous responses were received (255 respondents in total, 35 from Parties, 120 from IPs/IPOs and 100 from other stakeholders including civil society representatives and local communities.

11. Six submissions of views were received: two from groups of Parties (AOSIS and the EU); one from a Party (Canada); two from IPOs (one from the Native Women's Association of Canada, and one joint submission from AIPP and IWGIA; and one from TuCAN

12. The FWG will also produce a set of recommendations for the consideration of the SBSTA. These recommendations will be based on the findings of this technical paper, as well as all other input received on the topic. They will be linked to, and complementary with, the set of recommendations mandated under activity 6 of the LCIPP workplan.

3. Scope of the paper

13. The technical paper starts by outlining the documents that were mapped. This is followed by a description of gaps that were identified during the mapping process and/or that were communicated in survey responses and submissions. The paper ends with a general conclusion.

4. Background analysis

14. This section provides an overview of the national policies, actions and communications under the UNFCCC that were mapped.

15. For the purposes of this mapping, the term “consideration” is relatively broad and could refer to when a Party mentioned indigenous peoples or local communities in their document. “Engagement” has been taken to mean a situation in which a Party partnered or engaged with indigenous peoples and/or local communities to (co)create or (co)implement solutions, including based on the knowledge/ practices/ technologies of indigenous peoples and/or those of local communities. The role and responsibility of the Party to engage is key. One FWG member mentioned that engagement in the UNFCCC has been treated as an outcome rather than a process and this is not appropriate in the context of engagement with indigenous peoples as rights holders.

16. The UNFCCC process does not define indigenous peoples nor does it define local communities.² This mapping did not engage in the issue of definitions, it only mapped

² The UN Declaration on the Rights of Indigenous Peoples is emphasized, in its entirety, in decision 2/CP.24, in the context of the LCIPP.

whether indigenous peoples and/or local communities were mentioned in the relevant documents submitted under the UNFCCC, as per the mandate for the technical paper.³

17. Some sub-regions, like the Pacific islands, include a high level of engagement with indigenous peoples and local communities. As elaborated in the AOSIS submission, in the Pacific islands the participation of indigenous peoples and local communities “in the development and implementation of relevant policies and communities under the UNFCCC is essentially a given”, given that they are the predominant populations within their respective Pacific islands, and own approximately 90 per cent of land therein. This includes the associated marine tenure. Many Parties within such sub-regions do not specify their engagement with indigenous peoples and local communities in their policies, communications, and actions. This was accounted for during the process of mapping documents and writing the gap analysis.

4.1. Nationally determined contributions

18. NDCs form an integral part of the Paris Agreement and are essential to achieving its long-term goals. Each NDC communicates efforts by a Party to reduce national emissions and adapt to the impacts of climate change. The Paris Agreement states that each Party shall prepare, communicate and maintain successive NDCs that it intends to achieve.⁴ Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.

19. In its preamble, the Paris Agreement acknowledges that “Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, ... the rights of indigenous peoples...”. In the guidance for implementing the Paris Agreement, each Party, when it develops a new NDC, is encouraged to “provide information on the planning processes that the Party undertook to prepare its NDC and, if available, on the Party’s implementation plans, including, as appropriate...[d]omestic institutional arrangements, public participation and engagement with local communities and indigenous peoples, in a gender-responsive manner”.⁵ Parties are also encouraged, when developing national adaptation communications under the Paris Agreement, to include: “Gender-responsive adaptation action and traditional knowledge, knowledge of indigenous peoples and local knowledge systems related to adaptation, where appropriate”.⁶ All NDCs and updated submitted by 13 September 2020 were included in the mapping.

4.2. National communications

20. A national communication is a commitment of each Party to provide a national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, a general description of steps taken or envisaged by the Party to implement the Convention, and any other information that the Party considers relevant to the achievement of the objectives of the Convention.⁷ National communications from 196 Parties were mapped.

https://www.un.org/development/desa/indigenoupeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

³ FCCC/SBSTA/2019/4, annex I

⁴ Article 4, paragraph 2 of the Paris Agreement. Available at: <https://unfccc.int/process/conferences/pastconferences/paris-climate-change-conference-november-2015/paris-agreement>

⁵ Decision 4/CMA.1.

