

Dear Kendyl,

Thank you for sharing your draft report and allowing us to respond to your findings prior to its publication. We appreciate the level of effort that has gone into analyzing IFC's application of Performance Standard (PS) 7 and the findings that you present in the report. We welcome your recommendations which we will consider as we strive to continuously improve our practices on sound social risk management and in this case specifically on PS7 implementation.

We have reviewed the report and divided our response into the following three sections:

- A. Key clarifications and differences in PS 7 interpretation between IFC and NomoGaia;
- B. Responses to the report recommendations, several of which we agree with and provide more info; and
- C. IFC feedback on projects identified in the draft report.

We note that you requested information through IFC's disclosure website, which we will respond to in due course as well.

A. Key Clarifications and Differences in PS7 Interpretation

IFC recognizes the challenges of maintaining consistency, while allowing for regional contexts in implementation, in the application of the PSs – and implementation by clients - across the world. As part of its E&S quality assurance structure, IFC has a Global Social Lead responsible for reviewing projects across regions to ensure consistent implementation of the standards, especially on complex issues like FPIC. This structure was recently strengthened through the deployment of Principal Social Specialists to each of IFC's three super regions in support of the Global Social Lead. In regions such as East Asia & Pacific, external expertise has been retained to provide supplemental PS7 support. In addition, IFC has created an E&S Risk Department that has an independent oversight function which reviews all high-risk projects, including every project involving FPIC.

IFC's application of PS7 and/or FPIC is guided by whether the group under question meets para 5 of the IP criteria and maintain collective attachment to distinct habitats or ancestral territories. Secondly, for FPIC to apply, these groups must meet 1 of the 3 circumstances per para 13-17. Thus, whereas PS 7 may apply to a project, FPIC may not be applicable.

In our review of your report, we generally agreed with your interpretation of how IFC defines FPIC conditions and protections (p. 4), such as FPIC not being affected by the level of wealth, lucrativeness of the project, or number of affected Indigenous Peoples (IP) households involved. We do have some points of clarification and differences in opinion related to policy interpretation and recommendations made in the report. These clarifications and differences in opinion are provided in Table 1. Our responses to your recommendations are provided in Table 2 and project-specific feedback is provided in Table 3.

Before getting to the detailed comments in the tables below, it is important to emphasize that IFC's responsibility is to seek to ensure, through its due diligence, monitoring and supervision efforts, that the activities it finances are implemented in accordance with the PS requirements. However, it is ultimately the client's responsibility to assess and manage E&S risks and impacts in a manner consistent with the PSs, including PS7.

Table 1: IFC Clarifications and Differences in Interpretation

No	NomoGaia Report Statement	Response Type:	IFC Response
1.1	(Front cover page): ...Several projects that bypassed FPIC have triggered ombudsman complaints and legal proceedings.	Clarification	We are not sure which projects are being referred to. On legal proceedings, if the reference is to Elecnorte, please note that Consulta Previa was conducted and IFC undertook a FPIC verification visit to confirm the adequacy of the process followed and agreements reached with impacted communities. It is important to note that the communities that filed judicial complaints have since been confirmed by the courts as non-project affected, i.e. their claims were investigated and found to be invalid. Regarding CAO complaints, the Bilt Paper CAO complaint (now closed) was entirely focused on labor issues (it is noted that FPIC was conducted for all the current/future activities of that project). On Africa Oil, we would note that we have previously expressed our disagreement with Oxfam’s FPIC-related findings.
1.2	(Page 2): ...Absence of any (disclosed) documentation indicating that the community has consented to land expropriation or impacts, verbally, ceremonially or in writing, is considered absence of consent.	Clarification	IFC has a very detailed FPIC verification process for projects triggering PS7 that includes review of the clients’ Good Faith Negotiation (GFN) and a verification site visit conducted by IFC. During these visits, IFC engages with the IP communities and other stakeholders – led by an IFC social specialist with possible support from a suitably qualified IP expert - to verify the information received. This process is internally documented in a detailed matrix with pre-defined criteria that is used to provide a comprehensive analysis and assessment of information consultation and participation, GFN, grievance mechanism and evidence of agreements. However, this is regarded as deliberative information and is not publicly disclosed; a summary description of the process and outcome is typically provided in the Environmental & Social Review Summary (ESRS) post-Board. The client is responsible for meeting PS1 and PS7 requirements related to engagement and disclosure at project level.
1.3	(Page 3, middle column): ...Identified impacts on indigenous lands that would require resettling people did not automatically trigger FPIC processes. Of the 14 projects that	Difference in interpretation	IFC’s application of PS7 and/or FPIC is guided by whether the group under question meets para 5 of the IP criteria and maintain collective attachment to distinct habitats or ancestral territories. Secondly, for FPIC to apply, these

