



# Indigenous Peoples Plan of the REDD+ **Results-Based Payments** Project 2014-2015 in Costa Rica

JULY 2022





## Executive Summary

This Indigenous Peoples Plan (hereinafter the Plan) of the REDD+ Results-Based Payments 2014-2015 project (hereinafter the Project) in Costa Rica, funded by the Green Climate Fund (GCF), addresses the social and environmental risks identified in the Project's Environmental and Social Management Framework (ESMF) and UNDP's Social and Environmental Screening Procedure (SESP) and associated with the implementation of the Payment for Environmental Services (PES) Programme in Indigenous Territories.

Within the framework of the Project, this Plan builds on the national indigenous information, pre-consultation and consultation process carried out by the National REDD+ Strategy Secretariat from 2011 to 2019. This Plan also contributes to the current national process of preparation of the Forest and Territorial Environmental Plans (PAFT, for its acronym in Spanish), or Indigenous Peoples Implementation Plans to address the risks identified in the activities that are implemented in the National REDD+ Strategy and that involve the participation of Indigenous Territories under the PES Programme. In this way, this Project is framed, builds on and contributes to existing national processes.

The risks identified within the framework of the Project and addressed by this Plan include the following:

- Potential interference with Indigenous Peoples' rights to autonomy, self-determination, culture, and property if consultation processes on PES in Indigenous Territories disregard traditional governance structures and representative organizations.
- Possible discrimination or marginalization of women in decision-making regarding the implementation of the PES Programme in Indigenous Territories and in the sharing of benefits.
- Possible undermining of the equitable sharing of benefits derived from the PES Programme within Indigenous Territories.
- Possible lack of transparency in the administration of PES resources and adequate accountability; and
- Potential conflicts with non-indigenous people in Indigenous Territories.

Among the measures envisaged in the Plan to mitigate these risks are identifying existing indigenous governance structures and representative organizations within Indigenous Territories (ITs) in Costa Rica, to carry out and document culturally appropriate consultations on PES issues in their Territories, with representative organizations of Indigenous Peoples. These dialogues will follow the guidelines of the General Mechanism for Consultation with Indigenous Peoples, established in Decree No. 40932 of March 2018, in respect of the right to consultation and free, prior, and informed consent (FPIC) of Indigenous Peoples.

Another mitigation measure includes identifying potential proposals and/or reforms that would: i. improve the involvement of Indigenous Peoples who want to participate in the PES Programme; ii. strengthen the gender approach of the PES Programme; iii. strengthen accountability mechanisms; iv. promote mechanisms for equitable benefit sharing; and v. prohibit payments of PES contracts with non-indigenous people in Indigenous Territories with Project resources.

To achieve its objectives, the Plan contemplates a dialogue between the REDD+ Secretariat, with the support of the Project's Technical Unit (UTP, for its acronym in Spanish), and the affected Indigenous Peoples. This dialogue includes

holding community workshops, where entities, collectives, and community organizations within each Indigenous Territory, such as women's and youth groups, among others, will be invited and can participate. These workshops will discuss with the participants the possibility of reaching a consensus for the participation of the Indigenous Territory in the PES programme and preparation of their PAFT, including discussions on their worldview of the indigenous PES. If an agreement is reached, this will be documented through a letter of interest from the Integral Development Association (ADI) of each of the territories where it is constituted, as well as other indigenous governance entities where appropriate, to the REDD+ Secretariat.

In addition, the workshops will address the process for developing PAFTs. This inclusive and open strategy seeks to enable indigenous governance structures and representative organizations in Indigenous Territories to forge consensus, including the legally constituted administrative structure such as the Integral Development Association, where it exists. This agreement-building work includes issues such as how to use the funds that come from the implementation of the National REDD+ Strategy in Indigenous Territories, indigenous perspectives on it, and the definition of how the financial resources will be executed in the Indigenous Territory.





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## Main Concepts

### **Benefit-sharing mechanism:**

A mechanism agreed with the stakeholders involved, which establishes the way in which monetary or non-monetary benefits from any source of resources will be shared.

**Climate change:** Is a change in climate attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods.

**Consultation:** Means the process of a dialogue in good faith with Indigenous Peoples regarding a project, plan or programme that may affect them directly or indirectly on their lands, territories, and natural resources, or in the effective enjoyment of their rights.

**Cultural mediator:** An indigenous person from the community, who has the ability and recognition to integrate traditional knowledge with technical/scientific knowledge, transmitting, interpreting, and linking this knowledge from the cultural vision of his or her indigenous people.

**EN-REDD+:** National REDD+ Strategy.

**Forest and Territorial Environmental and Territorial Plan (PAFT)/Indigenous Peoples Implementation Plan:** This is a document that systematizes, analyses, and plans the entire consultation process on special issues carried out by the National REDD+ Strategy with indigenous peoples in Costa Rica from 2011 to 2018. It establishes how indigenous peoples will implement the actions identified as priorities within the Indigenous Territory in a participatory manner.

**Forest Emission Reduction Contract (CREF):** Contract of forest emission reductions between FONAFIFO and physical/legal owners of forest land for emission reductions generated in a defined period of time.

**Free, Prior and Informed Consent:** Means the right of Indigenous Peoples to make their own decisions, in accordance with their own representative institutions and procedures, including the right to accept or reject a project, measure or programme that may affect them directly or indirectly.

**Gender mainstreaming:** Gender mainstreaming is the

approach chosen by the UN System and the international community to advance women's and girls' rights as a subset of human rights that the UN is dedicated to. It is not a goal or objective per se. It is a strategy to implement greater equality for women and girls in relation to men and boys.

**Indigenous governance:** Forms of decision-making by indigenous peoples' own organizations on their self-determination, autonomy, and economic, social, and cultural development, including the management of their lands and the recognition of the special relationship between territory and the cultural identity of indigenous peoples.

**Indigenous Payment for Environmental Services (Indigenous PES):** Indigenous peoples participating in the consultation process carried out by the REDD+ Strategy in Costa Rica (2011-2018) identify Indigenous PES as a special issue of that strategy, related to the application of PES in Indigenous Territories.

**Indigenous Peoples:** Groups reflecting an awareness of their indigenous identity, including peoples considered indigenous by virtue of their descent from populations that inhabited the country or a geographical region to which the country belongs at the time of conquest or colonization or the establishment of present state borders.

**Indigenous Peoples Plan (Plan):** Means a risk mitigation measure that describes potential impacts that a project may have on Indigenous Peoples, as well as the activities and measures that will be undertaken to mitigate those risks.

**Indigenous Territories:** This is understood to cover the entire habitat of the regions that Indigenous Peoples occupy or otherwise use. They may or may not coincide with the political-administrative delimitations made by Government decrees.

**Participation:** The right of Indigenous Peoples to participate meaningfully and effectively in decisions that affect them.

**Payment for Environmental Services (PES):** A financing mechanism that recognizes the environmental services

generated by forests and forest plantations, established by Forestry Law 7575 of 1996. Since 1997, Indigenous Territories have voluntarily participated in the PES programme, receiving income for their economies and the development of communal and individual activities.

**Performance-Based Payment Agreement (PBPA):** In the context of UNDP, performance-based payments are defined as a funding agreement between UNDP and a responsible party that provides funding in line with the achievement of certain project-specific development results.

**REDD+:** Reducing emissions from deforestation and forest degradation; conservation, sustainable management of forests and enhancement of forest carbon stocks.

**Results-based payments:** This is REDD+ results-based finance provided to countries for the full implementation of REDD+ activities. It thus corresponds to a recognition of efforts and achievements made in previous periods.

**Territorialization:** This is understood as the phase of the consultations and FPIC process where each of the 24 indigenous territories in Costa Rica discussed the 5 special themes of the National REDD+ Strategy, considering their contexts, needs and proposals. This is the moment when the initiative to generate a Forest and Territorial Environmental Plan (PAFT) for each indigenous territory is developed.

**United Nations Development Programme (UNDP) Social and Environmental Standards (SES):** The set of standards that apply to all UNDP programmes and projects to enhance social and environmental benefits, as well as to avoid, minimize, mitigate, or manage adverse environmental and social risks and impacts.

**Women's empowerment:** Women's empowerment is about women having power and control over their own lives. It involves awareness raising, building self-esteem, expanding their choices, more access to and control over resources, and action to transform the structures and institutions that reinforce and perpetuate discrimination and gender inequality. This implies that to be empowered, women must not only have equal capabilities (such as education and health) and equal access to resources and opportunities (such as land and employment), but must also be able to use these rights, capabilities, resources and opportunities to make strategic choices and decisions (such as those provided by positions of leadership and participation in political institutions).





# I. Introduction

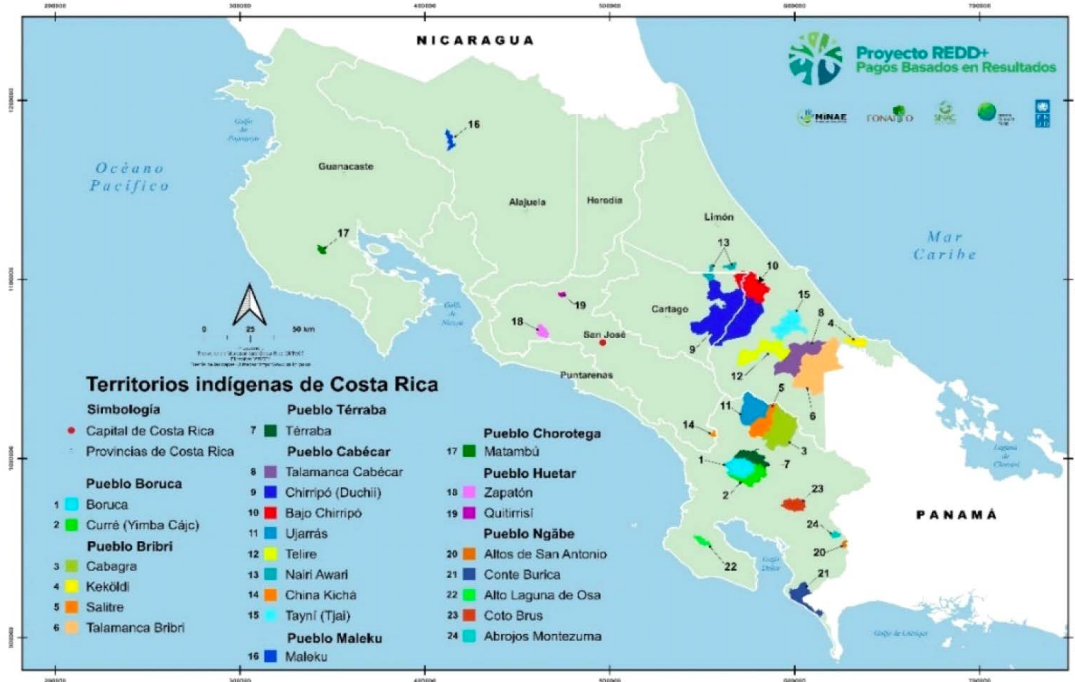
The REDD+ Results Based Payments 2014-2015 Project, funded by the Green Climate Fund (GCF), and implemented by the Ministry of Environment and Energy and the REDD+ Secretariat, with the United Nations Development Programme (UNDP) as an accredited entity, aims to expand and improve Payment for Environmental Services (PES) in Indigenous Territories, as part of Costa Rica's National REDD+ Strategy.

The application of UNDP's Social and Environmental Screening Procedure (SESP) to the Project, based on UNDP's Social and Environmental Standards (SES), identified the need to develop this Indigenous Peoples' Plan (Plan) to implement mitigation measures and address risks arising from the implementation of PES in Indigenous Territories.

The Plan includes, among other elements, conducting culturally appropriate consultations in accordance with the guidelines established under the 2018 MGCPI Decree, as well as continuing the national FPIC process of the REDD+ Strategy on PES issues in Indigenous Territories, with the governance structures and representative organizations of each Indigenous Peoples, who express voluntary interest in participating or continuing to participate through the development of the National REDD+ Strategy's Forest and Territorial Environmental Plan (PAFT). The Plan also includes exploring an improvement of the specific modalities of PES in Indigenous Territories, in light of the SES, with a view to strengthening them.

## II. Indigenous Peoples in Costa Rica

In Costa Rica there are 8 Indigenous Peoples distributed in 24 Indigenous Territories, as shown in the following map:



Source: REDD+ Results-Based Payments Project, 2022.

Indigenous Peoples in Costa Rica maintain a close relationship with their forests. This is where all the knowledge and skills linked to their culture are found. Even though the environment inhabited by these populations has undergone changes due to the presence of monocultures, conflicts and overexploitation of the land, the Indigenous Territories have made successful efforts to conserve their forests. They currently have an approximate forest cover of 8.86% of Costa Rica's total forest cover (Costa Rica REDD+ forest cover maps, 2019). Indigenous Peoples' worldviews on the environment have also generated an economic opportunity for partnerships associated with environmental conservation (Baker and Florián, 2014). The following tables show land uses and the extent of forest cover in each of the Indigenous Territories. It is necessary to highlight that some Indigenous Territories have less forest cover, such as Quitirrisí, while others contain large areas of forests, such as Alto Chirripó.