⁶ Decision 9/CMA.1.

⁷ Article 4, paragraph 1 of the Convention. Available at: <https://unfccc.int/process-and-meetings/the-convention/what-is-the-united-nations-framework-convention-on-climate-change>

4.3. Long-term low greenhouse gas emission development strategies

21. Under the Paris Agreement, countries are invited to communicate “mid-century long-term low GHG emissions development strategies”.⁸ These strategies are central to the goal of limiting global warming to well below 2°C and to pursue efforts to limit the increase to 1.5°C, representing a significant opportunity for countries to lay out their vision for achieving a low-carbon economy by 2050 while also pursuing sustainable development. 16 Parties had submitted them at the time of drafting the technical paper.⁹

4.4. Biennial reports and biennial update reports

22. Biennial reports (BRs) communicate information on Annex I Parties’ greenhouse gas emission trends, quantified economy-wide emission reduction targets, progress in achievement of this target, greenhouse gas projections, and provision of financial, technological and capacity building support. 29 Annex I Parties out of 43 had submitted BRs.¹⁰

23. Biennial update reports (BURs) are reports submitted by non-Annex I Parties, containing updates of national greenhouse gas inventories, including a national inventory report and information on mitigation actions, needs and support received. 57 Non-Annex I Parties out of 154 had submitted BURs.¹¹

4.5. National adaptation plans

24. National adaptation plans (NAPs) are a means of identifying medium- and long-term adaptation needs and developing and implementing strategies and programmes to address those needs. NAPs are developed via a continuous, progressive and iterative process which follows a country-driven, gender-sensitive, participatory and fully transparent approach. 21 Parties’ NAPS were included in the mapping.¹²

4.6. National adaptation programmes of action

25. National adaptation plans of action (NAPAs) provide a process for the LDCs to identify priority activities that respond to their urgent and immediate needs with regard to adaptation to climate change - those needs for which further delay could increase vulnerability or lead to increased costs at a later stage. All 47 LDC Parties have submitted NAPAs.¹³ 4 NAPAs from former LDCs have also been submitted¹⁴ and were included in the mapping.

5. Survey results

26. Two surveys were developed and disseminated. The first survey targeted National Focal Points from Parties to the Convention, and 35 responses were received. The second survey targeted indigenous peoples, local communities, and other stakeholders. 120 Responses were received from IPs/IPOs and 100 from other stakeholders including civil society representatives and local communities. The

⁸ Article 4, paragraph 1 and 19 of the Paris Agreement. Available at: <https://unfccc.int/process/conferences/pastconferences/paris-climate-change-conference-november-2015/paris-agreement>

⁹ As at 13 September 2020.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ As at 13 September 2020

¹⁴ As at 13 September 2020

surveys were disseminated in English, French, Spanish and Russian. Background document FWG3/Background Document/4G.2 compiles the results of the surveys.¹⁵

27. Given that the surveys were specifically targeting information related to the participation of indigenous peoples and/or local communities (or both) most of the Parties that responded (35) did include this information. They shared information on how indigenous peoples and/or local communities have been involved in different policies, communications and/or actions at the national level. Several Parties reported that they have awareness-raising initiatives to keep indigenous peoples and/or local communities informed about the preparation of respective policies, communications and actions under the Convention, and that indigenous peoples were engaged in consultation during the early preparation phase. Just less than half of those respondents also said that indigenous peoples gave input to reviews of drafting, and/or that they participated in implementation of the policy/action.

28. A small number of respondents shared that indigenous peoples and local communities were given no consideration and did not provide any input pertaining to the process of elaboration of respective policies, communications, and actions at stake.

29. In terms of the main challenges faced by representatives of indigenous peoples, with regards to their participation in policies, communications and/or actions, over half of the indigenous peoples that responded, shared that no or insufficient information was provided during the process of producing the documents at the national level. Some shared that a lack of opportunity and funding for their respective participation was a challenge. They also emphasized the need to build capacities of indigenous peoples and local communities, particularly of those in remote areas, to have access to trainings to enable their respective engagement.