	<p>identified the need to resettle or relocate Indigenous peoples, only three pursued processes for community consultation and agreement. One claimed it had conducted a process that later proved non-inclusive (Kenya). The remaining 10 were exempted from FPIC processes either because the states preferred to compensate households individually as members of a non-indigenous or mixed community and/or because the land had already been acquired and thus opportunities to pursue communal agreements and consent had passed (China, Nepal, India and Vietnam).</p>		<p>groups must meet 1 of the 3 circumstances per para 13-17. Further details on specific projects are provided in Table 3 (Section C) below.</p> <p>Where the Government is responsible for land acquisition / resettlement and the process is not managed by the client, the client is expected to determine the need for corrective action recognizing that certain aspects of PS7 may not be achieved including FPIC. The focus of corrective action is to develop mitigation measures to compensate affected communities consistent with PS5.</p> <p>In some projects in India where Scheduled Tribes (STs) and Scheduled Castes were living together in the same community, decisions were made to treat all as vulnerable and do a Community Development Plan rather than separate out and do an IPDP for those who were STs, in order to maintain community cohesion.</p>
1.4	<p>(Page 4): ...footnote 12 states that where indigenous peoples individually hold legal title, or where the relevant national law recognizes customary rights for individuals,” PS7 does not apply. Regardless of whether legal titles are understood to change the terms for FPIC as triggered by resettlement, they have no bearing on conditions where cultural heritage and livelihoods are affected, which should still require clients to obtain FPIC.</p>	Difference in interpretation	<p>PS7, para 6. states that “This Performance Standard applies to communities or groups of Indigenous Peoples who maintain a collective attachment, i.e. whose identity as a group or community is linked to distinct habitats or ancestral territories and the natural resources therein. Where individual members of the Affected Communities of Indigenous Peoples hold legal title, or where relevant national law recognizes customary rights for individuals, the requirements of Performance Standard 5 will apply. Furthermore, PS7, GN48 recognizes scenarios where individuals may hold legal titles but the decision of these individuals to cede title and relocate may still be subject to community-based decision-making processes as the land under question may not be considered private properties but ancestral lands.</p>
1.5	<p>(Page 6, middle column): ...Although FPIC was required in 19 projects, only four documented a negotiation process with all relevant indigenous groups.</p>	Clarification	<p>As described in Table 3 below, IFC’s determination, based on its due diligence, was that FPIC was not required in the majority of these 19 projects, so this statement (that FPIC ‘was required in 19 projects’) is NomoGaia’s interpretation based on a desktop analysis of available public disclosure materials and should preferably be characterized as such.</p>

1.6	(Page 6, right column): ...Reasons IFC for foregoing FPIC: Too poor; too rich; not state-certified, state certified; too early; too late; too few IPs; too many IPs; too diffuse; too discrete.	Clarification	This wording is based on NomoGaia’s, in our view, inaccurate interpretation of IFC policy positions described and justified in various sections of this document. These characterizations do not reflect IFC’s views or findings; as a result, the box on page 6 is misleading.
1.7	The problem of timing - consent, but when? (Page 7, left column): ...IFC has never documented a case where a client found that it could not obtain consent through good-faith negotiation.	Difference in interpretation	There are many IFC projects which have been appraised and due to significant E&S risks were subsequently dropped as they would not be able to meet PS requirements. IFC does not include such projects on its disclosure portal, for obvious commercial and legal reasons (note that the wording of all project-related disclosures must be approved by prospective clients and IFC does not disclose project-related information of its own accord – in line with our Board approved Access to Information Policy).
1.8	(Page 7, middle column): ...The implication is that clients should substantiate, and document indigenous land uses in evaluating their impacts on indigenous peoples. In practice, however, clients define ‘traditional lands’ and ‘customary use’ based on legal standards of host countries, using these designations to exclude peoples from FPIC protections. Host-country legal adversity is the very problem that indigenous rights protections were created to fix. Using host country legal status to define indigenous rights places the fox to guard the henhouse.	Difference in interpretation	IFC requires its clients to follow PS7 and GN7 requirements. Customary use of land and resources refers to patterns of long-standing community land and resource use in accordance with Indigenous Peoples’ customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the state (GN42). Furthermore, the client will engage competent experts to conduct an assessment with active participation of the Affected Communities of Indigenous Peoples to understand the Indigenous Peoples’ traditional land and resource tenure system (both individual and collective) within the project’s area of influence. The assessment is intended to identify and record all customary use of land and resources (cultural, ceremonial or spiritual use, and any ad hoc, seasonal or cyclical use of land and natural resources) and any potential adverse impacts on such use, para 14.
1.9	(Page 7, right column) ...At Nafoods, all 21 displaced IP households were compensated and resettled individually, not collectively. PS5 (the resettlement standard) was determined to be applicable rather than PS7 both because the Thai-ethnic households (3)	Clarification	There are two policy issues involved in this case: i) for the 3 Thai ethnic households, none of their land was communally held, there was no physical displacement, and no Critical Heritage was impacted, therefore there was no FPIC trigger per PS 7; ii) the Hmong households were from a different part of Vietnam, hence the fundamental link between IPs and their land that underpins everything else in PS7 was not present – therefore PS7 requirements did not