**Table N°1. Costa Rica: Map of land uses in indigenous territories.**

**In hectares.**

Indigenous Territories	LAND USE (ha)				
	Mature forest	Secondary forest	Crops (annual/permanent)	Pastureland	Water bodies
ZAPATÓN	2 472,4	0,1	3,0	992,3	0,1
UJARRAS	10 356,1	0,8	410,3	9 062,2	0,0
TÉRRABA	2 903,2		186,5	5 998,0	83,9
TELIRE	17 153,2	0,5	1,4	57,8	
TAYNI	16 255,5	7,8	2,7	164,2	
SALITRE	7 970,2	0,1	285,8	4 459,7	
QUITIRRISÍ	734,0	0,3	42,5	204,4	
ALTO LAGUNA DE OSA	2 586,1	1,1	2,2	13,8	1,1
NAIRI-AWARI	4 971,8	0,5	2,8	14,8	4,8
MATAMBÚ	1 270,0			348,9	0,1
KEKOLDI	3 832,9	11,2	40,5	41,5	
GUATUSO	956,1	0,7	796,7	957,7	
REY CURRÉ	5 633,4		54,2	4 045,4	199,1
COTO BRUS	6 206,8		231,7	910,3	
CONTE BURICA	10 637,3	17,6	14,8	543,7	129,4
CHIRRIPO (DUCHII)	74 424,8	9,3	68,1	291,0	1,7
CABAGRA	20 506,5		342,7	7 946,3	
CABÉCAR DE TALAMANCA	22 873,0	30,9	238,3	1 350,1	2,5
BRIBRI DE TALAMANCA	37 942,6	110,9	2 599,8	3 771,2	74,4
BORUCA	5 382,9	0,3	341,3	6 717,2	17,8
BAJO CHIRRIPO	18 261,7	10,5	197,8	244,1	4,3
ABROJO-MONTEZUMA	1 352,5	1,8	1,5	113,0	
ALTOS DE SAN ANTONIO	1 102,3		9,2	142,3	
CHINA KICHÁ	286,4		20,9	761,1	13,9
<b>Total</b>	<b>276 071,4</b>	<b>204,2</b>	<b>5 894,5</b>	<b>49 150,8</b>	<b>533,1</b>
<b>Relative value %</b>	<b>81,9</b>		<b>1,7</b>	<b>14,6</b>	<b>0,2</b>

Source: Data from the Directorate of Environmental Services (Dirección de Servicios Ambientales, 2019). Costa Rica coverage map data for 2019 according to the methodology of the Costa Rica historical series of the National REDD+ Strategy.



**Table N°2. Costa Rica: Coverage of forest, non-forest, and no information  
(In hectares in indigenous territories in Costa Rica)**

INDIGENOUS TERRITORIES	COVERAGE (Ha)		
	FOREST	NON FOREST	NO INFORMATION (CLOUDS)
NAIRI-AWARI	4,970.81	31.14	0.00
CABAGRA	20,484.14	8,327.52	3.69
KEKÖLDI	3,842.96	85.95	0.00
SALITRE	7,965.46	4,755.08	9.27
BRIBRI DE TALAMANCA	38,058.68	7,000.60	300.23
BORUCA	5,392.53	7,183.75	610.27
REY CURRÉ	5,623.74	4,570.23	92.34
BAJO CHIRRIPO	18,276.87	643.21	762.64
ALTO CHIRRIPO (DUCHII)	74,442.60	396.17	292.76
CABÉCAR DE TALAMANCA	22,911.00	1,793.91	166.85
TAYNI	16,262.56	287.45	430.91
TELIRE	17,154.25	71.46	19.71
UJARRÁS	10,344.62	9,536.18	129.60
CHINA KICHÁ	287.63	798.99	0.00
GUATUSO	960.54	1,756.83	308.87
MATAMBÚ	1,269.32	349.64	0.00
TÉRRABA	2,914.73	6,370.35	56.70
ABROJOS-MONTEZUMA	1,354.01	115.02	1.71
ALTOS DE SAN ANTONIO	1,102.46	151.38	3.51
CONTE BURICA	10,657.36	742.75	438.47
COTO BRUS	6,213.22	1,135.58	10.26
OSA	2,588.59	16.29	163.25
QUITIRRISÍ	735.01	249.20	0.00
ZAPATÓN	2,478.43	1,019.13	0.00
<b>TOTAL</b>	<b>276,291.51</b>	<b>58,157.72</b>	<b>3,801.03</b>

Source: FONAFIFO. Data from the Directorate of Environmental Services (Dirección de Servicios Ambientales). 2021. Costa Rica coverage map data for 2019 according to the methodology of the historical series of Costa Rica for the National REDD+ Strategy.

## **i. Indigenous territories in Costa Rica and related governance issues**

In Costa Rica, Indigenous Territories are recognized and protected by law, as discussed in Chapter III of this Plan. It should be emphasized here that ownership of the territory, land, and forests rests with the Indigenous Peoples and not with individuals.

According to the information available, most of the Indigenous Territories have accepted the Integral Development Associations (ADIs) as their representative organizations, while other Indigenous Territories maintain their own traditional internal structures and/or organizations that co-exist and articulate with the ADI. In other words, in the 24 Indigenous Territories there are complexities and particularities in each one of them; in some territories indigenous peoples have re-signified the ADIs as governance structures, and in other territories, due to external and internal conditions, indigenous peoples have other governance models in addition to, or in the absence of, the ADIs. For example, in the territory of Quitirrisí there is no ADI. In other territories, ADIs co-exist with traditional organizations, with differentiated roles.

Given the complexity of each Indigenous Territory and its differentiated governance structures, it is necessary to make the following distinction, so that the conditions of each one can be appreciated:

1. There are those territories where the ADIs work together with other organizations or collectives that represent different interests and are relevant stakeholders. In these territories, the ADI and the indigenous organizations and governance structures engage in dialogue. In this dialogue, the ADI, as the body that legally represents the territory when contracting with the state by virtue of the country's internal legal system, needs to reach consensus within the territory in order to make decisions. These consensuses have been built in the past through the territorialization process, understood as the last stage carried out by the REDD+ Secretariat in the framework of the consultations and FPIC process and the five special themes during the years 2008-2021 (for more details see figure 1). The following figure contains the territories that have these conditions:

**Table 3. Identified indigenous territories and governance conditions**

<b>Indigenous Territory</b>	<b>Conditions identified</b>
<b>Maleku</b>	The territory has completed the territorialization process and has an ADI.
<b>Matambú</b>	The territory has completed the territorialization process and has an ADI.
<b>Zapatón</b>	The territory has completed the territorialization process and has an ADI.
<b>Quitirrisí</b>	The territorialization process has not been completed, and the EN-REDD+ pre-consultation process has been completed due to the end of the ADI administration period. It does not currently have an ADI.
<b>China Kichá</b>	The territory has completed the territorialization process and has an ADI too.
<b>Salitre</b>	The territory has completed the territorialization process and has an ADI. It has a traditional authority that is part of the national processes carried out by the government.
<b>Ujarrás</b>	The territorialization stage of the consultation has not been completed; it has an ADI.
<b>Cabagra</b>	The territory has completed the territorialization process and has an ADI.
<b>Térraba</b>	The territorialization process has not been completed, they withdrew in the pre-consultation process of the EN-REDD+, it does not have an ADI now, and it has two traditional authorities.
<b>Boruca</b>	The territory has completed the territorialization process and has an ADI.
<b>Curré</b>	The territory has completed the territorialization process and has an ADI.

<b>Coto Brus</b>	The territory has completed the territorialization process and has an ADI.
<b>Abrojo Montezuma</b>	The territory has completed the territorialization process and has an ADI.
<b>Alto Laguna de Osa</b>	The territory has completed the territorialization process and has an ADI.
<b>Altos de San Antonio</b>	The territory has completed the territorialization process and has an ADI.
<b>Conte Burica</b>	The territory has completed the territorialization process and has an ADI.
<b>Talamanca Bribri</b>	The territory has not concluded the territorialization process, but currently has an ADI administration which is currently engaging in a dialogue with the indigenous people to reactivate and inform them about REDD+ processes.
<b>Kéköldi</b>	The territory has completed the territorialization process and has an ADI.
<b>Talamanca Cabécar</b>	The territory has completed the territorialization process and has an ADI.
<b>Telire</b>	The territory has completed the territorialization process and has an ADI.
<b>Tayni</b>	The territory has completed the territorialization process and has an ADI.
<b>Nairi Awari</b>	The territory has completed the territorialization process and has an ADI.
<b>Bajo Chirripó</b>	The territory has completed the territorialization process and has an ADI.
<b>Alto Chirripó</b>	The territorialization process has not been completed. However, the ADI is present as an administrative structure for the territory.

Source: REDD+ Results-Based Payments Project 2014-2015, 2022 as of July 2022.

2. There is also a territory where the ADI's level of social representation has been questioned and where there is a strong presence of women's organizations, young people and traditional authorities. This case corresponds to the indigenous territory of Térraba.

In both cases, the REDD+ Secretariat shall approach the territory to carry out actions to inform about the National REDD+ Strategy, the project and its possible participation. In both cases, the REDD+ Secretariat, once the necessary actions have been carried out, will promote the technical work of the Project team, so that the necessary steps can be taken to ensure that these territories can participate and conclude the phases of the process of developing the PAFT.

In Costa Rica, Decree [40932-MP-MJP](#) of 2018 on the General Consultation Mechanism for Indigenous Peoples provides the framework of the National REDD+ Strategy, including the processes of development and implementation of the Indigenous Peoples Implementation Plan or PAFT. The Project's engagement with the Indigenous Territories has included the development of preparatory agreements, which involve the elaboration, in a joint effort and collaboration with the representative organizations of each Indigenous Territory, of a roadmap for the PAFT.

The implementation of this Plan seeks to determine and document the specific governance situation in each Indigenous Territory, to give continuity to the national FPIC process, in line with the SES, the standards set out in international human rights law and national law relating to the rights of Indigenous Peoples, and the guidelines of the FPIC Decree [40932-MP-MJP](#) of 2018. In addition, the Plan can help strengthen indigenous peoples' representative organizations, women's or youth collectives, and the governance of IPs.



## ii. Indigenous Peoples' Participation in Costa Rica's PES Programme

Since 1997, several Indigenous Territories in Costa Rica have participated or are participating in the PES programme. In such cases, the National Forestry Financing Fund (FONAFIFO) has entered contracts with the ADIs in those Indigenous Territories. Some Indigenous Territories have not participated in the Programme, including due to the lack of suitable forest areas.

**Table N°4 Costa Rica: Number of contracts in force, areas under PES, agroforestry systems (AFS) in indigenous territories in Costa Rica**

No.	ADIRI	No. Contracts	PES area (ha)	AFS trees
1	A.D.I.R.I. OF NAIRI AWARI	8	4,294	
2	A.D.I.R.I. OF BAJO CHIRRIPO	7	7,000	
3	A.D.I.R.I. OF KEKOLDI	1	877	
4	A.D.I.R.I. OF TAJNI	7	7,000	
5	A.D.I.R.I. OF BORUCA	9	3,590	158,530
6	A.D.I.R.I. OF CHIRRIPO	7	7,000	
7	A.D.I.R.I. OF CABECAR DE TALAMANCA	8	7,325	
8	A.D.I.R.I. OF CABECAR TELIRE	7	6,999	
9	A.D.I.R.I. OF CONTE BURICA	6	5,509	
10	A.D.I.R.I. OF CURRE	6	2,025	99,675
11	A.D.I.R.I. OF SALITRE	6	4,400	7,057
12	A.D.I.R.I. OF CABAGRA	12	6,294	587,522
13	A.D.I.R.I. OF TALAMANCA	7	7,000	
14	A.D.I.R.I. OF TERRABA	3	579	3,500
15	A.D.I.R.I. OF UJARRAS	4	4,000	
16	A.D.I.R.I. COTO BRUS	4	3,538	
	TOTAL	102	77,430	856,284

Source: FONAFIFO. Data from the Directorate of Environmental Services. 2021.

## iii. Prior consultations with Indigenous Peoples in Costa Rica, in the context of the development of the National REDD+ Strategy.