6. Gaps identified

30. The section below identifies some gaps that have emerged through the mapping process and/or were highlighted in communications responding to the call for submissions on Activity 9.

6.1. Limited sustained engagement with indigenous peoples and local communities

31. A number of Parties mentioned or referenced considerations of indigenous peoples and/or local communities and their respective ways of knowing and forms of knowledge. Some also referred to tribal peoples/communities. Many of these references were to once-off consultations, meetings, workshops or to other singular events. Some Parties did report more detailed engagement processes, however in general there were comparatively few documents that communicated engagement on an ongoing basis.

32. The AIPP underlined the importance of national forums to engage indigenous peoples and non-state actors with policymakers. Canada, in its submission, identified the need for Parties to partner with indigenous organisations in the development and implementation of national adaptation programmes and policies. This could help to

¹⁵ Available here: <https://unfccc.int/sites/default/files/resource/Background%20document%20Activity%209%20Survey%20results.pdf>

ensure such programmes and policies include knowledge of indigenous peoples, and respect indigenous rights.

6.2. Need for greater capacity building for engagement

33. The lack of evidence of sustained engagement (as opposed to mentions of single-event engagement), as well as the responses to the survey, suggest a lack of capacity for engagement from all sides. Almost all the survey responses from Parties stressed the need for access to capacity development for engagement aimed at indigenous peoples and local communities. Most also mentioned the need for decision-makers to also access capacity building on how to engage more with indigenous peoples. This kind of capacity building can also build understanding of the important roles that indigenous peoples and local communities can play in supporting climate action.

34. The AIPP emphasised that a lack of consideration of the way of life of indigenous peoples, including considerations of language, limits their capacity for participation in national policies and programmes. They shared that indigenous peoples can be challenged by limited internet access to attend virtual meetings and limited financial resources to attend physical meetings.

6.3. Lack of evidence of multi-directional training

35. There are many references to training *for* indigenous peoples and local communities. Furthermore, communications *from* government experts *to* indigenous peoples or local communities are prevalent. It was identified by the FWG that there is a lack of two-way flow of information. Although some communications referenced specific examples of training using co-created tools or resources, and/or multi-directional training, but these were limited.

36. There was a lack of mention of the need for government officials to build their capacity to communicate and engage with indigenous peoples and local communities. This may suggest that the potential for co-creation of knowledge and maximum translation of understanding of that knowledge is not yet well utilized. The perspectives and concerns of the 'trainees' may not be accounted for.

6.4. Need for greater consideration of the rights of indigenous peoples and for consideration of local communities is lacking

37. There are few mentions of rights in the reviewed documents. In total, in all the analysed documents, 18 Parties made 30 references to the rights of indigenous peoples.

38. A lack of consideration of the rights of indigenous peoples, in addition to presenting a gap itself, may worsen other gaps already identified. A lack of consideration to the right of participation, for example, may lessen effective engagement of indigenous peoples in long-term policy- and decision-making processes. Furthermore, a lack of consideration of UNDRIP, even with long-term engagement, could correspond with or result in policies which may not safeguard rights. It was mentioned that the lack of a right- framework at the national level can create hesitancy among many indigenous peoples to share their knowledge and practices.

39. Eight of the references that were mapped refer to rights of indigenous peoples and rights of local communities. Where references to rights do appear, the majority are not specific: only eleven of the references to the rights of indigenous peoples were specific to rights (such as those to land, participation, or genetic resources).

40. Both the EU and the AIPP, in their submissions, highlight the need for the improvement of the recognition of indigenous land and resource rights. The AIPP submission mentions that there is a lack of recognition of indigenous peoples' rights to their land, territories and resources, and non-compliance with national and international obligations, in climate action. Submissions from the EU and Canada reference the need for continuing and evolving engagement with indigenous peoples concerning the consideration of their rights in national policy-making.

6.5. Engagement and consideration not consistently included throughout the project/process

41. Evidence suggests that engagement often only takes place at one stage of a process. The phase in which indigenous peoples and local communities participated most was the planning phase. There were few examples of continued engagement over time.