	<p>were not numerous enough, and because the Hmong households (21) resettled in the area too recently to claim traditional usage, having been displaced from their own ancestral lands. The language of PS7 expressly extends indigenous protections to displaced indigenous peoples and sets no restriction on the number of indigenous peoples pre-sent in order to trigger FPIC.</p>		<p>apply to them. It is important to note that the PS7 protections afforded to displaced IPs covers ‘displaced communities or groups that have lost collective attachment to distinct habitats or ancestral territories <u>in the project area</u> (<i>emphasis added</i>), occurring within the concerned group members’ lifetime.’ As described in the ESRS, the Hmong households did not come from the project area and are therefore clearly not covered by this clause.</p> <p>These complex determinations were made by IFC with significant support from an international consulting group with specialized social personnel and knowledge of the Vietnamese ethnic minority context.</p>
1.10	<p>(Page 8, middle column): <i>...Projects are financed too late for FPIC:</i> IFC financed several other projects that nominally applied PS7, but involved FPIC triggers that predated IFC involvement and thus could not implement FPIC processes..... IFC does not articulate how ‘FPIC principles’ can be applied at all in a context where indigenous people actively opposed the project prior to its implementation and how it can finance projects where prior consent was demonstrably not sought, and how it might contribute to remediation of prior impacts and prevention of future ones. These concepts are not benchmarked in IFC’s framework or its project documentation.</p>	Difference in interpretation	<p>IFC’s decision to proceed with an investment in cases where pre-existing project contexts) involved FPIC triggers is based on risk assessment and ability of the client to close the PS requirement gaps, if any, in accordance with PS7 requirements recognizing that certain aspects of PS7 may not be achieved including FPIC (GN32). “Where government decision-making processes have been directly applied at a project level (e.g., land acquisition, resettlement), the client's due diligence process should assess whether these processes have occurred in a manner consistent with the requirements of PS7 and, if not, if any corrective action is feasible to address the situation (GN63). IFC’s go/no go decision is based on a detailed assessment of such risks.</p>
1.11	<p>(Page 9, left column): <i>...For three separate oil and gas exploration projects – Paraguay’s President Energy, Colombia’s Pacific Midstream, and Colombia’s PetroNova – IFC determined that exploration was too early to necessitate FPIC process. This decision merits</i></p>	Difference in interpretation	<p>Due to the nature of exploration projects, i.e. small footprint with temporary and reversible impacts, potential impacts on IPs were determined by IFC to be limited and FPIC was not triggered (the location of exploratory wells and therefore the degree to which IPs would be impacted by field development were unknown at the time of appraisal/Board). Under this approach, FPIC could</p>

	scrutiny if it is to guide future evaluations at IFC, because PS7 is actually quite clear that there is no moment too early for FPIC. Specifically: “FPIC applies to project design, implementation, and expected outcomes related to impacts affecting the communities of Indigenous Peoples”.		<p>be triggered <i>prior</i> to development of any wells or related infrastructure if sufficient oil/gas is found.</p> <p>Based on NomoGaia’s thoughtful analysis of the potential impacts of oil and gas exploration on IP lands, and reflecting on lessons learned from nearly a decade of implementation, we plan a fresh look at how future exploration deals impacting IPs are managed.</p>
1.12	(Page 10, right column): ...IFC deferred to legal processes in some countries as “aligned” with FPIC, even when those laws explicitly exclude certain populations, do not necessitate ‘consent,’ or have a track record of implementation failures. IFC’s decision to defer to legal requirements is at odds with PS7 language, which requires that clients comply with law, “In addition to meeting the requirements under the Performance Standards. It is also at odds with IFC’s definition of indigenous peoples, which expressly notes that communities, not governments, should be tasked with identifying themselves as indigenous.	Clarification	This is inaccurate. IFC conducts its own due diligence to determine PS7 applicability regardless of contextual dynamics in each country. Self-identification is just one of the FPIC criteria in PS7 and even if a country does not identify a group as IPs, they may meet the criteria in PS7 which will be applied. In such circumstances, clients should seek ways to comply with the requirements to achieve the objectives of PS 7 without contravening applicable laws. IFC has projects where PS7 has been applied by clients even where communities were not recognized as IPs by Government. If you have concerns about specific examples besides those captured below in Table 3, please do share the project names with us.
1.13	(Page 14) ...The benchmarking issue is apparent at several levels. IFC internal due diligence does not clearly articulate oversight for how clients identify indigenous peoples. Once indigenous peoples are confirmed present, IFC does not clearly implement oversight to ensure that clients assess the impacts on those peoples to understand how cultures and lands may be impacted. Third, FPIC itself is marked by the existence of a	Clarification	As part of the risks and impacts identification under PS1, para 19, and Guidance Note (GN) 74, clients are required to retain the services of qualified experts early in the project development phase to identify IPs as outlined in PS7 requirements. Throughout the due diligence process, IFC works closely with clients, reviewing and providing feedback to the project’s analysis and documentation for mitigation and management plans. As indicated above, IFC makes use of its global social quality assurance structure, our internal experts and in some cases external experts. IFC has in place a detailed approach for validating the FPIC process. IFC Guidance Note 1, Annex C, outlines the indicators and validation methods for Informed Consultation and Participation

