**Indigenous Peoples Participation Plan**

**Project Conserving biodiversity through sustainable management in production landscapes in Costa Rica**

# Indigenous Peoples Participation Plan

## A. Executive Summary of the Indigenous Peoples Plan

The Project “Conserving biodiversity through sustainable management in production landscapes in Costa Rica" (hereinafter, "Productive Landscapes Project") works in two regions: the La Amistad-Pacífico Conservation Area (“ACLAP”), in the south Pacific of Costa Rica and the Interurban Biological Corridor Maria Aguilar (“CBIMA”). The project carries out activities in 4 legally recognized indigenous territories: Ujarrás, Cabagra, Boruca and Salitre, that are located in the ACLAP region.

Regarding the rights of indigenous peoples, international standards, internal regulations and constitutional jurisprudence are unanimous in that there is an obligation of the Costa Rican State to “consult indigenous peoples freely, prior and informed, through appropriate procedures and through its representative institutions, whenever administrative measures, bills promoted by the Executive Power or private projects are envisaged, which may affect them"[[1]](#footnote-1), including affectation as any measure that contains" elements that may imply changes in their legal situation, in collective rights, their way of life, culture, spirituality and social dynamics” [[2]](#footnote-2).

As will be analyzed below, the activities carried out in the 4 indigenous territories do not affect the collective rights or changes the legal situation of the indigenous people. In this sense, the continuity of the existing mechanism of participation between the public institutions and the indigenous peoples involved is proposed, which allows the execution of the project activities, but also a permanent feedback.

As will be seen, according to the Social and Environmental Diagnosis Procedure (“SES”) of the United Nations Development Program (“UNDP”) and the Guidance Note “UNDP Social and Environmental Standards: Standard 6-Indigenous Peoples”, the social and environmental risks derived from the implementation of this project are classified as **low risk**, since it includes activities with very little to no risk of generating adverse social or environmental impacts for the rights of indigenous peoples. For these risks, a series of guidelines and measures will be proposed to mitigate their probability of happening.

This proposal does not intend to create new structures or procedures to establish a specific participation mechanism for this project, but rather seeks to make adjustments to the existing mechanisms for dialogue and coordination between public institutions (such as the National System of Conservation Areas of the Ministry of the Environment and Energy) and the peoples that inhabit the indigenous territories of Ujarrás, Cabagra and Boruca. On the contrary, the proposal will seek to strengthen the existing institutional framework, providing it with some skills and competencies to verify compliance with the safeguards and ensure the participation of indigenous peoples in the execution of the project.

The representative institutions of the indigenous peoples with which the implementation of the project has been coordinated are the Association for the Integral Development of the Indigenous Territory of Boruca, the Association for the Integral Development of the Indigenous Territory of Ujarrás, the Association for the Integral Development of the Indigenous Territory of Salitre and the Association for the Integral Development of the Indigenous Territory of Cabagra. In the case of the Indigenous Territories of Ujarrás and Cabagra, although the ADI supports the execution of the project, many of the coordination and execution activities are carried out through the Fire Brigades and the Biological Monitoring Brigades.

Each of the initiatives is implemented independently in each of the Indigenous Territories. Each of the Associations involved is in charge of presenting, discussing, endorsing and rendering accounts to their respective associates and members of the indigenous people.

Thus, as part of the Indigenous Peoples Participation Plan, a series of safeguards will be promoted for the participation of representative institutions of indigenous peoples, but also to ensure the participation of different groups in vulnerable situations. In particular, this proposal will contain aspects related to intercultural dialogue, participation and respect for the various representative institutions of indigenous peoples, the inclusion of traditional authorities, intergenerational participation, gender equality and parity, the use of indigenous languages, the construction of content, among others.

**B. Project Description**

Costa Rica is recognized for its efforts to protect its natural lands and biodiversity through a network of protected areas that provides protection to approximately 27% of its total continental area (51,100 km2). This successful network stands in direct contrast to the rapid expansion of agricultural frontiers in rural areas that threaten wetlands, privately owned forests, and other terrestrial ecosystems that cover an estimated area of ​​28,419.32 km2 (55.6% of the total area). Crops for export (pineapple and palm oil) and pastures for cattle grazing have expanded at a rate that has exceeded the ability of national and local government entities to control and reduce negative impacts on the biodiversity and forests. As a result, the Costa Rican landscapes that are outside the network of protected areas are fragmented and the few blocks that exist are threatened.