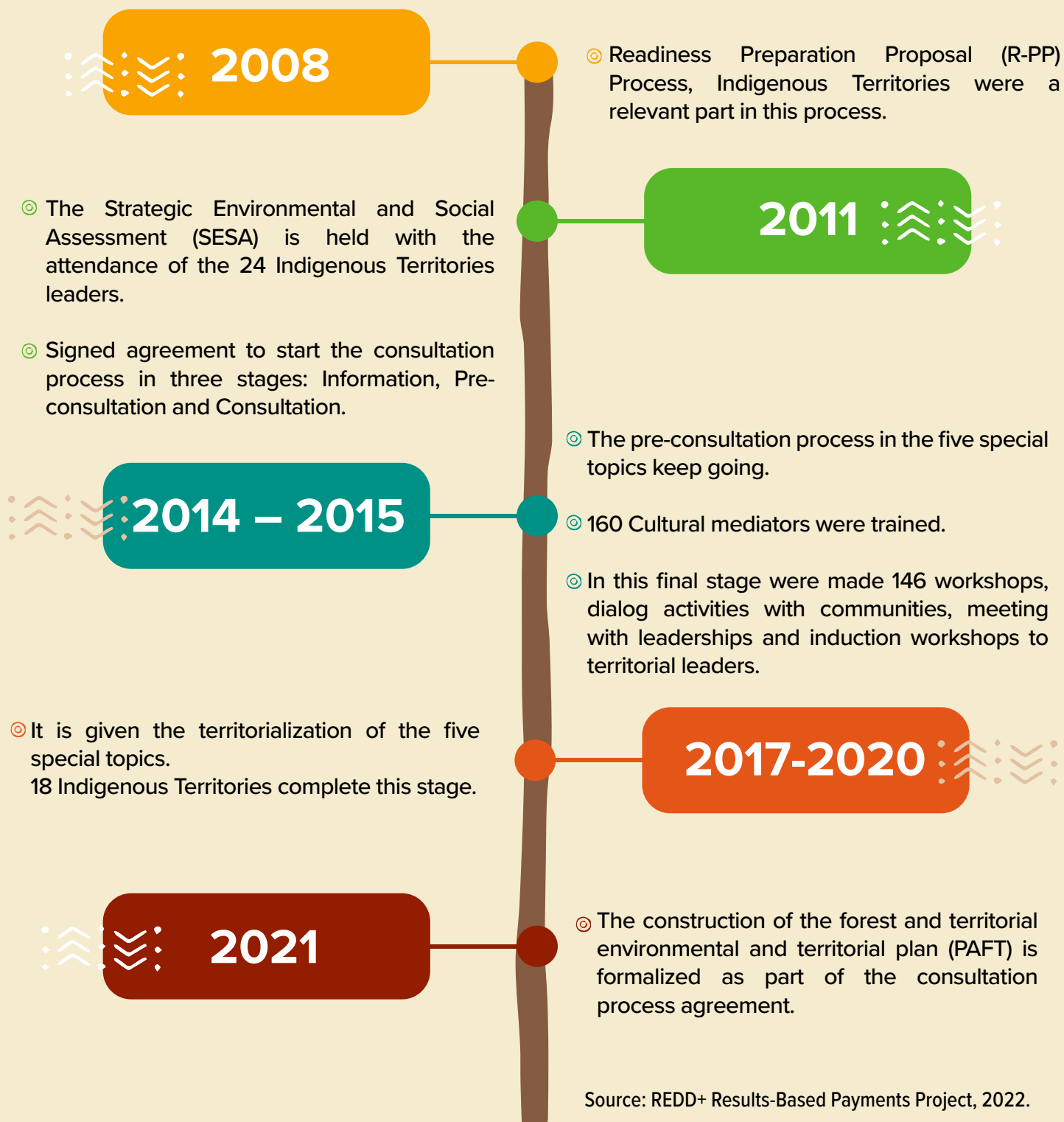
The development of the REDD+ Strategy in Costa Rica has included prior consultations with IPs in the country. Since 2008, FONAFIFO held a dialogue process with leaders of the 24 Indigenous Territories of Costa Rica. In 2011, the national consultation process began, which included three stages: information (2011-2014), pre-consultation (2014-2017), and consultation (2017-2018) (Herrera and Sucre, 2019). The consultation process was carried out through the ADIs, created by the regulations of the Indigenous Law. However, the methodology for the entire process was developed and proposed by indigenous leaders, which was made official at the National Indigenous Meeting of 18 December 2012, approved by 18 Indigenous Territories and the non-territorial organization Asociación de Mujeres Indígenas de Talamanca (the Indigenous Women's Association of Talamanca, ACOMUITA), which signed a National Indigenous Agreement for the consultation.

The consultation process deployed in the development of the REDD+ Strategy exhibits the following characteristics:

- The consultation process carried out a mapping of stakeholders in each territory, where groups of women, youth, elderly people, and other indigenous groups linked to production, cultural projects, among others, were identified. This generated affirmative actions that involved working with the communities and their internal structures, identifying forms of women's participation, as well as relevant issues such as monitoring and participation of the sectors in benefit-sharing.
- The Indigenous Territories identified indigenous peoples who were knowledgeable about the indigenous language and worldview. These people were called cultural mediators, as they transmitted and interpreted the process and key concepts. More than 100 cultural mediators formed a group that received training on climate change, implementation of participatory activities, among other themes.
- A relevant aspect is that indigenous women's organizations were involved in this process of approaching the National REDD+ Strategy. They are part of a Gender Action Plan, which by 2022 has been updated to establish affirmative actions in the area of indigenous women and territories. This Gender Action Plan includes the objective Policy and Measure 5.1 that seeks to promote the participation of indigenous women in the 5 special themes established in a participatory manner by the Indigenous Peoples, it has 3 outcomes and 20 actions.
- Each Indigenous Territory prepared a work plan, with a previously approved methodology, with the participation of cultural mediators, technical persons and coordinators. It is important to highlight that these activities, and in general the roadmap for the consultation process, included the organization of the territories by regional blocks, communal, territorial and national meetings, where relevant information was provided to the process, understanding that there were levels of participation of IP leadership. The effort deployed in this consultation process reflected a commitment to constructive dialogue, which resulted in consensus on five themes of the REDD+ Strategy, including the identification of five special themes. These five themes are:
  1. Development of the Indigenous PES.
  2. Land reclamation.
  3. Cultural approach to conservation and forest use.
  4. Relationship to and management of protected areas and indigenous territory; and
  5. Modalities for participatory monitoring and evaluation of investments in Indigenous Territories in the EN-REDD+ framework.



## Figure 1. Background on REDD+ process with indigenous territories in Costa Rica







## III. Legal Framework on the Rights of Indigenous Peoples in Costa

The rights of Indigenous Peoples in Costa Rica are recognized and protected by both international law and the country's domestic legislation, as discussed below.

### i. Applicable international legislation

The international human rights legal framework recognizes specific rights of indigenous peoples, which reflect their position vis-à-vis the State, including their experience of colonization processes, their special relationship with their lands, territories and natural resources, and their vulnerability to development projects. These rights have been recognized in international treaties, declarations, and jurisprudence.

A milestone in the development of the international legal framework concerning the rights of indigenous peoples is ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries, adopted in 1989. This international treaty abandons the assimilation approach reflected in the earlier ILO Convention No. 107 of 1957 and is instead inspired by the strengthening of indigenous identity and culture. Convention 169 recognizes the special importance of lands for the cultures and spiritual values of Indigenous Peoples, as well as the right to participate in the use, management, and conservation of the natural resources on their lands and territories. Such participation is channeled through consultations with Indigenous Peoples, through their representative institutions, which must be carried out with the aim of reaching agreement or consent on proposed measures. Costa Rica has been a Party to ILO Convention 169 since its ratification by Law No. 7316 of December 1992.

Another milestone in the development of indigenous peoples' rights is the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the UN General Assembly in 2007. Costa Rica voted in favour of this Declaration. This Declaration interprets and specifies the general standards of the UN Charter in relation to the rights of Indigenous Peoples. The Declaration recognizes the right of Indigenous Peoples to self-determination, according to which they have the right to autonomy or self-government. The Declaration further recognizes the right of Indigenous Peoples to maintain and develop their own decision-making institutions and their own political, economic and social systems. A key element of the Declaration is the obligation of the State to consult and cooperate in good faith with Indigenous Peoples, through their representative institutions, to obtain their free, prior and informed consent.

The standards contained in Convention 169 and the Declaration on the Rights of Indigenous Peoples have influenced the interpretation and application of the American Convention on Human Rights, to which Costa Rica has been a party since 1970, as developed by the Inter-American Court of Human Rights.

The Inter-American Court has protected the special relationship that Indigenous Peoples have with their lands through the right to property (*Awas Tingni case, 1998*). The Court has also observed that free, prior, and informed consent is an essential safeguard to preserve the special relationship of Indigenous Peoples with their territories (*Saramaka case, 2007*). The Court has emphasized that adequate and accessible consultation takes place through the representative institutions of Indigenous Peoples (*Sarayaku case, 2012*). The Court has also considered that the right to a healthy environment, contemplated in the Protocol of San Salvador, to which Costa Rica has been a party since 1999, is enforceable under the American Convention (*Lhaka Honhat case, 2020*).

In the context of the United Nations Framework Convention on Climate Change (UNFCCC), which was ratified by Costa Rica through Law No. 7414 of 4 July 1994, standards have also been developed that are relevant to the Indigenous PES.

The Conference of the Parties to the UNFCCC, at its 16th session in Cancun in 2010, adopted Decision 1/CP.16 which articulates the REDD+ strategy to combat climate change and includes safeguards relating to the participation of Indigenous Peoples. These safeguards provide for:

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

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

These standards on Indigenous Peoples’ rights under international human rights and environmental law are of particular relevance to the application of the Indigenous PES.

## ii. Applicable national legislation

As early as 1939, Costa Rica began to protect the land rights of indigenous peoples through the Ley de Terrenos Baldíos<sup>1</sup> No. 13 (Law on Uncultivated lands No. 13). Article 8 of the law states the following: “[...] In addition, a prudential area is declared inalienable and the exclusive property of the indigenous people, at the discretion of the Executive Branch, in places where tribes of these people exist, in order to preserve our native race and to free them from future injustices”.

In 1945, Executive Decree No. 45 of 3 December 1945 regulates Article 8 of the Law on Uncultivated lands. The Junta de Protección de Razas Aborígenes de la Nación (Board for the Protection of the Nation’s Aboriginal Races) was created, including the function of delimiting and protecting the lands of indigenous peoples. In the 1950s, several executive decrees created the Boruca, Térraba, Salitre, Cabagra and China Kichá Indigenous Reserves. In subsequent decades, other decrees created other Indigenous Reserves.

Law No. 5251 of 11 July 1973 created the National Commission for Indigenous Affairs (CONAI). Among other objectives, this law stipulates “To ensure respect for the rights of indigenous minorities, stimulating State action in order to guarantee the individual and collective ownership of land by the Indians” (Article 4.e). (Article 4.e).

29 November 1977 marked a milestone in the development of regulations on indigenous rights in Costa Rica with the adoption of Indigenous Law No. 6172. Article 1 of this law ratifies the creation of some of the Indigenous Reserves declared in previous years and stipulates that “The limits set for the reserves in the aforementioned decrees cannot be varied by decreasing their size, except by means of an express law”. Article 3 of the Indigenous Law states that: “Indigenous reserves are inalienable and imprescriptible, non-transferable and exclusive to the indigenous communities that inhabit them. Non-indigenous people may not rent, lease, purchase or in any other way acquire land or farms within these reserves. Indigenous persons may only negotiate their lands with other indigenous persons. Any transfer or negotiation of lands or improvements thereof on Indian reservations, between Indians and non-Indians, is absolutely null and void, with the legal consequences of the case. The lands and their improvements and the products of the indigenous reserves shall be exempt from all kinds of national or municipal taxes, present or future.”

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<sup>1</sup> Baldíos can mean barren, but in this context, it refers more to areas not under cultivation by settler communities. 2. Waste has a negative connotation that is contrary to the actual conservation of these lands.

In relation to the autonomy and governance of Indigenous Peoples, Article 4 of the Indigenous Law states that: “The reserves will be governed by the indigenous peoples in their traditional community structures or by the laws of the Republic that govern them, under the coordination and advice of CONAI. The population of each of the reserves constitutes a single community, administered by a board of directors representing the entire population; auxiliary committees will report to the main board if the geographical extension warrants it.” (Emphasis added).

In 1978, Executive Decree N° 8487-G of 26 April 1978 regulated the Indigenous Law. Articles 3, 4 and 5 are particularly relevant to the internal normative framework regarding the organization and legal representation of indigenous territories. Article 3 provides that: “For the exercise of the rights and fulfilment of the obligations referred to in Article 2 of the Indigenous Law, the Indigenous Communities shall adopt the organization provided for in Law No 3859 of the National Directorate of Community Development Associations and its Regulations”. Article 4 provides that: “The presidents of the respective Indigenous Development Associations, legally registered, and with the powers of general proxies of the same, will appear before the Attorney General of the Republic, for the granting of the deed and registration in the Public Registry, of the Reservations in the name of the respective Indigenous Communities”. For its part, Article 5 provides that: “The traditional community structures referred to in Article 4 of the Law shall operate within the respective Communities; and the Development Associations, once legally registered, shall represent the said Communities judicially and extra-judicially”. (Emphasis added).

The Constitutional Chamber, by resolution No. 02623-2002 of 13 March 2002, has ruled on the constitutionality of the regulations of the Indigenous Law, observing that the incorporation into a Development Association is an act of affiliation and therefore the free decision of each person in the community is involved.

The same Constitutional Chamber, in Ruling No. 05483 of the Constitutional Chamber of the Supreme Court of Justice, which examines the relationship between the Regulations of the Indigenous Law and ILO Convention 169, points out that the regulations do not force those who belong to indigenous communities to form part of the ADI. The Constitutional Chamber adds that “Nor does this body of law prevent indigenous citizens from forming part of any legal organization of interest to them”.

In 1996, Forestry Law No. 7575 created the Payment for Environmental Services (PES) programme. Since 1997, indigenous territories in Costa Rica have participated in the PES programme.

In 2016, Decree No. 39.871/MINAE amending the Regulations of the Forestry Law introduced certain specific modalities for PES in indigenous territories. These are reproduced in Annex V.

PES modalities in indigenous territories reflect some elements that need to be strengthened. First, the PES modalities use the ADIs as the legal representative of the indigenous communities. Second, the Indigenous PES modalities contemplate certain elements of accountability, such as: i. The ADI treasurer’s report, approved by the Assembly, reflecting the use given to the resources received; ii. Obligations in the Indigenous PES contracts that allow for publicizing the financial management to all ADI members; and iii. The minutes of the ADI’s General Assembly of Members, authorizing the execution of the PES project.

The modalities of PES in Indigenous Territories are also set out in the Manual of Procedures for the Environmental Services Payment Programme, Chapter II “PES in Indigenous Territories”. Any changes to these modalities must be approved by the Board of Directors of FONAFIFO.