	<p>written agreement, which is not publicly available and which is the source of controversy at several existing projects.</p>		<p>(ICP) process. For FPIC, we have additional indicators that we screen against – including analyzing the Free, Prior and Informed Consent process, evidence of GFN and the documented agreement. FPIC under PS7 does require a written agreement that is always present and available to impacted IP communities and their representatives. It noteworthy to mention that a written agreement can be in different forms (memorandum of understanding, joint statement of principles, an Indigenous Peoples Plan among others). Taking these points into consideration, we disagree with this finding.</p>
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B. Responses to Report Recommendations

Table 2: IFC response to NomoGaia PS 7 & FPIC recommendations (Table on page 14 from the NomoGaia Report)

No.	NomoGaia: What IFC says and does now	NomoGaia: What is needed	IFC's Response
2.1	Investment projects are screened at the early (Concept) stage, to identify which Performance Standards (PSs) are applicable.	This process should involve an indigenous rights expert in order to eliminate PS7 applicability in any country with known Indigenous peoples.	We agree. In practice, PS7 applicability is more common in certain regions. IFC has historically relied on its own social specialists and those of the World Bank to make such determinations; as project volumes have grown, we have begun to selectively engage external PS7 experts. This is being done in the East Asia Pacific region currently and for certain business lines in Africa and we intend to expand this practice to other regions.
2.2	In countries where determining whether a community should be treated as IP is complicated, e.g. Vietnam, IFC may retain an external IP expert(s) to help us make this determination.	IFC should standardize this approach across all countries where Indigenous peoples are present. Experts should be engaged throughout the appraisal and implementation process, to assure ongoing engagement.	We agree - see above. IFC's general practice is to engage internal or external PS7 expertise to support complex cases as needed, and PS7 requires clients to do the same. In places like Vietnam, PNG, Myanmar, Nepal and Ethiopia, in addition to IFC's own social experts, additional assessment of PS7 may be conducted by qualified consultants as part of IFC E&S due diligence and/or the client's ESIA process
2.3	Once project due diligence commences (i.e. fieldwork) assigned specialist(s) verify which PSs are applicable based on a combination of documentation review and in-person visits/discussions.	These specialists do not currently have indigenous or human rights expertise, limiting their effectiveness in navigating indigenous rights issues.	This is a two-step process. First, regional E&S leads and their support teams, including external PS7 expert where needed, determine whether there could be IP groups present in the project area based on desktop screening of available documentation, NGO reports, online resources and IFC's extensive country knowledge. Second, where there is possible or known IP presence, and it is considered likely given the country context, or where such presence comes to light during fieldwork, an IP expert will be brought in to support the due diligence process (per point above). The client also may be required to retain PS7 expertise as per PS7.

2.4	<p>Only projects with direct project impacts on Indigenous peoples apply PS7. In publicly disclosed environmental and social review documents; only a justification of the applicability of the PS is included.</p>	<p>It is never articulated how clients concluded Indigenous peoples were not present. These justifications should clearly articulate what methods were used to identify indigenous peoples, who are often reluctant to engage with outsiders.</p>	<p>It is standard practice today to include a brief justification for non-applicable PSs in each ESRS; however, this has not always been the case (our practice has evolved over time). There are certainly older disclosed projects where such language is missing. Even where there is text justifying non-applicability, the justification typically just confirms that no IPs are impacted by the project, not how that was established. For most projects that is sufficient, but in PS7 sensitive contexts we agree it makes sense to provide more detail on how a such a determination was made.</p> <p>We agree, based on your review of projects where PS7 is applicable but where FPIC is not triggered, that more can be done to publicly clarify the basis upon which the decision not to trigger FPIC has been taken (vs the current situation where the focus is on justifying why FPIC <u>has</u> been triggered).</p>
2.5	<p>Although IFC it operates in 67 countries with IP presence, it estimates that the number of projects that directly impact IP communities is relatively low. It has asserted this in many IFC presentations on the Performance Standards to Equator Banks, CSOs, IP organizations and others.</p>	<p>IFC has not demonstrated the reported low correlation between IP lands and IFC investments. IFC should produce a map geolocating its projects (the full footprints, not the head office locations listed in project documentation) over known indigenous territories.</p>	<p>IFC has no intention of demonstrating this. The ESRS provides a description of the project location (e.g. village, municipality), i.e. the project footprint and there is often project documentation with site maps and coordinates. The issue of 'known' IP territories is often controversial and/or disputed and as such IFC does not endorse or withhold endorsement of such territories.</p>
2.6	<p>Projects that might require FPIC are escalated for senior management review at the Concept stage due to potential timing and reputational concerns. If the issues are considered to</p>	<p>This is a double-edged sword as it risks disincentivizing loan officers from applying PS7, even when it is necessary. PS7 projects should not be escalated; IFC should hire</p>	<p>We agree that making PS7 application seem too complicated could generate risk aversion. However, investment officers do not decide whether PS7 applies or how this impacts a project: this is the role of the E&S team in the ESG and E&S Risk Depts. FPIC applicability is one of a series of key non-financial risks that have been identified as requiring senior management attention</p>