The expansion of commercial agricultural crops in Costa Rica parallels the rapid expansion of urban areas, which in 2010 covered 2,052 km2. In the last 20 years, Costa Rica has gone from being a predominantly rural society to an urban society. Urban areas now constitute the second greatest threat to Costa Rica's biodiversity, as forest cover is removed to make way for residential areas. The government's lack of capacity to protect private lands and the lack of protection of rivers by municipal authorities creates additional problems such as pollution from illegal dumping and urban solid waste. Compounding this problem is the probability of flooding during the rainy season. During the time that Costa Rica conserved forests through its national system of protected areas, the size of cities and the country's productive landscapes expanded to accommodate a more diverse export base.

As part of this analysis, the Productive Landscapes Project aims to mainstream biodiversity conservation, management sustainable land use and carbon sequestration targets in Costa Rica's productive landscapes and interurban biological corridors. This objective will be achieved through a multifocal strategy that includes the development of enabling conditions (policies, technologies, markets and financial mechanisms) to deliver multiple global environmental benefits (conservation of biodiversity, reduction of carbon emissions and greater carbon storage) in managed productive landscapes and interurban biological corridors, specifically in two productive landscapes: the buffer zone of the protected areas of the Amistad Pacífico Conservation Area (ACLA-P) and the María Aguilar Interurban Biological Corridor (MAIBC). For the purposes of this Indigenous Peoples Participation Plan, we will focus on 4 existing indigenous territories in the Amistad Pacífico Conservation Area (ACLA-P): Ujarrás, Cabagra, Boruca and Salitre.

The project focuses on reducing the loss of natural habitat that results from the rapid and uncontrolled change of land use due to agricultural expansion in the ACLA-P and urban expansion in the MAIBC. The project will strengthen the capacities of the National Environmental Information System (“SINIA”) and SNIT to generate annual data that can be used by public and private actors to address threats to biodiversity. The methodological standards for the generation and use of information on land use / cover will be available through the Soil and Ecosystem Cover and Use Monitoring System (“SIMOCUTE”), which is coordinated by the National Center for Geoenvironmental Information (“CENIGA”) in the context of SINIA, as well as the inter-institutional arrangement according to the roles and competencies that are defined in the current legislation.

The project is structured in three components. The first component aims to create favorable conditions (policies, technologies, markets and finance) for the delivery of multiple GEBs in managed productive landscapes and interurban biological corridors. This is critical to investing in a long-term enabling environment for the delivery of multiple GEBs in production environments. To this end, the project has been working within the framework of SIMOCUTE to consolidate an information system for environmental decision-making, applicable annually. Decree No. 37658-MINAE names CENIGA as the coordinating entity of SINIA, which also coordinates SIMOCUTE. Therefore, through this component, the project has invested in strengthening the role of CENIGA, so that it can fulfill its mandate as a regulator and axis of the various institutions that provide environmental information, particularly related to the coverage of forest loss. in the country.

The second component works on the delivery of multiple GEBs (biodiversity conservation, carbon emission reduction and increased carbon storage) in production landscapes in the ACLA-P buffer zone area. In this component, the project works with local partner organizations, agricultural associations and non-governmental stakeholders on innovative approaches to agricultural production at the small and medium farm level as a learning approach to counter threats and share knowledge. Likewise, in an urban context, the project develops important interventions to connect and increase green areas and in MAIBC in alliance with local organizations, municipalities and communities. Key elements of the previous component, such as the periodic monitoring of land cover change and the establishment of a verification system of production units free from loss of forest cover, are tested in the ACLA-P and the MAIBC with the assistance of government officials, local governments, communities and private landowners, including producers of livestock, pineapple and palm oil.

Finally, the third component deals with knowledge management and monitoring and evaluation. In this component, the project collects and shares lessons learned in a systematic and efficient manner, with special emphasis on the development and dissemination of knowledge. Through M&E and learning tools, this component supports adaptive management so that the project integrates the experiences that result during the implementation of the activities in the new programmatic cycles of the project.

Through this strategy, the project will contribute to reducing the accelerated loss of natural habitat caused by rapid and uncontrolled land use change, mainly due to the expansion of agricultural activities in the ACLA-P and urban growth in the MAIBC. The project has a duration of 5 years with a total investment of $6,699,315 USD, which will be provided by the GEF. In the case of ACLAP-P and the Indigenous Territories, all the activities carried out belong to the second component. The following activities are currently being carried out:

**- Output 2.1: Twenty (20) tree nurseries for endemic and native plant species established to support landscape management tools, and Output 2.2. Financing of socio-productive community initiatives in the ACLA-P supports the implementation of the Landscape Management Tools.** Under these two activities, the installation of a tree nursery in the Cuij-Cuij farm was developed in the Boruca Indigenous Territory for the reproduction and reforestation of the raft species, widely used for the production of handicrafts and other species for reforestation for conservation such as rum- Rum, Ojoche, Guachipelin, Sotacaballo, Cenízaro, Mahogany and Cedar.