In 2018, Costa Rica established a regulatory and institutional framework for carrying out consultations with the traditional representative structures of Indigenous Peoples, by virtue of Decree 40932 (2018), which provides guidelines for carrying out actions at the national level that respect Convention 169 and FPIC processes. Within the



framework of this Decree, it is not the ADIs that represent the indigenous territories for the purposes of consultation, but rather the Territorial Indigenous Consultation Instances (ITCI), where the ADIs are represented as long as the other structures in the territory are convened. However, the ITCI does not replace the legal representation and administrative roles of the ADIs discussed above.

In January 2021, the Costa Rican Ministry of Justice and Peace, through the Technical Unit for Indigenous Consultation (UTCI), issued “Criteria for the construction of a methodology for participation in indigenous territories for the recognition of payment and administration of financial resources for different processes linked to the REDD+ secretariat”. According to these criteria,

“The preparatory agreements and any prior consultation must be carried out with the Territorial Instances of Indigenous Consultation formed (where they exist), according to Article 21 of the General Mechanism for Indigenous Consultation, or failing that, in conjunction with the representative organizations of the indigenous people, understanding that these are all those instances legally or culturally recognized by the indigenous peoples, for the representation of their affairs, rights, interests and decisions (Article 2, paragraphs c and j of Executive Decree 40932-MP-MJP)”. (Emphasis added).

That in light of the principles of the right to consultation (Article 3, paragraphs d, g and h of Executive Decree 40932-MP-MJP), the following should be stated: That the participation process for the creation of the methodology for the distribution of resources for payment of environmental services contemplate the mechanisms that guarantee direct access of the elderly, young people and women to the spaces for participation, agreement making and decision-making.” (Emphasis added).

It is also recommended that the REDD+ Secretariat: “b) Prioritize in the process an agreement to define: A representative body or organization in each territory that acts as the administrator of the funds and its accountability mechanism before the indigenous territory (it can be considered that this mechanism is the monitoring of compliance or execution of the territorial plan). Likewise, define a territorial figure that will also play a role in monitoring the proper use and distribution of funds by the administering entity that reports to the REDD+ Secretariat periodically according to agreed deadlines”. (Emphasis added).

In line with this approach, the implementation of the FPIC Decree provides a vehicle for consultation with the governance structures of Indigenous Territories that have an interest in participating in the REDD+ Strategy while respecting the FPIC.

### **iii. UNDP Social and Environmental Standards**

The Social and Environmental Standards (SES) require UNDP programmes and projects to expand positive environmental and social opportunities, as well as ensure that adverse environmental and social risks are avoided, minimized, mitigated, and managed. In particular, Standard 6 on Indigenous Peoples seeks, inter alia, to recognize and promote full respect for the human rights of indigenous peoples, including their right to self-determination. In addition, Standard 6 seeks to ensure that UNDP projects that may affect indigenous peoples are designed in a spirit of partnership with them, with their full and effective participation, with the objective of obtaining their FPIC where their rights, lands, resources, territories, and livelihoods may be affected.

Standard 6 on Indigenous Peoples requires that UNDP will not participate in a project that compromises the human rights of Indigenous Peoples as recognized in domestic or international law, as well as in the UN Declaration on the Rights of Indigenous Peoples. As noted above, a key element of the Declaration is the State’s obligation to consult

and cooperate in good faith with Indigenous Peoples, through their representative institutions, to obtain their free, prior and informed consent.

Standard 6 comprises several elements that are applicable to the Project, in addition to respect for domestic and international law, as discussed in detail in the following chapters. The Project has assessed each of these elements, namely:

- **Respect for domestic and international law:** The project is carried out in accordance with respect for the representative institutions of each Indigenous Territory. In particular, broad meetings of representative organizations within the Indigenous Territory are convened by the ADI for the dissemination of information on the PES and an open deliberation on the voluntary participation of the Indigenous Territory in the PES Programme. The agreements reached by the broad meeting of organizational entities within the Indigenous Territory are documented and result in e.g., a preparatory agreement and a roadmap for the construction of the PAFT.
- **Identification of Indigenous Peoples:** The Project is carried out in voluntary collaboration with the representative organizations of the Indigenous Territory. This includes the ADIs as administrative figures contracting with FONAFIFO and other governance entities in the Indigenous Territory.
- **Right to own, use, develop and control their lands, resources and territories:** The Project is not a threat to this right, but rather an incentive for forest conservation and ecological harmony in the indigenous territory.
- **Legal status:** The Project is carried out in accordance with the figures of Costa Rican administrative law, which allow Indigenous Territories to execute PES contracts through the ADI.
- **Full, effective, and meaningful participation:** The Project is carried out in accordance with the guidelines of the 2018 FPIC Decree to build and give continuity to the engagement with Indigenous Territories of Costa Rica's REDD+ Strategy.
- **Equitable benefit sharing:** The Project ensures that the preparatory agreements, roadmaps and PAFT reflect full clarity on how the benefits of participation in the PES Programme will be distributed within the Indigenous Territory. The fact that after extensive convening and deliberation there is agreement within the Indigenous Territory on whether and how to pursue its voluntary participation in the PES Programme reflects that the manner in which benefits will be distributed is equitable.

The assessment of these elements is also seen in the following chapters on risk identification and mitigation measures.



## **IV. Identification of the Risks Associated with the Implementation of the PES Programme**

The assessment of the PES Programme in Indigenous Territories under the SES standards has identified several risks associated with the Project, as discussed below.

### **i. Potential interference with the rights to autonomy, self-determination and property if Indigenous Peoples' representative organizations are disregarded in FPIC processes**

Most Indigenous Territories recognize the ADIs as their organizations to whom the administration of the territory is vested. In practice, the success of such recognition revolves around the strengthening of other indigenous organizations and governance structures that accompany the ADIs in processes that require community participation. However, some Indigenous Territories have denounced the ADIs as an imposition and violation of their fundamental rights as recognized in international instruments. The latter argue that the ADIs reflect the imposition of an administrative form alien to their traditions and governance structures, denouncing that this imposition has been carried out by the State through the regulations of the Indigenous Law. For the same reason, carrying out consultations on the Indigenous PES only with the ADIs, and not with the organizations that the Indigenous Territory itself considers representative, would violate their rights to autonomy, self-determination, property and FPIC over their territories, lands, and natural resources, as recognized in international law.

The problems of representativeness of the ADIs have been highlighted by the UN Special Rapporteur on the rights of Indigenous Peoples in official visits to Costa Rica in 2011 and 2022. The Special Rapporteur noted after his last visit in February 2022:

“In the course of my visit, I received information reiterating the lack of representativeness of the Integral Development Associations (known as ADIs), which is the institution elected by regulation to govern the 24 indigenous territories. I received repeated allegations that the ADIs, as imposed state institutions, are not suitable to guarantee the representation of indigenous peoples' communities, which are governed by their own system of governance, leading to a weakening of the traditional structures of representation, particularly in the southern part of the country.

“Another concern expressed was the implementation of consultation processes with non-representative community actors, as in the case of the ADIs in some parts of the country.





## ii. Possible discrimination or marginalization of women in decision-making

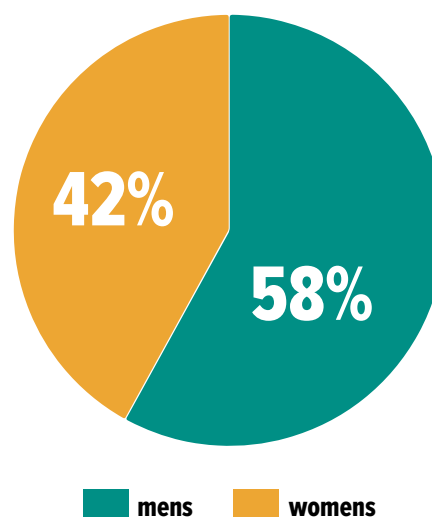
PES contracts in Indigenous Territories between FONAFIFO and the ADIs could exacerbate situations of discrimination and marginalization of women in decision-making regarding the implementation of the Indigenous PES Programme within the territory. This is because consultations only or primarily with the ADIs may not incorporate the voices of women's groups from the Indigenous Territories. Furthermore, the participation of indigenous women in decision-making spaces is limited, and this includes the limited participation of women in the ADIs.

Furthermore, the participation of indigenous women in decision-making spaces is limited, and this includes the non-equal participation of women in some ADIs, as stated in Law No. 8901: Minimum Percentage of Women on the Boards of Directors of Associations, Trade Unions and Workers' Associations and its regulations.

According to the Public Registry office of Community Development Associations kept by the National Directorate for Community Development (DINADECO), of the 23 indigenous territories that had an ADI as of 1 April 2022, there were 196 members of the Board of Directors, with the number of members varying

between 8, 9 or 10 members. In 12 ADIs, equal participation is not respected, in 10 of them there is equal participation and in 1 of the ADIs there is a greater representation of women than men.

**Graph 1. Costa Rica: Participation of people in integral Development Associations in Indigenous Territories, By sex, April 2022**



Source: National Directorate for Community Development, 2022.

## iii. Potential undermining of equitable benefit sharing within the community

Channeling PES in Indigenous Territories through ADIs could result in funds benefiting only certain groups or activities within the Indigenous Territory. This is because the funds would go to the activities prioritized by the ADI, while the ADI itself would not necessarily represent the diverse groups and interests of the Indigenous Territory. This would imply a possible undermining of the equitable sharing of benefits by limiting or excluding community groups from the benefits.

## iv. Potential lack of transparency in accountability

Accountability mechanisms may not be robust enough to ensure transparency and probity in benefit sharing. Moreover, these mechanisms may not respond to the cultural practices or expectations of the Indigenous Territory's forms of governance. This would entail the risk of a loss of trust in the PES Programme in Indigenous Territories. In addition, it could lead to the misuse or misappropriation of funds.

## **v. Potential conflicts between indigenous and non-indigenous people on indigenous territories and lands**

The Project could exacerbate land conflicts that may exist on Indigenous Territories, in that non-Indigenous people currently residing on the Territories and receiving PES have a financial interest in continuing to occupy their properties to continue receiving PES. At the same time, Indigenous Peoples have an interest in having control over their territories, lands, and natural resources, including receiving PES on Indigenous Territories.

Moreover, PES contracts between FONAFIFO and non-indigenous persons in Indigenous Territories, even if they have been approved by the respective ADI of the Territory, generate governance and representation risks. This is because the ADI may be the target of pressure or manipulation by non-indigenous persons interested in receiving PES.

## **V. Mitigation Measures**

To address the risks associated with the implementation of PES in Indigenous Territories, the Plan has identified the following mitigation measures.

### **i. Continuation of the culturally appropriate FPIC process**

The Project, in conjunction with the REDD+ Secretariat, and under the leadership of FONAFIFO and the National System of Conservation Areas (SINAC), will support the national consultation and FPIC process with the representative organizations of the Indigenous Peoples that express interest in participating in the PES Programme in Indigenous Territories. This consultation and FPIC process is carried out in accordance with the guidelines of the 2018 FPIC Decree and is described in more detail in the next chapter.

It should be noted here that a central element of this process is to identify and document which internal governance structures are recognized by the Indigenous Territory itself. The Project will not make payment for results derived from PES performance in those Indigenous Territories where the Plan identifies that there is a conflict or question about the representativeness of the ADI. To this end, the Project has identified exclusion criteria for Performance-Based Payment Agreement (PBPA) indicators in Indigenous Territories, such as the absence of a letter of interest expressing the consensus in the Indigenous Territory to participate in the PES Programme. This agreement is a financial instrument that UNDP uses in this Project to channel funds to FONAFIFO based on verified results (see exclusion criteria for PBPA indicators in Indigenous Territories in Annex IX).

### **ii. Strengthening women's leadership capacities**

Within the framework of the national REDD+ FPIC process with Indigenous Peoples' representative organizations, the Project will incorporate a gender approach. This approach will include the involvement of women's organizations, tools to strengthen the capacities of women's participation in decision-making processes related to the existing PES in Indigenous Territories, as well as the indigenous PES currently under discussion and construction under the national REDD+ consultation process.

It is worth mentioning that, in 2018, the REDD+ Secretariat prepared the Gender Action Plan for REDD+, and the Project updated the plan in 2022, incorporating different actions in indigenous territories. Gender Goal (5) of the Gender Action Plan includes at least 20 activities to promote the participation of indigenous women in

the 5 special themes, 3 outcomes linked to promoting women’s ancestral agroforestry projects, participation of indigenous women in different programmes. The priorities regarding the participation of indigenous peoples are those identified in the information, pre-consultation and territorialization process of the National REDD+ Strategy that began in 2008.

### **iii. Strengthening the modalities of the Indigenous PES**

As a result of the consultation and FPIC process with Indigenous Peoples’ representative organizations, it is expected that modalities will emerge that give better expression to the relationship between Indigenous Peoples and forests. This may include modalities for equitable benefit sharing within Indigenous Territories, as well as modalities for improved benefit sharing between Territories, which will be reflected in the PAFT.

### **iv. Strengthening culturally appropriate accountability mechanisms**

Current accountability mechanisms, described above in the chapter on the legal framework in Costa Rica, include measures under the ADI for reporting and communication on the use of funds. The Project through the REDD+ Secretariat will include, within the national consultation and FPIC process, a space for a structured discussion on how to strengthen the current modalities governing the way in which payments received from the PES Programme are accounted for. In addition to the territories having an Information, Feedback and Complaints Mechanism tool for Relevant Stakeholders of the National REDD+ Strategy (MIRI), a model would also be generated at the local level that responds to culturally appropriate ways of presenting accountability, monitoring and oversight through operational tools that improve resource management and accountability.