	be too difficult to manage, IFC will not engage further.	competent staff to manage them directly at the specialist level.	early in the project cycle, based on our global operational experience. We have no plan to change our related procedures, but we continue to improve our capacity to manage PS7 and FPIC-related risk, for which NomoGaia’s report provides useful input.
2.7	A majority of projects that IFC finances that impact IP communities don’t trigger FPIC requirements because the specific triggers for an FPIC determination (paragraphs 13-17) are absent. Therefore, only a portion of projects that trigger PS 7 also have an FPIC requirement.	As the table on page 6 shows, the presence of FPIC criteria does not currently result in FPIC. IFC should increase transparency in how FPIC decisions are made and more actively oversee client implementation of PS7.	Partially agree. In most cases, per project-specific info shared in Annex C, we believe that the decision not to trigger FPIC was correct vis-a-vis PS7 requirements, albeit not always readily apparent from publicly disclosed materials. There are however a handful of cases over the past 8 years that NomoGaia’s report has brought to light where the decision was not clearly articulated. Our focus will be on avoiding such outcomes in future.
2.8	Most of IFC’s projects requiring FPIC have to date been located in Latin America, where Govt consent requirements for projects impacting Indigenous peoples are often well-established. In such cases, IFC typically reviews the Government-mandated consent process for consistency with PS 7 objectives, rather than supporting a project-specific process.	In fact, 11 of 29 projects are in Latin America, but indeed the majority of FPIC projects are in countries with Prior Consultation laws (20). IFC should closely scrutinize gaps between those laws (and who those laws recognize as indigenous) and PS7 to avoid non-compliances and CAO complaints.	We agree. IFC does in fact review national stakeholder/IP engagement requirements for projects affecting IPs as well as project-level engagement plans and procedures to ensure compliance with IFC PS1 and PS7. In all cases, clients are required to meet the most stringent requirements of national laws plus IFC PSs.
2.9	A much smaller number of projects outside of Latin America have triggered FPIC requirements. In these cases, IFC may need to work with a client, local government and IP organizations to develop a project-specific FPIC approach, i.e. in the absence of any formal Government-managed approach/regulations.	IFC has recently upgraded this process, bringing on more permanent support for managing indigenous issues in Asia. Similar expertise is needed in Africa and Oceania. There is no data yet that processes have changed outcomes (see date-organized table p. 6)	Partially agree. Please note that the IP expert for East Asia Pacific also supports Oceania; in addition, IFC has utilized IP expert support for certain projects in Africa on an as-needed basis. On outcomes, please note that more recent projects in countries such as Vietnam, including several named in your report, have benefited from external expert support.

C. IFC feedback on Projects Identified in the NomoGaia Report

Table 3: Project-specific Information¹ (excluding projects assessed by NomoGaia as having fully met FPIC requirements)

Country	Project Short Name	NomoGaia Categories	NomoGaia Comments	IFC Clarifications
China	Stora China III	FPIC should have occurred but did not	Indigenous presence/impacts in Nanning, Qinlian and Chongzuo operational areas were never reported to IFC but were confirmed through FSC.	FPIC requirement under PS7 was determined not applicable. IFC's project supervision visits since 2009 have confirmed this determination, IFC did not identify IP land or natural resources subject to collective ancestral ownership or under customary tenure, or critical heritage sites affected by the project. IFC's due diligence also referenced an assessment by an external expert institution which concluded that there were no FPIC triggers present.
China	Tian Lun Gas	FPIC should have occurred but did not	Chinese legal processes replaced FPIC	FPIC requirement under PS7 was determined not applicable. The presence of ethnic households was recognized and PS7 was applied. IFC's due diligence did not find land or natural resources subject to collective ancestral ownership or under customary tenure, or critical heritage sites affected by the project. All land is government owned land, and resettlement is completed by the government. Impacts of economic displacement on individual ethnic community households with recognized land rights were covered under IFC PS5. ICP did take place with economically displaced households around the RAP process. <u>The ESRS incorrectly indicated that an FPIC process had taken place during the process of land acquisition and this will be corrected.</u>
Vietnam	GEC	FPIC should have occurred but did not	Government manages resettlement	FPIC requirement under PS7 was determined not applicable. IFC due diligence did not identify impacts on project-affected land or resources subject to collective and ancestral attachment or under customary tenure, or presence of critical heritage sites. The company was required to have an ESMS aligned with the PSs including PS7 to ensure E&S assessment and management of any future projects.

¹ IFC responses are headline summaries of our due diligence and supervision findings; additional materials are not readily shareable without project-by-project client sign-off which would be a lengthy process given the number of clients involved. Note that many of the projects are also closed/exited.