**- Product 2.4. Risk mapping system for the prevention of forest fires that includes the classification of vegetation to determine its level of combustion.** Under this activity, support has been provided to the Fire Brigades existing in the Indigenous Territories of Ujarrás, Cabagra and Salitre, areas of high regularity of fires in dry seasons.

**- Product 2.5. The participatory biological monitoring pilot program linked to PRONAMEC includes an interactive online platform for the exchange of information.** Under this activity, the Biological Monitoring Brigades have been created in the Indigenous Territories of Ujarrás, Cabagra and Salitre. These brigades are created to monitor and identify the existing biodiversity in both territories. They receive a series of face-to-face and virtual trainings for the development of biodiversity identification capacities (birds, mammals, snakes, amphibians, among others), and also equipment, such as binoculars, uniforms, field guides, and cameras.

**- Output 2.9. Environmental education program led by ACLA-P in coordination with actors involved with the conservation of biodiversity and forests in productive landscapes.** Under this product several activities will be implemented. In first place, training will be carried out on environmental education, which will contain topics related to the ecological environment, the protection of the tapir, responsible consumption, bird watching, the protection of water resources, prevention and care of forest fires and agroecology. On the other hand, 4 indigenous women will be hired from the territories in which they work, which will allow a cultural mediation of the training contents.

**- Output 2.11. Strengthened local and institutional capacities for citizen participation and governance of the productive landscapes of the ACLA-P.** Under this product, at least two activities will be carried out. On the one hand, support will be given to the constitution and implementation in all territories of the Natural Resources Surveillance Committees (COVIRENA), induction workshops will be held on their main responsibilities and the scope of their work, and support will be given for the constitution of your annual work plan. Moreover, the 4 indigenous women hired by the project will make it possible to carry out awareness-raising spaces for SINAC officials, which will include training on the worldview and rights of indigenous peoples.

**C Description of the Indigenous Peoples affected: the Indigenous Territories of Ujarrás, Salitre, Cabagra and Boruca**

According to the 2011 Census, there are 104,143 indigenous people in Costa Rica, of which around 48,500 live within their territories[[3]](#footnote-3). This is equivalent to an approximate 2.42% of the national population registered in 2011 (4,301,712) [[4]](#footnote-4). This population is found in 24 indigenous territories, distributed in 6 of the 7 provinces of the country[[5]](#footnote-5). Most of the Territories are located in 3 large regions: 8 territories on the Atlantic coast (Bribri and Cabécar peoples), 5 territories on the border with Panama (Ngabe-Buglé peoples) and 7 territories of various peoples in the Cantón of Buenos Aires-Pérez Zeledón[[6]](#footnote-6). The remaining 4 indigenous territories are found in various areas of the country. Thus, Matambú (Chorotega people) is located in the province of Guanacaste, the territories of Zapatón and Quitirrisí (Huetar people) are located in the province of San José and the territory of Maleku (Maleku people) is located in the province of Alajuela[[7]](#footnote-7).

The area of ​​the canton of Buenos Aires de Puntarenas presents a particular multicultural circumstance: it is inhabited by four of the eight indigenous peoples recognized in Costa Rica (Bruncas, Terrabas, Bribris and Cabécares), by non-indigenous population and by indigenous population of panamanian origin. In total, there are six indigenous territories within its limits: Ujarrás, Salitre, Cabagra, Boruca, Térraba and Curré. The indigenous territories of China Kichá (Pérez Zeledón canton) and Coto Brus (La Casona, Coto Brus) are located in its surrounding areas[[8]](#footnote-8).

The indigenous territories of the Buenos Aires region were the first territories to be declared as indigenous territories in Costa Rica. Thus, Decree 34 of 1956 created the territories of Boruca-Térraba, Ujarrás-Salitre-Cabagra and China Kichá[[9]](#footnote-9). This decree sought to implement the 1939 Law of Uncultivated Lands, according to which the lands inhabited by indigenous communities were declared inalienable. Later these territories were subdivided in such a way that each one corresponded to each one of the towns[[10]](#footnote-10).