### **v. Prohibition of PES contracts with non-indigenous people on indigenous lands**

The PES Programme in Indigenous Territories should not give rise to any contract between FONAFIFO and non-indigenous persons currently in Indigenous Territories, under any justification or circumstance. The modalities of the Indigenous PES should reflect this prohibition with funds from the GCF. To this end, the Project has identified exclusion criteria for the indicators of the Performance-Based Payment Agreement (PBPA) in Indigenous Territories. As mentioned in the previous paragraph (Annex IX).

## **VI. Indigenous Peoples Plan**

The implementation of the mitigation measures identified in this Plan involves two major elements: continuity of the national FPIC consultation process, initiated more than a decade ago and currently underway in the country, and institutional arrangements.

### **i. Continuation of the FPIC Consultation Process**

One of the key objectives of the Plan is to update information regarding the internal governance structures that the Indigenous Territories in Costa Rica themselves recognize, in order to provide continuity and response to a consultation and FPIC process. To move in this direction, the REDD+ Secretariat and the Project will carry forward the REDD+ consultation and FPIC process for the construction of the Forest and Territorial Environmental Plans



(PAFT) through the following steps and respecting the principles of the General Consultation Mechanism created by Decree in 2018: a pilot/informative stage; a dialogue and construction stage; and a feedback, consensus and validation stage. The results of these dialogue structures will be reflected in the PAFT.

**Information stage:** In this stage the Project and the REDD+ Secretariat will approach and establish a dialogue with various entities and organizations in the indigenous territories, including Councils of Elders, Women's Groups, Youth Groups, members of ADIs, among others. This dialogue will be structured to, among other things, introduce the Project and identify decision-making processes and representative organizations. In those Territories that are participating in the PES Programme in Indigenous Territories through PES contracts, the dialogues will address issues such as how to strengthen the implementation modalities of the PES Programme, among others. In those Territories that have not participated in the PES Programme, the dialogues will address all elements of the PES Programme, with a view to informing the Indigenous Territory about its possibilities and implications.

In all cases, the dialogues will also outline the next steps. These steps should be documented in preparatory agreements adopted in the Territory on a roadmap outlining how to take the process forward. In all cases, the Indigenous Territory will determine the culturally appropriate way to carry out the actions and approaches of the Project in that territory.

This stage advances three complementary objectives: i. to achieve a better understanding among participants of the various special themes of the REDD+ Strategy, including Indigenous PES; ii. to establish channels of dialogue between Project stakeholders such as FONAFIFO, SINAC and UTP and the various entities in the Indigenous Territory; and iii. to gather information on the governance structures and organizations that the Indigenous Territory itself considers representative.

This information stage will also involve workshops and discussion spaces with the convened groups on the risks and mitigation measures that have been identified in the Plan. These issues include, among others, women's rights; allocation of PES resources in Indigenous Territory; culturally appropriate accountability mechanisms; grievance mechanisms; and considerations of an Indigenous PES. In addition to this, information exchange is included, which entails explaining the whole process previously carried out by the REDD+ Secretariat and the agreements established in order to follow up on this stage.

**Consensus and construction stage of the PAFT or Indigenous Peoples' Implementation Plan:** In this stage, the Project and the REDD+ Secretariat will convene and establish a dialogue with representative organizations, women-led organizations, and other collectives in the Indigenous Territory, in order to explore, and if possible reach, consensus on their voluntary participation in the Indigenous Peoples' Forest and Territorial Environmental Plan, which includes actions and measures on Indigenous PES. Adjustments to the Plan that incorporate Indigenous Peoples preferences can also be made at this stage.

In this construction phase, the REDD+ Secretariat will prepare possible PAFT models to guide the discussion of the Indigenous Territory.

The participation of indigenous men and women must be strengthened in an equitable manner throughout the PAFT construction process, promoting an exchange of opinions and learning, in order to incorporate their worldview, experiences and community knowledge into the collective processes of transforming gender inequalities in their indigenous territories; it is also important to identify the main challenges and opportunities faced by men and women for their full and effective participation in the conservation of natural resources and their identity.

**Territorial feedback and validation stage:** In this stage the REDD+ Secretariat and the Project will report back to Indigenous Peoples organizations that have participated in the consultation and FPIC process on the PAFT. This stage will also gather perspectives from participants (including women, elders, youth) on what lessons can be learned from the application of the PES in an Indigenous Territory, as well as review, prioritise and determine the activities that are ultimately operationalized for each territory. The compilation of these perspectives should involve the use of a gender approach to help ensure that the views of indigenous women, men and youth are compiled equitably. This stage will also include the presentation of the results of the consultation to the Indigenous Territory and presentation of the Plan to government authorities.

## ii. Institutional arrangements

The process of building this Plan will be supported by the UTP with specialists in dialogue with Indigenous Peoples and with an intersectional gender perspective. The UTP will accompany the national process. In this way, the UTP supports the involvement of the Project with the Indigenous Territories.

At the State level, the main actors of the Plan include REDD+ Secretariat, Vice-Ministry of Presidency, FONAFIFO, SINAC, Rural Development Institute, Ministry of Justice and Peace, Ministry of Environment and Energy, and the National Institute of Women, DINADECO.

## VII- Monitoring of the Performance-Based Payment Agreement

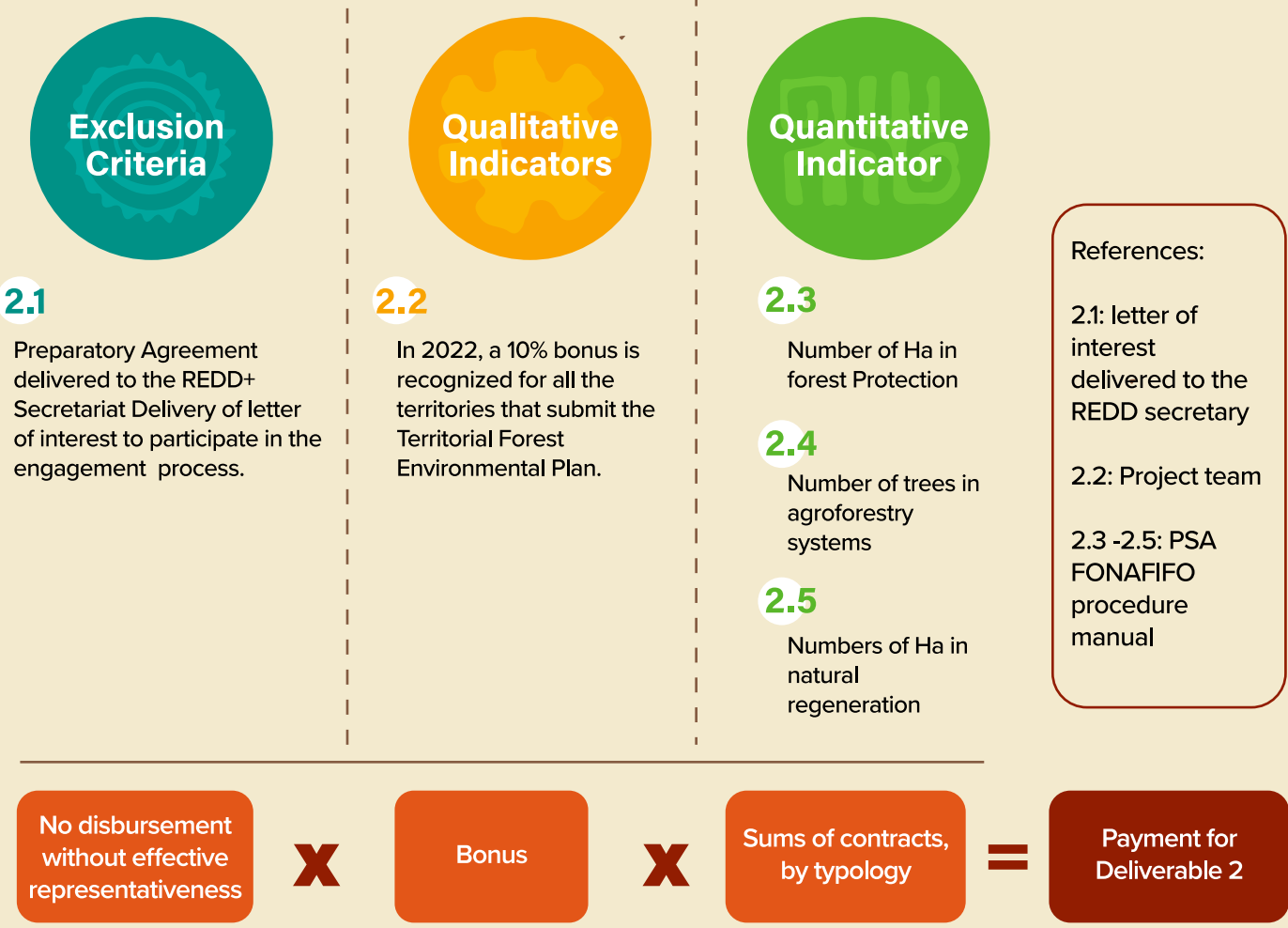
The PES programme is an instrument created by the Forestry Law, with more than 20 years of effective application and which has received public and private investment. The basic concept of the PES programme is a voluntary contract through which FONAFIFO recognizes through a payment to a landowner the protection of forests that generate an environmental service, as long as the participant carries out the agreed land use, care and prevention practice(s). Currently, the PES programme includes the modalities of (i) forest protection, (ii) sustainable forest management, (iii) reforestation, (iv) natural forest regeneration and (v) agroforestry systems.

The Performance-Based Payment Agreement (PBPA) is an innovative UNDP instrument used to implement Output 2 of Costa Rica's larger REDD+ Results Based Payments project for 2014 and 2015. This output is implemented through 3 deliverables, (1) PES on private lands, (2) PES on indigenous lands and (3) the forest fire fighting programme. In the context of this indigenous peoples' plan, this section will focus on the implementation of deliverable 2.

Through Deliverable 2. Expansion and improvement of the special payment for environmental services in indigenous territories, payments for environmental services will be made to indigenous peoples according to the modalities of the special PES in indigenous territories. The modality operates similarly to the regular PES programme (activity 2.1). However, the conditions are revised according to the context of indigenous peoples to integrate the mitigation measures identified in this Plan.

The calculation of the payment amount for deliverable 2 will be made considering one exclusion criterion, one qualitative indicator, and three quantitative indicators, summarized in Figure 1.

# Figure 2. Criteria and indicators for payments in indigenous territories according to PBPA



Source: REDD+ Results-Based Payments Project, 2022.

**ANNEX IX.2 Format for Validation of Results/Performance Thresholds of the PBPA**, sets out the results to be made against the completion of Deliverable 2 by FONAFIFO, following validation by the Independent Auditor, through the application of the Validation Methodology of the results achieved. If all milestones and/or expected results that are part of Deliverable 2 are not achieved, the Independent Auditor may recommend that a reduced payment be made, in accordance with Annex A-3 of the PBPA.

The implementation of the PBPA has been integrated into this indigenous peoples’ plan and will be monitored and evaluated throughout the 4-year project timeframe. Details will be captured in annual project reports, meeting memos and through various knowledge outputs. Adaptive management measures will be implemented, as necessary, to adjust the plan to current circumstances and according to the findings of the monitoring and evaluation efforts.

FONAFIFO will prepare an Annual Review Report of the activities towards the achievement of the results of deliverable 2 and share it with UNDP and the project team. The Annual Review Report will consist of updated information and a summary of performance against the minimum progress thresholds and the results of the pre-defined milestones/targets. In addition to the PBPA indicators, a business plan has been developed that provides for more information on FPIC verifiers, allowing for follow-up actions in the territories in a way that respects their knowledge and ensures the participation of internal structures.

**Table N°5. Activities’ Plan**

Theme	Activities	FPIC verifiers
<p>Inform Indigenous Territories about the Project, identify internal governance structures and representative organizations within the Indigenous Territory and invite them to participate in the continuation of the FPIC process.</p>	<p>Accompanying the Government’s Dialogue within the Indigenous Territory            Mapping of stakeholders and characterization of internal governance structures and representative organizations in the indigenous territory.            Documentation of participation in the dialogues previously held (see Annex XI).</p>	<p>Identification of the internal governance structures and representative organizations of the Indigenous Territory            Documentation of the different stages of the consultation process (e.g., Territorializations of the consultation, UTCI note (where available), invitation letters from the REDD+ secretariat to IPs following the criteria laid down by 2018 FPIC Decree).            Generation of roadmaps and protocols <a href="#">for follow-up consultation of the FPIC process</a> (preparatory agreements and work plans).</p>
<p>Carrying forward FPIC agreements, through territorial events with representative organizations (based on existing national processes already in place)</p>	<p>Take up territorially and under internal mechanics the proposals to the themes already established within the consultation agreement.            Definition of the way in which actions under consultations will proceed            Presentation and discussion of the PAFT structure            Adoption of FPIC Agreements            Feedback to the Indigenous Territory on the implementation of the PAFT</p>	<p>PMU and Independent Assessor evaluates PAFTs and confirms content and quality meets FPIC criteria before payments are made.            PMU will ensure that the validation of the PAFT takes place at the territorial level through an Assembly open to all parties</p>



Strengthening women's leadership capacities	Promote activities identified in the Gender Action Plan that involve the participation of indigenous women.	Women's groups have participated in the workshops Indigenous women's collectives participate in the activities included in the gender action plan (Annex XII).
Strengthening of PES modalities in Indigenous Territories	Holding workshops on the special issue of indigenous PES. Workshop discussion on how to strengthen PES modalities on Indigenous Territories Presentation of the grievance mechanism of the PES Programme in Indigenous Territories	Ways to improve PES are defined in the territory from the point of view of the indigenous territories within PAFT. Workshop participants are provided with information on how to access the grievance mechanism. The ways in which resources are allocated within the Indigenous Territory have been discussed. The PAFT contains a resource management plan linked to the improvement of monitoring and accountability mechanisms, agreed and discussed at territorial level.
Strengthening culturally appropriate accountability mechanisms	Presentation on the current accountability mechanisms of ADIs Conduct workshops on culturally appropriate forms of accountability for each indigenous territory.	Workshops have been held to focus on accountability. Workshops have discussed how to strengthen accountability mechanisms, in accordance with the cultural practices of the Indigenous Territory. Ways to strengthen accountability mechanisms have been identified.
Prohibition of PES contracts with non-indigenous people in Indigenous Territories	The PBPA responds to this prohibition, including a payment indicator, where it is mentioned that PES payments to non-indigenous property owners will not be recognized (indicator 2.3).	Indicator of payment in the PBPA, where it is established that private PES contracts (individuals or companies) located in indigenous territories are excluded from the payment of the Project.