China	Chenguang Bio	FPIC conditions never evaluated or met	Uighurs identified as IPs. Impacts on Uighur lands not reviewed. Time lapse satellite imagery shows mass destruction of farmlands and homes.	<p>FPIC requirement under PS7 was determined not applicable. There was no land acquisition or new construction involved in this project and project-related land was not found to be subject to collective ancestral attachment, to be under customary tenure or to contain critical cultural heritage. IFC due diligence found that land parcels Chenguang acquired for its operations in Xinjiang predated IFC appraisal by 6-12 years.</p> <p>In relation to the comment in the report that increased production has involved expanding acreage for crop growing, which could impact Uighur farmers and communities, our understanding is that it is not possible to attribute such land use changes around company facilities to the company, since the company does not acquire land for production and relies on its supply chain. Such land use change could be attributed to larger economic dynamics in the area.</p>
Vietnam	Nafoods Group	FPIC should have occurred but did not	Government manages resettlement	<p>FPIC requirement under PS7 was determined not applicable. During appraisal it was determined that 18 HH belonging to the Hmong ethnic minority were recent arrivals to the project area and the project-affected land was therefore not their ancestral territory subject to collective attachment or use - therefore the criteria for FPIC were not met. The 3 Thai HH with whom Nafoods negotiated compensation agreements are part of a group that has ancestral presence in the project area and meet PS7 application criteria. However, as project impacts were limited to individual HH-level land use, as opposed to collectively held or used land, the impacts were addressed as described under PS5, taking into consideration vulnerability and cultural differences, per PS7 requirements.</p>
China	Zhaoheng Hydro	FPIC should have occurred but did not	Municipal government manages livelihoods and resettlement, cultural impacts are not territory-based, therefore no FPIC	<p>FPIC requirement under PS7 was determined not applicable. IFC due diligence did not identify that the project-affected land or resources were subject to collective and ancestral attachment or under customary tenure or had presence of critical heritage sites for Banian/Menglang/Gaoqiao. No Zhaoheng sites financed by IFC required physical relocation, and at project sites there were no signs of critical cultural heritage linked to the identity of ethnic groups.</p>

Papua New Guinea	Transform Equity	FPIC should have occurred but did not	No explanation for why no FPIC	FPIC requirement under PS7 was determined to be applicable. IFC's due diligence completed an assessment of the ICP/FPIC process taking place by the client during the project appraisal in 2014, in addition to meetings with impacted communities. The FPIC process was expected to continue on a rolling basis depending on where the client decided to explore and what communities/lands were to be impacted. At the time of the Board meeting, IFC had received copies of several negotiated agreements between the IP communities, company and government giving consent for activities on communal lands. These documents were not disclosed publicly by the parties or by IFC. Although IFC did invest in the project, it was a short tenure and IFC exited following the drilling of a single well.
India	JK Paper III	FPIC should have occurred but did not	Of investments in 2006, 2010, 2017, 2020, PS7 applied only 2017. None applied FPIC.	FPIC requirement under PS7 was determined not applicable. JK Paper's interaction with IP communities was limited to purchase of wood and bamboo from Cooperatives of tribal households, who have rights to extract product from forests; participation in the cooperative is voluntary and households have to voluntarily consent to become members of the cooperative and sell their product. Therefore, it was concluded that farm forestry activity does not impact land or natural resources under traditional ownership or customary use. In addition IFC required JK Paper to ensure that, prior to purchase of bamboo it should obtain assurance that the decision to sell bamboo by the IP communities to JK Paper is transparently discussed and formally approved by the IP village assembly, or Gram Sabha, including their decision on pricing and who to sell the bamboo to. Note that IFC adopted FPIC after the PSs were updated in 2012.
India/Malaysia	BILT 3 (BP)	FPIC should have occurred but did not	Government ceded indigenous land to Bilt prior to IFC financing	FPIC requirement under PS7 was determined applicable. SFI was required to obtain FPIC (based on the FPIC framework adopted by the company in line with PS7), where the three circumstances requiring FPIC were found to be present in any "new areas" that SFI was to harvest/access/open up for plantation. Further, there was a comprehensive third party-based process put in place for verification of FPIC. The FPIC framework developed was based on a detailed ICP process undertaken with more than 70 villages/hamlets which included different ethnic communities/groups, native chiefs, women, marginal groups, religious leaders, civil society organizations, village/community-based organizations, and relevant government departments. The FPIC framework was

				further validated in two workshops with about 130 village heads/representative representing about 60 villages. While IFC did not require FPIC for past impacts/pending boundary and traditional ownership or customary rights issues that have been ongoing since mid-1980s, extensive consultations were undertaken based on principles of informed consultation and participation on the approach as defined for the project.
India	OSE India	FPIC should have occurred but did not	Impacts predated IFC involvement	FPIC requirement under PS7 was determined not applicable. Out of 5 operating road assets, PS7 is applicable to two of the road projects. As part of the formal FPIC screening for both the projects it was assessed that FPIC is not required for either of the road assets as: (a) there was no impact on IP communities due to diversions of forest land; (b) pasture land is not under traditional ownership or customary use of the IP communities; (c) physical relocation of the IP households was from titled land to titled land and within their respective communities so they were not relocated from land/natural resources under traditional ownership or customary use; and (d) no critical cultural heritage was impacted by OSE's road projects.
India	FRV Solar India	FPIC should have occurred but did not	Number of indigenous households deemed too small (2)	FPIC requirement under PS7 was determined not applicable. This was because lands acquired from IP community members were “assigned” lands (that is government land assigned to landless and poor families) and none of the circumstances that would require FPIC were met as documented in the disclosed ESRS.
India	Rewa Mahindra	FPIC should have occurred but did not	Individual titles disqualified IPs from protections	FPIC requirement under PS7 was determined not applicable. The ESIA for the solar park has documented that there are no project-related impacts on common property resources that were subject to collective/ancestral attachment, traditional ownership or under customary use of Indigenous Peoples community; there is no physical relocation of Indigenous Peoples from lands and natural resources subject to traditional ownership or under customary use; and there are no impacts on critical cultural heritage. A site visit by an IFC E&S specialist confirmed the ESIA findings.