Boruca (Brunca people) and Térraba (Brorán people) were segregated into two independent indigenous territories, in the same way as Ujarrás (Cabécar people), Salitre (Bribri people) and Cabagra (Bribri people). Thus, the total area of ​​the territories was defined as follows: Boruca 2,470 hectares, Cabagra 27,860 hectares, Salitre 11,700 hectares and Ujarràs 19,040 hectares. According to the 2011 Census, the populations of these territories are:

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| --- | --- | --- | --- |
| Costa Rica: Total population in indigenous territories by self-identification according to indigenous territory[[11]](#footnote-11) | | | |
| Indigenous Territory | Total population in  indigenous territory | Indigenous population | Non-indigenous population |
| Salitre | 1807 | 1588 | 219 |
| Cabagra | 3188 | 2363 | 825 |
| Boruca | 3228 | 1933 | 1295 |
| Ujarrás | 1321 | 1119 | 202 |

Some of the relevant characteristics of the indigenous Territories where the activities are carried out are reviewed below:

**Ujarrás**

The territory of Ujarrás is inhabited by indigenous Cabécares, who speak a different linguistic variety from the Talamanca region and maintain some customs and traditions typical of their people. However, due to the socio-historical dynamics of the region, currently there are high levels of acculturation. For example, their traditional doctors are preserved and the language is still maintained in a large part of the population. There is subsistence agriculture with basic grains, which is combined with day labor on farms. In some cases, there is labor insertion in the center of Buenos Aires, as well as in other urban areas of the country[[12]](#footnote-12).

**Salitre y Cabagra**

The Salitre and Cabagra territories, meanwhile, are inhabited by indigenous Bribris. They maintain the language to some degree, but with dialect peculiarities that distinguish it from the varieties of the Talamanca region. These territories still present many of the customs and traditions of the Bribris, but, as in the case of the Cabécares, there are high levels of acculturation. They preserve the worldview and the clan system, as well as traditional practices related to the events of birth and death. There is still a presence of traditional doctors (awá). They develop a subsistence economy with agriculture of basic grains, which is combined with farm labor. There is also some degree of labor insertion in the center of Buenos Aires and in other urban areas of the country.

Due to the high occupation of non-indigenous people within the Salitre Territory, a little more than a decade ago in Salitre a process of land recovery began that, although they are within indigenous territories, are in the hands of non-indigenous people. indigenous peoples, either because they were not appropriately expropriated before 1977, or because they improperly invaded after this date. Thus, the land recovery processes generated reactions from non-indigenous owners or possessors, generating a context of violence and threats against the recovery groups.

**Boruca**

The Boruca territory is inhabited by indigenous people of the Brunca people. The Bruncas have traditionally inhabited the Buenos Aires region and the Grande de Térraba river basin. In the 17th century, they were pacified and came under the control of the Franciscan friars with the status of “indigenous reduction”. Its territory was part of the Camino de Mulas route, which communicated Central America with Portobelo, in Panama. Despite the presence of the friars, the Bruncas maintained many of their traditions until recent times, including their language, which ended up being lost with the death of the last of its fluent speakers in 2000. Currently, there are only semi-fluent speakers , most of which inhabit Boruca. The Brunca language has been classified among the Chibcha languages. The Bruncas continue to maintain particular craft traditions; Among them, cotton fabrics, the extraction of natural dyes and the manufacture of masks stand out. Related to this last manufacture, they hold the Fiesta de los Diablitos at the end of each year and at the beginning of the next. This festivity of colonial origin represents the confrontation between the Bruncas and the Spaniards in the conquest, as well as the renewal of their indigenous identity. The Bruncas are an indigenous people with high levels of acculturation and are highly integrated into national life, which is due to their early evangelization and the subsequent socio-historical process that developed in the region[[13]](#footnote-13).

Regarding production, in the Bruncas territories there is cultivation of basic grains for self-consumption, pigs, cattle and poultry, as well as coffee and squash crops. In the case of Curré, the banana production stands out. Likewise, there is significant labor integration in the urban center of Buenos Aires and other cities in the country. There are different organizations of producers and artisans, as well as other groups related to the defense of cultural manifestations[[14]](#footnote-14). Likewise, in Buenos Aires there is a significant proliferation of organizations governed by civil association regulations, both at the regional level and within each of the territories, which are presented as strategies for the defense of identity, the recovery of lands and the rescue of culture. Several of these groups channel productive and rural tourism projects that have become alternatives for economic income[[15]](#footnote-15).