Source: REDD+ Results-Based Payments Project, 2022.

## VIII. Communication framework

Dialogue between the Project, together with the REDD+ Secretariat and indigenous peoples is vital for the execution and implementation of the Plan. Indigenous Peoples specialists from the Project will be in charge of establishing and maintaining coordinated contact with the REDD+ Secretariat, and the Indigenous Territories. This will include informing the entities in the Indigenous Territories about progress made, information received, activities and planned meetings. This dialogue should also respect the forms of convening, and indigenous territories should influence the roadmap according to their contexts and logistical needs.

Specifically, the REDD+ Secretariat, with the leadership of FONAFIFO and SINAC, will channel communications with the various entities of the Indigenous Territories, including women's groups. In addition, the institutional grievance mechanism will have a role in answering questions, which is expected to contribute to a dynamic communication framework emphasizing the forms of communication used by the indigenous territories and responding to their governance models, encouraging the participation of sectors, and including possible entities responsible for monitoring and oversight of the processes linked to climate finance mechanism funds.

The communication framework should be inspired by principles of intercultural communication and gender inclusion. These principles should be applied by all stakeholders in the process, and include the following:

- Respecting beliefs and traditions
- Sharing control and responsibilities
- Being prepared to learn new ways of doing things.
- Being patient while demanding commitment and effort.
- Not allow individuals to use the project for personal purposes.
- Keeping people informed
- Actively listen to what people are saying
- Continuously monitoring and evaluating

## IX. Grievance Processes

Given the multiplicity of stakeholders channeling information about the Project, situations may arise where certain information is not adequately communicated or addressed. The availability of accessible procedures to address claims or complaints from affected Indigenous Peoples is an important element in expanding and sustaining the quality of information and implementation of the Plan.

In designing and choosing a grievance structure, stakeholders should consider Indigenous Peoples' traditional forms of dispute resolution and the availability of judicial remedies. The grievance mechanism should also be seen by all participants as an independent, qualified, and neutral actor.

Along these lines, internally and during the territorial events for the construction of the Forest and Territorial Environmental Plan, each territory will carry out its own protocols or steps to present complaints or disagreements. This discussion that takes place in the territory involves the participation of women, young people, the elderly, as well as other sectors that are involved in the generation of this complaint mechanism and above all that become channels through which information is passed, as well as the dissemination of this information in the territory.

## X. Proposed activities to follow up on the Indigenous Peoples' Plan

UNDP will monitor progress towards the achievement of Deliverable 2 Outcomes by FONAFIFO to assess the consistency or discrepancy between planned and actual outcomes and implementation performance, as part of its quality assurance function. This may include, inter alia (1) monitoring performance through the collection of appropriate and credible data and other evidence; (2) analysing evidence to inform management decision-making, improve effectiveness and efficiency, and adjust programming as necessary; and (3) reporting on performance and lessons learned to facilitate learning and support accountability. Such monitoring may require visits to Indigenous territories. The frequency of monitoring will be appropriate for decision-making and will also be aligned with the Project's meeting schedule.

The proposed plan for monitoring and evaluation of the IPP is described below.

**Table 6. Proposed indicators for monitoring and evaluation of Indigenous Peoples of Costa Rica’s REDD+ Results-Based Payments Project 2014-2015**

Proposed monitoring and evaluation activity	Description	Time period	Responsibility
Annual Project Report (APR)	<p>Include a description of IPP progress, as warranted, in the APR, including a summary of how to avoid and mitigate potential impacts, share lessons and good practices for indigenous territories.</p> <p>Proposed Indicators for Monitoring the Indigenous and Gender Plan.</p> <ul style="list-style-type: none"> <li>- Indicator 1. # of indigenous peoples’ territories supported as part of the PES Programme</li> <li>- Indicator 2. Meaningful consultation and participation of indigenous peoples in all matters affecting them.</li> <li>- Indicator 3. Agreements reached and documented</li> <li>- Indicator 4. Types of benefits shared with indigenous peoples</li> </ul> <p>Gender equality and women’s empowerment</p> <ul style="list-style-type: none"> <li>- Indicator 5: Types of measures that promote gender equality and indigenous women’s empowerment</li> <li>- Indicator 6: % of women and men involved in activities and decisionmaking differentiated impacts of activities on women and men identified and addressed</li> <li>- Indicator 7: types of gender-based violence prevention and response measures/protocols in place</li> </ul> <p>Other indicators:</p> <ul style="list-style-type: none"> <li>- Indicator 8: # culturally appropriate accountability mechanisms strengthened</li> <li>-Indicator 9 - # of non-indigenous leases on indigenous lands cancelled</li> </ul>	Annual	FONAFIFO - Together with the project team
Track the progress of IPP implementation	Ensure that IPP implementation is coordinated and completed in a timely manner, with results reported to the REDD+ Secretariat, the project technical unit and shared with Indigenous Territories.	Continuous	FONAFIFO - Together with the project team
Knowledge management	Knowledge, good practices, and lessons will be reviewed and used to inform decisions on how to improve project performance and inclusiveness.	At least annually	FONAFIFO - Together with the project team

Source: REDD+ Results-Based Payments Project 2014-2015, 2022.



## XI. Bibliography

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## XII. Annexes

### ANNEX I. Peoples and organizations consulted

Territorialization summary documents attached in this link: [Territorializations](#)

### ANNEX II. Indigenous Peoples' Plan Workshop Participants

Attendance lists with participants of meetings or workshops in indigenous territories stored here:  
[Attendance lists](#)

## ANNEX III. Letters of interest for voluntary participation in the continuation of the consultation process and the construction of the Forest and Territorial Environmental Plans

Letters of interest attached to this link: [Cartas de interés](#)

See sample letter below.

### ASSOCIATION FOR THE INTEGRAL DEVELOPMENT OF THE INDIGENOUS TERRITORY Tjai CABECAR.

Location: Gavilán (shikalaryaka): Valle La Estrella, Limón. CR. / ID #: 3-002-061490

Telephones: 84904332 – 84903671.

Email: [aditjai2019@gmail.com](mailto:aditjai2019@gmail.com)



Dear Sirs:  
National REDD+ Strategy

Gavilán, Valle la Estrella, April 30th, 2022

**Subject: Letter of interest to participate in the process of construction of the Territorial and Forest Environmental Plans.**

We, the Association for the Integral Development of the Indigenous Territory Cabecar de Tayni, legal identification number 3-02-061490, in session No. 15 held on Saturday, April 30, 2022, aware of the processes that have been carried out in the country for the construction of the National REDD+ Strategy, and now in the framework of its implementation, state that we wish to participate voluntarily in the benefits that may be achieved, whether monetary or non-monetary for the recognition of the results of REDD+.

We wish to express our interest in advancing in the construction of the Territorial and Forest Environmental Plans (PAFT), as a result of the consultation processes in accordance with the Free, Prior and Informed Consent (FPIC) and with agreements reached with the indigenous territories.

At the same time, we express our agreement that the recommendations of the Technical Unit for Indigenous Consultation, in the roadmap defined in a participatory manner, should be considered in these Plans, within the timeframes agreed upon for their construction. This roadmap addresses the activities that allow the identification and participation spaces of the internal structures of the Territory, the identification of actions that enable development, the existence of accountability mechanisms, and the internal follow-up actions within the territory that may be considered convenient.

Sincerely,

**Sediel Morales Ruiz**  
**President of ADI Tjai.**  
Other Representatives.

**Alondra Cerdas Morales. Coordinator**  
**of the Tayni Youth Organization**  
**Coordinator of the Tayni Women's**  
**Orga**



**Coordinator of the Tayni Women's Orga**

## ANNEX IV. Indigenous PES Modalities

### EXECUTIVE DECREE No. 39871-MINAE, of 14 July 2016

“Reforma al Reglamento a la Ley Forestal, Decreto Ejecutivo N° 25721- MINAE del 17 de octubre de 1996”. (“Reform to the Regulations to the Forestry Law, Executive Decree No. 25721- MINAE of October 17, 1996”).

**Article 4.** Sub-paragraphs e) and f) are added to Article 39 of the Regulations to the Forestry Law, Executive Decree No. 25721-MINAE of 17 October 1996, which shall read as follows:

#### **e) Payment for Environmental Services in Indigenous Territories.**

i- The procedure for the application of the Payment for Environmental Services by the Associations for the Integral Development of Indigenous Reserves shall be as indicated in the previous paragraphs; however, by virtue of the particular characteristics of these territories and their form of land tenure, the following regulations are established for access to the Programme:

a) In the event that the Indigenous Reserve does not have the respective cadastral plan, the project may be processed using the route map, for which the National Forestry Financing Fund will use the information detailed in the decree creating the Reserve.

b) When the application refers to a forest protection project in areas that have been subject to Payment for Environmental Services in the last five years, the National Forestry Financing Fund will assume, when requested by the Indigenous Associations mentioned above, the preparation of the technical study and the annual monitoring of the areas submitted, through its professional staff; in accordance with the above, these projects will not require a forestry management contract. This exception will only apply to applications submitted from 2016 onwards.

To formalize the Payment for Environmental Services contract, it will be sufficient for the staff of the National Forestry Financing Fund to verify that the definition of forest established in the Forestry Law No. 7575 is met and to determine the area to be submitted. This is for projects submitted from 2016 onwards.

c) In the event that the areas have not previously had a Payment for Environmental Services contract, the exception in paragraph b) above shall not apply, for which the presentation of the technical study and the respective forest management contract shall be required, in accordance with the established procedures.

d) Payment for Environmental Services contracts entered into by such Associations shall not be registered with the National Registry as an affectation to the property.

ii- The application to join the Payment for Environmental Services Programme must be accompanied by a certified copy of the Minutes of the General Assembly of Associates, in which the implementation of the Payment for Environmental Services project is authorized. Said minutes must include the list of those attending the Assembly and the Treasurer's report approved by the Assembly, reflecting the use given to the resources received by said Associations under the Payment for Environmental Services Programme.

iii- In the areas subject to the Environmental Services Payment Programme for which the respective contracts have been signed, traditional activities may be carried out, including the establishment of subsistence agricultural crops as long as they do not exceed 2% of the area under contract, supervised by the staff of the National Forestry Financing Fund. The contract shall establish the conditions required to comply with this provision.

iv- Without exception, in all cases, the procedures for the application of the Payment for Environmental Services Programme must be subscribed and signed by the president of the Association for the Integral Development of the Indigenous Reserve. The contracts signed with these Associations must establish obligations that allow the financial management to be revealed to all members of the Association.

v- The aforementioned Associations may present Payment for Environmental Services projects for a maximum of 1,000 hectares in forest protection and/or regeneration, and 350,000 trees in agroforestry systems per year. In reforestation projects a maximum of 300 hectares per year.

Source: National Institute of Statistics and Census of Costa Rica, 2011.

## ANNEX V. Population and territorial extent of indigenous territories.

TOTAL INDIGENOUS POPULATION AND SIZE OF TERRITORY BY ETHNIC GROUP								
ETHNIC GROUP	INDIGENOUS TERRITORY	POPULATION 2000			POPULATION 2011		EXTENSION (Has)	TOTAL (Has)
		By territory	Total		By territory	Total		
CABECAR	Alto Chirripó	4,619	9,861		5,985	12,707	77,973	177,739
	Bajo Chirripó	363	752			18,783		
	Tayni	1,807	2,641			16,216		
	Telire	536	533			16,260		
	Talamanca Cabécar	1,335	1,408			23,329		
	Ujarrás	855	1,119			19,040		
	Nairi Awari	346	223			5,038		
	China Kichá	-	46			1,100		
BRIBRI	Talamanca Bribri	6,467	9,645		7,772	12,785	43,690	87,150
	Cocles (Kekoldi)	210	1,062			3,900		
	Saltpetre	1,285	1,588			11,700		
	Cabagra	1,683	2,363			27,860		
BRUNCA (BORUCA)	Boruca	1,386	2,017		1,933	2,593	12,470	23,090
	Curré	631	660			10,620		
TÉRRABA (TERIBE)	Térraba	621	621	1,267	1,267	9,350	9,350	
GUAYMI (NGOBE)	Guaymí or Coto Brus	1,091			1,612	3,654	9,000	26,899
	Abrojo Montezuma	387	2,563			1,480		
	Conte Burica	971	610			12,400		
	Osa Guaymí	114	1,144			2,757		
	Altos de San Antonio	-				1,262		
HUETARES	Quitirrisí	952	1,006			1,354	2,660	5,515
	Zapatón		355			2,855		
GUATUSO (MALEKUS)	Guatuso	460	460	498	498	2,994	2,994	
CHOROTEGA	Matambú	868	868	1,085	1,085	1,710	1,710	
<b>TOTAL</b>		<b>27,041</b>	<b>27,041</b>	<b>35,943</b>	<b>35,943</b>	<b>334,447</b>	<b>334,447</b>	

## **ANNEX VI. Criteria issued by the Technical Unit for Consultation in Costa Rica to the FPIC process carried out by the REDD+ Strategy**

**Ref. Response to official letter REDD-OF-0219-2020, request for criteria for the construction of a methodology of participation in indigenous territories for the recognition of payment and administration of financial resources of different processes linked to the REDD+ secretariat.**

Having assessed your request and the precedents of your representative's work with the different indigenous territories, in the light of the General Mechanism for Indigenous Consultation and other regulations in force in indigenous law, I would like to inform you of the following considerations:

A. That since 2008 FONAFIFO initiated a process of early dialogue with leaders of the 24 indigenous territories of the country to develop the proposal for the participation of indigenous peoples in the National Strategy for Reducing Emissions from Deforestation and Forest Degradation, Forest Conservation, Sustainable Forest Management and Enhancement of Forest Carbon Reserves (EN-REDD+).