42. Of the respondents who participated in the survey, 45% said their engagement was restricted to the early preparation phase of the policy, communication and/or action. Participation in the review of the drafts of such documents as well as in the implementation, monitoring and review of respective activities was considerably lower.

43. Instances were identified where engagement occurred only during the preparation phase, during the implementation phase, or during the evaluation phase of a project. This could suggest an opportunity gap for the co-creation of knowledge and solutions across multiple stages.

44. The lack of ongoing engagement in the implementation phase could translate into indigenous peoples and local communities being consulted on a case-by-case basis at the discretion of the implementing body, instead of forming the basis of bidirectional and continuous engagement. It could also contribute to a lack of ownership by indigenous and local communities of projects and actions that affect them and their livelihoods.

6.6. Engagement with indigenous peoples and/or local communities can be conceived as a resource or requirement, rather than as a process of partnership.

45. If indigenous peoples and local communities and their ways of knowing are conceptualised as a resource to be used when required, rather than as peoples with their own distinct rights (in the case of indigenous peoples), needs and inputs in societies, then engagements may be seen as a requirement to complete a task, rather than as partners with whom Parties can co-create and co-implement mutually beneficial solutions.

46. Additionally, engagement is sometimes referenced in lists along with other groups in civil society or private commercial groups, pointing to a lack of specific engagement tailored to very different groups.

6.7. Lack of collaboration and partnership with different knowledge holders

47. It was identified that there are many missed opportunities in terms of creating pathways and partnerships with indigenous peoples and/or local communities, based on mutual understanding and interest. There was a lack of mention of engagement with different knowledge-holders. For instance, learning from both knowledge of indigenous peoples and research published in peer-reviewed journals would enable

governments to create better policies and actions, and create more ownership of the measures by the communities. Presently the framing of engagement with indigenous knowledge was identified as mainly being limited as an ‘input’ to insert into policies, activities, and a process. As such, procedural aspects and mechanisms are needed in order to engage indigenous peoples in an ethical, equitable, fair, and just way. Procedural aspects can also help to prioritize indigenous knowledge systems and the revitalization of these systems for indigenous peoples. Such procedures can enhance/reinstate trust.

48. Thirty-two activities were communicated by Parties that touched on these issues, usually involved the sharing of knowledge and co-implementation of strategies by governments and indigenous peoples and/or local communities. Some Parties described engagements where persons with complementary skills co-created knowledge and solutions in the area of their shared expertise. Some communications contained detailed descriptions of, for example, indigenous practices and techniques. Some examples of existing partnerships were identified between indigenous rainmakers and non-indigenous meteorologists, between nomadic hunters and maintainers of geographic information systems, and between farmers and scientists.

6.8. Lack of evidence of supporting infrastructure to facilitate repeated engagement with indigenous peoples and local communities, and relevant knowledge

49. In all reviewed documents, 20 specific infrastructures were communicated that were designed to create a framework for ongoing engagement with indigenous peoples and local communities (some refer to “tribal peoples”). Examples of existing frameworks or infrastructures referenced by Parties include educational curricula for youth and the public, locally-managed energy schemes contributing to national mitigation efforts, collaborations between national and indigenous parliaments and governments, and national frameworks for the permanent representation of indigenous peoples in national governments.

50. The EU submission highlighted in two Member States the need for national climate policies and legislation to include indigenous peoples to the fullest extent possible, for indigenous parliaments to be treated as extra-ordinary stakeholders with the right to self-determination, and the vital role indigenous representatives play in national delegations to international climate negotiations. The EU submission also highlighted the need for the representation and participation of indigenous peoples in independent scientific bodies and for climate change panels in two Member States, analyses and national action plans established performed and implemented by indigenous peoples.

51. Other documents reviewed in the mapping did not reveal the presence of supporting infrastructure or institutions to facilitate engagement. While many communications referenced effective, substantive, or sometimes ongoing engagement, there was a lack of indications as to how these engagements were institutionalised or how their outcomes were collected and disseminated for future engagements/processes.

52. Where a co-created infrastructure is not established, engagement may be more difficult to facilitate. This can contribute to missed opportunities to co-create knowledge beyond the scope of specific projects or initiatives.