Nepal	Kabeli	FPIC should have occurred but did not	Negotiated settlement" for individual household compensation packages	FPIC requirement under PS7 was determined not applicable. IFC due diligence, combined with the findings of the project's social assessment consultants, indicated that: i) no physical displacement of Indigenous Peoples was required to undertake the project; ii) the project-affected land and resources were not subject to collective and ancestral attachment or subject to customary tenure; and iii) while project construction and operation <u>did not</u> represent significant impacts on critical cultural heritage, project proposals for ensuring continued access to ritual sites were reported to be acceptable to all affected indigenous and non-indigenous communities by the project's social assessment consultants.
India	OCL II	FPIC should have occurred but did not	Households are titled, communal forests & cultural sites are degraded, therefore no FPIC	FPIC requirement under PS7 was determined not applicable. Circumstances that would require FPIC were not identified during the social impact assessment undertaken by a third-party consultant. All land that was acquired for the project was privately owned and legally titled land. The ownership of these lands owned by tribal households was not governed by traditional or customary tenure. No circumstances triggering FPIC were identified related to the impacts on land owned or used by these tribal groups and communities. Impacts on account of loss of legally owned and titled land were assessed and mitigated as per PS5 requirements.
India	UltraTech Cement	FPIC should have occurred but did not	Households are titled, therefore no FPIC	FPIC requirement under PS7 was determined not applicable. The project demarcated the mining lease area such that there was no physical displacement/relocation of any household including tribal households nor loss of access to any natural resources subject to traditional ownership or under customary use. The land acquired (including tribal land) were legally owned and titled land and impact were assessed and as per PS 5 requirements.
Nepal	HCR	FPIC conditions never evaluated or met	No project documentation described social impacts or PS7 application	FPIC requirement under PS7 was determined not applicable. While PS7 was triggered, FPIC was not required because there were no impacts on IPs customary lands or critical cultural heritage. Land for both existing and proposed lodges was purchased several years ago by the Sponsor (belonging to Sherpa community) through open market commercial transaction on willing buyer willing seller basis from other Sherpa (purchased mostly from relatives) and involved single landowner at all locations. No circumstances that would require FPIC were identified. The project had an ongoing engagement with local authorities and other stakeholders, to align the development of the lodges in

				accordance with the requirements of the Sgarmatha National Park (SNP) management plan. Informed Consultation and Participation (ICP) was an integral part of the development of the management plan for SNP and involved consultations with stakeholders at various stages of the plan preparation process.
Kenya	Africa Oil	FPIC was not achieved	Two Chiefs received documentation, but one lost it. Weeks after the agreement, communities blockaded roads.	FPIC requirement under PS7 was determined applicable. FPIC was obtained from the Turkana people at the exploration phase for land access to build the well pads. As stated in the response to Oxfam (August 4, 2017), IFC does not agree with Oxfam’s characterization that FPIC was “not achieved” as per its report titled: <u>Complying with Free, Prior and Informed Consent: A case study of Tullow Oil in Turkana, Kenya</u> (2017). There were some weaknesses/gaps in the process, particularly with respect to accessibility of documentation, but IFC believes that "a valid consultation process involving good faith negotiations with legitimate Community Representatives was undertaken by the Company.
Paraguay	President Energy	Impacts “temporary” thus no FPIC		FPIC requirement under PS7 was determined not applicable in the early stages of exploration. Site selection of exploration wells and seismic lines did not impact IP lands as the client had a large concession area, the project footprint was small and not located within IP lands. The project did engage with the IP community of La Princesa prior to commencing some activities in their land and signed an access and compensation agreement. A shortcoming in the disclosure document was a broad requirement to meet PS7 for all current and future activities, without spelling out specific (potential) FPIC requirements once the project was defined and ESIA’s conducted.
Brazil	Klabin Growth	IPs independently confirmed present through national registries.	IP documentation requested of IFC (May 2020) not provided.	FPIC requirement under PS7 was determined not applicable. The industrial plants, associated facilities and plantations do not have any direct impacts on 1) land/natural resources subject to traditional ownership or under customary use; 2) relocation of IPs from land/natural resources subject to traditional ownership or under customary use; or 3) impacts on critical cultural heritage.