B. That as a result of this early dialogue and starting in 2011, a national geographic level process was carried out including the 24 territories that consisted of three stages, namely: prior information, pre-consultation (to initiate the analysis of the information provided and the proposal of key issues) and consultation for the final validation of the National REDD+ Strategy.

C. That the early dialogue was oriented towards the generation of agreements and the granting of free, prior and informed consent of the indigenous peoples. Respecting the right of voluntary participation of the actors, the national legal framework, as well as respect for the worldview, traditional groups, and organizational structure.

D. That in the sense of joint construction, FONAFIFO incorporated a 5-level indigenous participation strategy into the process, which was proposed by the Bribri Cabécar Indigenous Network (RIBCA) and validated with the representative organizations of each territory. Thus, the process included spaces for territorial, regional, and national dialogue. In addition, indigenous representation in bodies such as the national indigenous technical secretariat and the National Executive Committee was considered.

E. That the logic of joint construction between public institutions and indigenous territories has been achieved through similar strategies of participation at territorial, regional and national levels, as is the case of the construction of the same General Mechanism for Consultation with Indigenous Peoples, as stated in recitals XXII, XXIII and XXIV of the Executive Decree.

F. That the process of dialogue and consultation with indigenous peoples resulted in 5 special themes for indigenous peoples: 1. The development of Indigenous Payment for Environmental Services (PSAI) 2. 3. The development of a cultural approach to the conservation and use of forest management. 4. A plan on the relationship and management of protected areas and indigenous territories. 5. A plan for a model of participatory monitoring and evaluation of investments in the territories in the framework of the National REDD+ Strategy.

G. That parallel to the process of dialogue between FONAFIFO and the indigenous peoples, the National Programme of Cultural Mediators was created through which more than 150 cultural mediators were trained in all the indigenous territories, selected by the territorial authorities on the basis of internally defined requirements.

H. That one of the technical studies developed by FONAFIFO parallel to the process of dialogue with the indigenous peoples, concludes that an indigenous PES that is promoted in the territories, and that results in an opportunity to strengthen the economic and social development of the communities, as well as their cultural principles and



values, must guarantee that they respond to the good living standards of the indigenous communities, considering: Distribution (enhancing economic and social development), Transparency and an appropriate use of resources.

I. Based on the previous precedents of joint work with the indigenous territories, FONAFIFO presented a proposal to seek resources for the Indigenous Peoples' Payment for Environmental Services (PSAI) with the Carbon Fund and before the Green Climate Fund, both proposals were approved by both funds and in order to move forward, it is necessary to define the methodology for the implementation of these resources, which are framed in the results of the Costa Rica REDD+ Strategy consultation (National Strategy for Reducing Emissions from Deforestation and Forest Degradation, Forest Conservation, Sustainable Forest Management and Increase in Forest Carbon Stocks). Therefore, the Technical Unit for Indigenous Consultation UTCI issues the following criteria:

I. That although the recognition and distribution of funds or payments for recognition of environmental services may represent some impact that involves changes in the way of life and social dynamics of indigenous peoples (as provided for in Art 2, paragraph e, Executive Decree 40932-MP-MJP), the process carried out by the REDD+ Secretariat in conjunction with indigenous territories since 2008, has complied with the standards (principles and procedures) of the General Mechanism for Consultation with Indigenous Peoples because it has been carried out with the broad participation of indigenous peoples in a free, prior and informed manner, through appropriate procedures and through their representative institutions (Art 1, Executive Decree 40932-MP-MJP).

II. That the intention to create a model or methodology for participatory monitoring and evaluation of investments in the territories within the framework of the National REDD Strategy is one of the results of the process of prior dialogue with indigenous peoples. Thus, the creation of such a methodology is now a responsibility of the REDD Secretariat in compliance with the binding nature of the agreements of any consultative process, as established in Art 7 of Executive Decree 40932-MP-MJP.

III. That the participation of indigenous territories and their permanence in the process will always be voluntary and free, in the event that any territory decides not to continue participating, the REDD+ Secretariat must make use of all relevant channels of dialogue, to understand the reasons for the reluctance to participate, in order to undertake the necessary good faith measures for the proper conduct of the process (Art 12 of Executive Decree 40932-MP-MJP). In such a case, it is urged to document in a timely manner and inform the UTCI of the reasons for the indigenous people's non-participation.

IV. That the context of the COVID-19 pandemic requires fundamental health adaptations and adjustments to carry out face-to-face participation activities. In this regard, it is recommended to- Organize the stages of the process with territorial, regional, and national levels of participation. - Agree with the indigenous territories on flexible mechanisms for the representation and participation of the territories in the different spaces or levels of participation. Value the inclusion of virtual activities and meetings, as long as the necessary connectivity conditions are guaranteed for the participation of the designated indigenous persons. - Create health guidelines for face-to-face activities based on the document: "UTCI- COVID-19 Health Guidelines" attached to this document. - Make the necessary budgetary provisions to meet these conditions.

V. That the above considerations, as well as any other possible considerations regarding the time, manner and place of the participatory process for the participatory creation of this methodology, will have to be previously agreed with the indigenous territories and duly documented as "preparatory agreements" according to article 31 of Executive Decree 40932-MP-MJP.

VI. That the preparatory agreements and any prior consultation must be carried out with the Territorial Indigenous Consultation Bodies set up, as provided for in Article 21 of the General Indigenous Consultation Mechanism, or failing that, in conjunction with the representative organizations of the indigenous people, understanding that these are all those bodies legally or culturally recognized by the indigenous people, for the representation of their affairs,

rights, interests and decisions (Article 2, paragraphs c and j, Executive Decree 40932-MP-MJP). The participation of these organizations does not imply the exclusion of the indigenous people's participation or that decisions are taken exclusively by the representative organizations (Article 3, paragraph d, Executive Decree 40932-MP-MJP).

VII. That each indigenous peoples have the right to decide on its own development priorities. Thus, while the participatory process can be advanced in some stages on a regional or national basis. It is imperative that the strategy contemplates the creation of a territorial plan for the use and distribution of resources for payment of environmental services. This territorial plan will have to be constructed based on the priorities, requirements, and particular conditions of each indigenous territory, with the basic criterion of prioritizing those that contribute to improving the conditions of health, work, housing, education, protection of culture, protection of natural resources, productivity and local economic development. (Article 7, paragraphs 2 and 7 of ILO Convention 169 and Articles 23 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples).

VIII. That considering the principles of the right to consultation (Article 3, paragraphs d, g and h of Executive Decree 40932-MP-MJP), the following should be stated: - That the participation process for the creation of the methodology for the distribution of resources for payment of environmental services should include mechanisms that guarantee direct access of the elderly, youth and women to the spaces for participation, agreement making and decision-making. - Each territorial plan should include the necessary mechanisms to guarantee that these sectors of the population (youth, councils of elders, women's groups or associations, etc.) receive part of the resources for the development of their own agendas such as the promotion of productive ideas, development, conservation or projects of their particular interest - among others - through their organizations or the mechanisms defined in agreement between the representative authorities of the territory and the representatives of each sector or population.

IX. That the REDD+ Secretariat as an institutional counterpart interested in the process will be responsible for addressing controversial issues related to the participatory process for the creation of the methodology, as well as those that may result as internal disputes in the territories during the implementation of the methodology, i.e. at the time of granting and distributing resources for payment of environmental services in compliance with Article 42 Executive Decree 40932-MP-MJP. In this sense and with the intention of preventing possible controversies, it is recommended that the REDD+ Secretariat: a) Create a programme of advice and training aimed at territorial organizations to strengthen their capacities linked to the financial management of their resources. b) Prioritize in the process an agreement to define: A representative body or organization in each territory that will act as the administrator of the funds and its mechanism of accountability to the indigenous territory (it could be considered that this mechanism could be the monitoring of compliance or execution of the territorial plan). Likewise, define a figure also territorial that exercises a role of monitoring the proper use and distribution of funds by the managing entity that reports to the REDD+ Secretariat periodically according to deadlines to be agreed. c) Establish mechanisms for intervention by the REDD+ Secretariat in case of identifying irregularities in the use and distribution of resources. d) Submit to the UTCI biannual reports on progress and status of the process (Art 37 Executive Decree 40932-MP-MJP).



## ANNEX VII. Roadmap for the construction of participatory workshops in indigenous territories.

The participation processes in the territories are specifically aimed at the construction of this component. The action plan of each territory must contemplate three core conditions:

- To be directly linked to the 5 special themes according to the results of the territorialization stage.
- Reflecting the collective interests and needs of communities
- Establish clear rules and criteria for the management and distribution of resources within the territory.

Below are the suggested matrices for gathering the information required to complete the components of the plan. In addition, the matrices will facilitate the planning of the workshops, as they define the objectives of each workshop in advance and delimit the expected outcome and agreements of each community work session.

- **Update and validation of the 5 special themes**
  - Review of the results of the territorialization phase.
  - Validation and updating of territorialization.
  - Validation of territorial stakeholder mapping

Special theme	Community input	Recommendations	Update Adjustment / Validation	Needs Projects/ training	Proposals and interests of the sector
Pre-filled with territorialization results			It is compiled with the implementation of the workshop		
Indigenous PES					
Land reclamation**					
Forests and worldview					
Wildlife protected areas-IT Relationship					
Monitoring and participation					

### 2. Community priorities for plan implementation.

Depending on the results and the update of the territorialization, the community will define what the main needs are in each special theme. The matrix at this point is intended to be a guiding structure to operationalize the plan's proposals. At this point, the communities must organize themselves internally to collectively establish their priorities for each special theme. This exercise also involves internal coordination to define an actor or sector of the village that will take responsibility for implementing the actions of each theme. In this way, the effective participation of youth, women, the elderly, productive and cultural organizations, etc. is encouraged. These should be taken into account as beneficiaries, in compliance with the safeguards for indigenous peoples and the UTCI resolution. Finally, a budgeting exercise is proposed to forecast the distribution of resources.

Special theme	Proposals from the community	Responsible or benefited actors (Women, elders, youth, cultural, authorities, producers, ADI, ITCI, committees)	Priority	Budget Estimate or %

### 3. Resource management and accountability

This space will have the objective of defining the form or organization for the administration of resources and the monitoring of implementation. Likewise, for each of them, rules will be drawn up for the election or conformation of these groups, the profile of the people elected, the internal regulations of each committee and accountability mechanisms.

Territorial Committee	Conformation (# of people, gender, communities, sectors)	Profile or requirements	Period of validity	Inputs for internal status Generate a general draft
Administrative body		History of misuse of funds	Promote turnover	
Audit body				
Monitoring				

### 4. Validation of the implementation plan with the indigenous peoples

The cultural mediators will keep a record of all the workshops and activities linked to the construction of the plan, duly documenting them with minutes, attendance lists and photographs. Based on the matrices and agreements of the previous workshops, a draft document of the plan will be developed, which will be presented and validated in a general assembly of the territory, with the participation of delegates from the different sectors and communities.



## ANNEX VIII. Performance-Based Payments Agreement and relationship with indigenous territories

### Exclusion Criteria

**Exclusion Criterion 2.1** - Payments will not be recognized for existing PES contracts located in indigenous territories that, through the continuation of the consultation process for the development of the Forest and Territorial Environmental Plan (PAFTs, or Indigenous Peoples Implementation Plan) and following the recommendations of the Ministry of Justice and Peace, have not sent to the REDD+ secretariat preparatory agreements<sup>[1]</sup> that include a Letter of Interest to participate in the process. As the country is currently in the consultation process, the list of territories will grow as more indigenous territories agree on their preparatory agreements. From 2023 onwards, no payments will be recognized in indigenous territories that have submitted a letter of withdrawal of interest to participate in the process, also in the case of compliance with indicator 2.2 (Delivery of the PAFT).

### Payment Indicators

**Indicator 2.2** - The Indigenous Territory has a Forest and Territorial Environmental Plan (PAFT, or Implementation Plan) associated with the territory that operationalizes the criteria issued by the Technical Consultation Unit attached to the Ministry of Justice and Peace, which states that “each territorial plan must include the necessary mechanisms to ensure that these population sectors (youth, councils of elders, women’s groups or associations, etc.) receive part of the resources for the development of their own agendas, such as the promotion of productive, development, conservation ideas or projects of particular interest to them”. <sup>[2]</sup> This recommendation is binding because of its nature as a response to the indigenous consultation process carried out in the country.

An additional bonus of 10% of the annual payment value to the territory is established in 2022 if the implementation plan has been developed with this criterion included.