6.9. Lack of references to indigenous peoples' practices and technologies

53. Few of the mapped documents referred to indigenous peoples' practices or technologies: 14 NDCs, 3 NDCs, 2 BURs, 1 BR, and 1 NAPA mention "indigenous technologies".

54. In the future where Parties communicate their engagement with indigenous peoples, it may also be illustrative and useful to communicate engagement with the technologies and practices of those peoples. This not only serves to highlight the modes of engagement between Parties and indigenous peoples but may also benefit other Parties and peoples seeking to engage in a similar way.

55. A lack of references in this regard suggest opportunities which have not yet be realised to pass on good practices and may represent a lack of consideration of indigenous practices and technologies. Where Parties do engage with indigenous peoples, but do not co-design climate policies and actions, a scenario may emerge where substantive engagement with indigenous peoples occurs but linking knowledge of indigenous peoples and national planning is more difficult. Early consideration of how to make these connections may both enhance the collaboration of Parties and indigenous peoples while also creating more comprehensive climate plans. The AIPP, as an example, described how the non-recognition or restriction of traditional practices in national policy may have negative impacts on livelihoods and food security.

6.10. Lack of evidence related to the consideration of gender and youth in relation to indigenous peoples and local communities

56. In the documents that were mapped, some distinctions were made related to gender and local communities/indigenous peoples, however these were mostly not related specifically to engagement/participation.

57. This issue is noted in submissions from the NWAC and Canada as being of particular importance. They note the challenge of 'double discrimination' faced by indigenous women due to the intersectionality of their gender and indigeneity.

58. The NWAC highlights the importance of Parties including information on the intersection of gender, indigeneity and climate change in their communications under the UNFCCC, and the need for the equal and meaningful participation of women in national and local-level climate policy and action.

59. The NWAC emphasises that different vulnerable groups are impacted differently by climate change and the need for capacity building to overcome barriers to the participation of indigenous women.

60. In its submission, Canada highlighted the importance of recognizing how people of different genders, races, ethnicities, religions, ages and those with physical or mental disabilities experience policies programmes and initiatives differently.

61. The participation of indigenous youth was highlighted in the joint submission from AIPP and IWGIA, where the engagement of youth in monitoring mechanisms for NDCs was recommended. Few of the documents contain references to the engagement of indigenous youth in policy and national frameworks. Where references are made to youth, they are often confined to facilitating the passing on of knowledge and culture or creating opportunities for education or engagement in science. The facilitation of these opportunities is important, but there may also be the potential to increase youth engagement in policy making by reaching out and creating

pathways for their input. The early availability of these pathways could not only give agency to youth, but also increase their capacity for engagement in adulthood.

7. Conclusion

62. The analysis of the documents and survey results found limited evidence of engagement of indigenous peoples and local communities under the UNFCCC process. There were notable exceptions, such as where concerted efforts are being made by a country, or where indigenous peoples are the predominant population and are thus not mentioned as a group to engage with. The mapping revealed significant gaps in existing policies, actions and communications under the Convention in terms of if and how they incorporate consideration and engagement of indigenous peoples and local communities. Most apparent among these gaps is the absence of engagement with, and inclusion of, indigenous peoples, local communities, and their practices, knowledge and technologies in the documents mapped such as NDCs, NAPs, and other documents under the UNFCCC process.

63. Although participation of indigenous peoples and local communities in the global climate process under the Convention is growing, including through the LCIPP, there is still much room for improvement, and this can also help to boost consideration and engagement at the national level.

64. Many Parties are still revising their NDCs or formulating their NAPs, and this presents a timely opportunity to provide comprehensive recommendations that will help Parties respectfully and meaningfully engage indigenous peoples and local communities in these processes. For those Parties that have already submitted their enhanced NDCs, the recommendations can assist them in engaging indigenous peoples and local communities in the implementation of these nationally determined commitments and plans. These recommendations will be produced, for the consideration of the SBSTA, and will be linked to, and complementary with, the set of recommendations mandated under activity 6 of the LCIPP workplan.