Brazil	Klabin SA	Quilombolas and traditional communities excluded		See Klabin Growth above.
Colombia	Pacific Midstream	PM is a holding company. Among subsidiaries, not all communities have Consulta Previa protocols (e.g. none for seismic survey impacts)		<p>Pacific Midstream did not hold any assets that would require seismic surveys. For the remaining assets a new pipeline was proposed that would impact a small section of IP land. FPIC was not required as impacts from building the pipeline were temporary and did not lead to ongoing or permanent impacts on: 1) land/natural resources subject to traditional ownership or under customary use; 2) relocation of IPs from land/natural resources subject to traditional ownership or under customary use; or 3) Impacts on critical cultural heritage.</p> <p>However, the client conducted a process of Consulta Previa for the La Creciente Tolu (CT) gas pipeline (846km) which was in the final stage of ESIA approval during IFC appraisal, but which was later suspended and never built. The process of Consulta Previa covered all 5 indigenous communities impacted by the project and was assessed by IFC through the ICP and BCS process and was considered to be in line with PS7 requirements for FPIC.</p>
Colombia	CELSE	Brazilian legal definitions replaced FPIC. Quilombolas and traditional communities excluded.		FPIC requirement under PS7 was determined not applicable. The project <u>did not impact the Quilombola</u> . The Client will follow the process of engaging with Quilombola communities located within 10 km of the project site. Client has obtained approval of the terms of reference for the required study and authorization to engage with the community. Client is waiting for community to allow for the studies to be conducted according to terms of reference authorized by Brazilian agencies.

Colombia	Eletronorte Guajira	Colombian legal process alleged to be fraudulent. Legal complaint ongoing		<p>FPIC requirement under PS7 was determined applicable. The IFC team reviewed client documentation and desktop research, visited project sites, and interviewed affected landowners, Indigenous Peoples and their leaders, the company’s team of social consultants and community liaison officers, and Ministry of Interior officials. IFC’s review confirms that Elecnorte’s ICP and good faith negotiation processes have led to the BCS and FPIC of directly affected indigenous and non-indigenous communities. See http://corpoguajira.gov.co/wp/wp-content/uploads/2018/12/RESOLUCI%C3%93N-No.-2726-DEL-13-DE-NOVIEMBRE-DE-2018.pdf for public disclosure of Env. license with relevant requirements applicable to Consulta Previa with IPs (p.77-84). Court cases have demonstrated that complainant communities were not in fact project-affected.</p>
Brazil	Equatorial Energy	Brazilian legal definitions replaced FPIC – Quilombolas excluded		<p>FPIC requirement under PS7 was determined not applicable. PS7 was applied to the project as there were IPs present in some project areas. CELPA conducts site selection and E&S studies in order to avoid impacts on protected areas and IP lands as standard procedure. During IFC’s loan CELPA had no projects that crossed IP lands. When responding to IP/Quilombola communities requests to provide them with electricity under the national program known as “Luz Pra Todos” (Light for All) (which was a mandate from the Brazilian government that required energy utility companies to provide electricity to every community in the country) CELPA worked with FUNAI and other regulatory agencies. FUNAI is the entity in Brazil responsible for defining, in consultation with IP communities, the mitigation and compensation measures to be implemented if new electricity transmission and distribution (ST&D) lines are to be constructed within IP territories and will only allow proposed ST&D line if electricity will service the communities located within that territory.</p>
Colombia	PetroNova	Impacts ‘temporary’, thus no FPIC		<p>The location of exploration wells was not known at the time of appraisal, and therefore the degree to which IPs would be impacted would only be known at a later stage of the exploration process. The only known impact was the use of an existing road crossing the territory of Indigenous People Alpa Manga (Canelo Norte exploration area) which was identified in the ESIA and adequate mitigation measures were identified. FPIC would have been required in the</p>

				<p>event that any exploration wells had been drilled; however, none were drilled while IFC was invested in the project.</p> <p>The client conducted a process of Consulta Previa during the ESIA for all IP communities within the concession areas of the project. The process of Consulta Previa was assessed by IFC through the appraisal and was considered to be in line with PS7 requirements for FPIC. BCS was not conducted but interviews were conducted with IPs during the appraisal process. Worth noting: due to the high security risk in the project area a representative group from the IPs (including women, elders and children as well as community leaders) were flown to a safe area where interviews were conducted by the IFC E&S team.</p>
Brazil	Biosev	Potential impacts on displaced indigenous peoples not evaluated. Afrobrazilians not evaluated.		<p>FPIC requirement under PS7 was determined not applicable. PS7 was applied because in the southern part of Mato Grosso do Sul State, IFC identified two officially recognized IP communities within the area of influence of Biosev’s mills and assessed possible sourcing of sugarcane from indigenous reserves during appraisal. It was established that the client does not source any sugarcane grown on land duly established as an indigenous reserve.</p> <p>Considering the sensitivity of land issues, mitigation measures were agreed with the client: Biosev formalized its policy (publicized on website in 2015) and does not lease land or purchase sugarcane produced on land within indigenous reserves. The Company's policy refers to PS7 requirements that if the participatory social impact assessment discovered any circumstances requiring FPIC from indigenous communities, Biosev would conduct such a process. Biosev communicated its approach to IP communities and other relevant stakeholders. The participatory social impact assessment did not identify any material adverse impacts on indigenous communities due to Biosev’s activities, thus FPIC was not triggered.</p>