From 2023 onwards, this indicator will become an exclusion criterion, and payments will not be recognized in territories that do not have a validated environmental, forestry and territorial plan that complies with the PAFT scheme provided by the project team.

**Indicator 2.3 - Area in hectares of forest protection contracts under the Payment for Environmental Services Programme in indigenous territories.** The indicator considers the number of hectares under current forest protection contracts within the Payment for Environmental Services Programme located in an Indigenous Territory. The payment can only be recognized for indigenous communities, and not for privately owned land in indigenous territories.

The payment of US\$69.7/ha/year <sup>[3]</sup> includes administrative costs and is recognized to FONAFIFO. In order to comply with this indicator, the existence of contracts with the requirements established in the procedures’ manual of the respective Environmental Services Payment Programme will be verified. In case of field verification, a representative sample will be taken to visit and verify the compliance obligations of the signed contract.

**Indicator 2.4 - Number of trees under current PES contracts in indigenous territories in agroforestry systems.** This indicator considers the number of trees under current contracts and with payment up to date in agroforestry systems within the Payment for Environmental Services Programme that are located in the Indigenous Territory. The payment can only be recognized for indigenous communities, and not for private lands in indigenous territories. The objective of



this indicator is to maintain and protect trees under agroforestry systems contracts at the national level.

The value of USD 1.90 per tree<sup>[4]</sup> includes administrative costs and must be acknowledged to FONAFIFO upon compliance with the requirements established in the procedures' manual. The recognition of the annual payment will be made according to the distribution of the disbursement in the year of validity of the contract with the owner according to the table here:

Year of validity	Year 1	Year 2	Year 3	Year 4	Year 5	Total amount
Payment	\$0.95	0	\$0.47	0	\$0.48	\$1,90

For the fulfilment of this indicator, the existence of contracts with the requirements established in the procedures' manual of the respective Environmental Services Payment Programme will be verified and in case of field verification, a representative sample will be taken to visit and verify the compliance obligations of the signed contract.

**Indicator 2.5 - Area in hectares under current PES contracts in indigenous territory in natural regeneration systems.**

The indicator considers the number of hectares under current contracts and with current payment for natural regeneration within the Payment for Environmental Services Programme that are in the Indigenous Territory. The payment can only be recognized for indigenous communities, and not for private lands in indigenous territories.

The payment of USD 44.65/ha/year<sup>[5]</sup> includes administrative costs and is recognized to FONAFIFO. To comply with this indicator, the existence of contracts with the requirements established in the procedures' manual of the respective Environmental Services Payment Programme will be verified. In case of field verification, a representative sample will be taken to visit and verify the compliance obligations of the signed contract.

<sup>[1]</sup> The REDD+ secretariat will provide a note with the criteria for delivering the preparatory agreement signed by the parties.

<sup>[2]</sup> Ministry of Justice and Peace (2021). Criteria of the Technical Unit for Indigenous Consultation for the construction of a methodology for participation in indigenous territories for the recognition of payment and administration of financial resources for different processes linked to the REDD+ secretariat.

<sup>[3]</sup> FONAFIFO recognizes the landowner 36,498 Colones annually, with the exchange rate established by the guideline DGPN-CIR-0005-2022, issued by the Ministry of Finance 1 USD = 633.51CRC translates to \$57.61 per Hectare. The additional \$12.09 is recognized for administrative costs, in accordance with Art. 64 of the Forestry Law Regulation, which allows FONAFIFO to charge up to 21% administrative costs.

<sup>[4]</sup> FONAFIFO recognizes the landowner 36,498 colons annually, with the change established by the guideline DGPN-CIR-0005-2022, issued by the Ministry of Finance 1 USD = 633.51CRC translates to \$1.57 per Hectare. The additional \$0.33 is recognized for administrative costs, in accordance with Art 64 of the Forestry Law Regulation, which allows FONAFIFO to charge up to 21% administrative costs. Payments will be made according to the year of the contract with the landowner, as identified in the table of the National Forestry Office available here: <https://onfcr.org/monto-por-modalidad>

<sup>[5]</sup> FONAFIFO recognizes the landowner CRC 23,382 annually, with the exchange rate established by the guideline DGPN-CIR-0005-2022, issued by the Ministry of Finance 1 USD = 633.51CRC translates to \$36.90 per Hectare. The additional \$7.75 is recognized for administrative costs, in accordance with Art. 64 of the Forestry Law Regulation, which allows FONAFIFO to charge up to 21% administrative costs.

## ANNEX IX.2 Format for Validation of Results/Performance Thresholds

This form shall be completed by the Independent Assessor (IA) each time a milestone or target result or performance threshold needs to be validated, at least [once] annually or more frequently, as agreed. Relevant evidence, including survey reports, photographs, copies of reports, etc., should be attached to the validation form. They should include a validation of the results against the objectively verifiable indicators and/or performance thresholds reported by FONAFIFO.

	<b>Expected Result Threshold Milestone / target / goal/ agreed for [Date].</b>	<b>Progress validated by the IA [Date].</b>	<b>Data/validation method used</b>	<b>% of Milestone/ Target/ Performance threshold achieved</b>
Output 2: Expansion and improvement of the special programme of payments for environmental conservation services in indigenous territories.				
Exclusion criterion to ensure that payments will not be recognised for existing PES contracts located in indigenous territories that, through the continuation of the consultation process for the elaboration of the Forest and Territorial Environmental Plan, have not sent to the Secretariat REDD+ preparatory agreements including a Letter of Interest to participate in the process.				
Exclusion criterion 2.1 - Number of letters of interest to participate in the consultation process for the preparation of the Forest and Territorial Environmental Plan.	Target result: 20 letters of interest		Annual audit documentary review to assess compliance with the format of the letter agreed with FONAFIFO.	
Measures used to verify the required quality* of forest protection outcomes in Indigenous Territories				
Indicator 2.2 - Number of Indigenous Territories with a Forest and Territorial Environmental Plan	Target result: 20 PAFT		Annual audit, through field visits and documentary review to assess compliance with the criteria of the Technical Unit for Indigenous Consultation for the construction of a methodology for participation in indigenous territories for the recognition of payment and administration of financial resources for different processes linked to the REDD+ secretariat.	
Measurable indicators used to verify the Responsible Party's achievement of PES results				

Indicator 2.3 - Area in hectares of forest protection contracts within the Payment for Environmental Services Programme in indigenous territories.			Annual audit, through field visits and desk review to assess compliance with FONAFIFO's operations manual.	
Indicator 2.4 - Number of trees under PES contracts in existing indigenous territories in agroforestry systems.			Idem	
Indicator 2.5 - Area in hectares under PES contracts in indigenous territories in force in natural regeneration systems.			Idem	

## ANNEX X. Structure of the PAFT or Implementation Plan



### Context



REDD+ Background  
IT characterization  
Stakeholder Analysis



PMU with inputs and review by  
the REDD+ Secretary



### Methodology



Justification of general  
strategy  
Road map by stages



General framework:  
adherence to FPIC principles  
and safeguards  
Specific framework: work  
route and budget for each  
territory.



### Management Plan- operative-



Administrative entity  
Supervisory body  
Monitoring mechanism



REDD+ Secretary, in  
consensus with IT, defines  
national structure with  
adaptations by block/region  
and specific IT cases.



### Action Plan-strategic



Territorialization  
Community Needs  
Distribution of benefits



REDD+ Secretary, in  
consensus with IT, defines  
national structure, with  
adaptations by block/region  
and particular IT cases.



### Risk analysis



Mechanisms to  
mitigate risks  
Strengthen the  
participation process  
IPP Monitoring



It includes the analysis of risks  
identified in the plan. These  
risks and how to mitigate them  
are developed with the  
indigenous territories during  
the construction of the plan.



### Alternative conflict resolution (ACR) mechanism and complaints attention



Institutional Platform  
Information, Feedback  
and Disagreement  
Mechanism (MIRI, by its  
Spanish acronym) for the  
Relevant Stakeholders of  
the National REDD+  
Strategy



Protocol of Intervention of the  
REDD+ Secretariat with MIRI, in  
response to complaints, and  
includes a territorial protocol.



## **ANNEX XI. National agreement for the consultation of the National REDD+ Strategy in indigenous territories in 2021**

San José, December 18, 2012.

We, the indigenous leaders elected by our Peoples as representatives of 18 indigenous territories of Costa Rica, and the Asociación Comisión de Mujeres Indígenas de Talamanca (the Talamanca Indigenous Women's Commission Association), under the protection of national legislation, ILO Convention 169 and other national and international legal instruments that protect our rights. gathered at ICAES in Coronado, San José, we agree as follows:

- 1)** That we recognize and understand that the Indigenous Peoples and territories in Costa Rica are governed by national laws and international instruments that protect indigenous rights.
- 2)** That in the exercise of the rights of representation of the indigenous peoples that we hold according to the national legislation in force, we review the government's proposal for the development of the National REDD+ Strategy for which we have prepared a plan for the National Indigenous Consultation that guarantees that our peoples are adequately consulted.
- 3)** That according to the principle of Free, Prior and Informed Consent, the consultation should be directed to the indigenous men and women of each territory, coordinated by the Development Associations of each territory.
- 4)** That the Integral Development Associations (ADIs) as legal representatives of the indigenous territories of each indigenous territory established by law, shall be the coordinators and facilitators of the consultation process.
- 5)** That for the purpose of better coordination we have organized ourselves by Regional Territorial Blocks (BTRs, for its acronym in Spanish) who will form a board of directors for each respective block, with autonomy to structure their own form of work.
- 6)** That we all agree with the Consultation Plan (Annex 1), in its approach, focus, organizational system, budget and operational plan, which is established therein. That said plan becomes the general plan for the implementation of the consultation process in all the territories we represent.
- 7)** That the government will contribute \$1.1 million dollars from the PCPF funds for the implementation of the consultation process that will be distributed according to the consultation plan in Annex #1, however, in order to improve the coverage and quality of the indigenous proposals, the government may contribute additional resources to the extent possible.
- 8)** That the indigenous representative before the working group (REDD+ Board of Directors) we have elected as owner the Bribri indigenous person, Mr. Herman Carlos Cascante Layan with identity card # 7 093 544 and as alternate the Ngobe indigenous person Mrs. Juliana Andrade Montezuma with identity card # 9-105-161.
- 9)** That we prepared the selection criteria to be included in the Terms of Reference, with which we will hire the



indigenous coordinator that will lead the indigenous consultation process at the national level, attached in annex #2.

**10)** That each BTR will elect its technical assistant, who will be part of the national technical secretariat, which will be notified in writing signed by representatives of all the member territories of the respective BTR.

**11)** That the government of Costa Rica should adjust the National Forestry Development Plan (PNDF) to what has been negotiated in the framework of the REDD+ process, as the PNDF is a public policy binding to the REDD+ strategy and therefore an indigenous safeguard.

Since all the parties agree with what is expressed in this letter and its annexes, we sign in the full use of all our faculties, at 16 o'clock on December 18, 2012.

1. ADI Cabecar Talamanca ADITICA

2. ADI Bribri Talamanca ADIBRI

3. ADI Tayriti.

4. ADI Alto Chirripo

5. ADI Nairy Awari

6. ADI Bajo Chirripo.

7. ADI Kekoldi

8. ADI Conte Burica

9. ADI Alto San Antonio.

10. ADI Matambu

11. ADI Malekú, Guatuso TERRITORIO INDIGENA

12. ADI Alto Laguna

13. ADI Abrojo Moravia

14. ADI Zapatón

15. ADI China Kicha

16. ADI Barras

17. Alto Telire

18. ADI Coto Brus

19. ACOMUITA

## ANNEX XII. Actions of the gender action plan in Costa Rica in relation to Indigenous Peoples

Expected results	Actions
<p>5.1.1 Pilot project integrating women's ancestral agroforestry farms as a model for emission reduction</p>	<ol style="list-style-type: none"> <li>1. Carry out an awareness-raising process on the importance of gender equality and positive masculinities with the ADIs and officials working on indigenous issues (MAG, SINAC, INDER, DINADECO).</li> <li>2. Design a local process to determine the percentage of land tenure (right of use) in the hands of Cabecar and Bribri women.</li> <li>3. Define criteria for the selection of a territory to carry out the information gathering.</li> <li>4. Identify the characteristics of indigenous women's agroforestry farms in collaboration with ADIs.</li> <li>5. Document the activities carried out on ancestral farms based on an integrated approach that recognizes those that contribute to the protection of timber species, productive species (such as cocoa or bananas), species for domestic use (medicinal plants and food), species for construction and the protection of water sources.</li> <li>6. Provide technical support to promote land tenure recognition through activities that contribute to property demarcation.</li> <li>7. Carry out events to exchange experiences of productive projects with other indigenous territories.</li> <li>8. Design and implement a pilot project that integrates women's ancestral agroforestry farms as a model for reducing emissions.</li> <li>9. Provide technical support and incentives to indigenous women producers to improve practices on ancestral farms.</li> </ol>



# OBJETIVOS DE DESARROLLO SOSTENIBLE



El Programa de las Naciones Unidas para el Desarrollo es el principal organismo de las Naciones Unidas dedicado a poner fin a la injusticia de la pobreza, la desigualdad y el cambio climático. Trabajamos con nuestra extensa red de personas expertas y aliados en 170 países para ayudar a las naciones a construir soluciones integradas y duraderas para las personas y el planeta. Pueden obtener más información en [www.cr.undp.org](http://www.cr.undp.org) o seguirnos en [@PNUD\\_CR](https://twitter.com/PNUD_CR)



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