**D. Synthesis of Substantive Rights and the Legal Framework**

1. **Legal Framework**

In Costa Rica, the rights of indigenous peoples are recognized in various types of norms. Thus, there are a series of constitutional norms, international treaties and declarations, laws, decrees and public policies. On the other hand, there is a series of national and international jurisprudence that has impacted the interpretation of the rights of indigenous peoples. In the first instance, general regulations will be reviewed, and then the specific regulations that regulate the participation of indigenous peoples in matters that affect their rights will be analyzed.

Since its creation in 1949, the first rule of constitutional rank to refer to the existence of indigenous peoples was the creation of Article 76 in 1975, which determined the duty of the State to ensure the maintenance and cultivation of national indigenous languages[[16]](#footnote-16). The next constitutional reform regarding indigenous peoples was the amendment to Article 1, which added the qualifiers "multi-ethnic and multicultural" in the characterization of Costa Rica as a "Democratic Republic, free and independent"[[17]](#footnote-17).

Regarding international treaties, we can refer to at least 3 of great relevance for the recognition of the rights of indigenous peoples. In the first instance, the American Convention on Human Rights of 1969[[18]](#footnote-18), which despite not containing references to collective rights or rights of indigenous peoples in its original formulation, has been interpreted by the Inter-American Court in its jurisprudence in a sense that protects rights collectives of indigenous peoples, such as rights to land, territories and their resources, rights to political participation, rights to participation and consultation, the right to free, prior and informed consent, among others.

On the other hand, ILO Convention 169 on Indigenous and Tribal Peoples of 1989, which constitutes the main international instrument on the protection of the rights of indigenous peoples, and whose “cornerstone” is the right to consultation and free, prior and informed consent. This norm recognizes rights in the areas of non-discrimination, the protection of culture, the right to prior consultation, participation, the protection of the environment, the protection of their customs and customary law, the protection of methods of conflict resolution, the protection of land, territories and their resources, the right to ownership of traditionally occupied lands and the respective safeguard mechanisms, labor rights and conditions, professional training, rights related to health and social security, education, among others.

Finally, the United Nations Declaration on the Rights of Indigenous Peoples of 2011, which recognizes a list of rights similar to that of ILO Convention 169, but which increases the guarantee of the right to consultation by recognizing the obligation of the state to obtain their free, prior and informed consent and also recognizes the right to self-determination in a sense that allows them to determine their political status and the free pursuit of their economic, social and cultural development[[19]](#footnote-19).

At the legal level, Indigenous Law No. 6172 of 1977 is the main norm regarding the protection of the rights of indigenous peoples[[20]](#footnote-20). Although said norm does not recognize rights related to participation or consultation, it does recognize the existence of indigenous peoples; it granted legal status to indigenous territories and recognized them as inalienable and imprescriptible, non-transferable and exclusive for the indigenous communities that inhabit them; it recognized the full capacity of indigenous peoples to acquire rights and undertake obligations, and it recognized the right of peoples to abide by their traditional community structures or by the laws of the Republic that govern them[[21]](#footnote-21). On the other hand, it established that non-indigenous persons who are owners or possessors in good faith within indigenous territories would be relocated, expropriated or compensated as appropriate[[22]](#footnote-22).

The regulation of this law has a particularity that should be highlighted. Although article 4 of the law determined that the territories would be governed by the indigenous peoples in their traditional community structures or the laws of the Republic[[23]](#footnote-23), in its regulations it was determined that they would be governed by the figure of the Association stablished in Law No. 3859 of the National Directorate of Community Development Associations and its Regulations[[24]](#footnote-24). This regulation generated a great impact for indigenous peoples, since it only failed to legally recognize traditional structures and imposed an alien and standardized structure of representation on current indigenous territories.

The right to consultation and participation was the main object of Executive Decree No. 40932-MP-MJP General Mechanism of Consultation for Indigenous Peoples[[25]](#footnote-25). The purpose of said norm is to regulate the obligation of the Executive Power to consult indigenous peoples freely, prior and informed, through appropriate procedures and through their representative institutions, whenever administrative or legal measures that may affect their rights[[26]](#footnote-26).

It should be clarified that the consultation of indigenous peoples, in the terms provided by the Mechanism, operates only when there is affectation in the strict sense, understood as those changes in a legal situation, in collective rights, in the way of life, culture, spirituality and social dynamics[[27]](#footnote-27).

Some of the particularities in the dialogue and consultation format introduced by this Executive Decree are: a) Introduces a definition of collective rights (art.2.f); b) Recognizes the role and participation of legally or culturally recognized representative institutions (article 2.j); c) It introduces principles with specific content such as good faith, intercultural dialogue, respect for representative organizations of indigenous peoples, the inclusion of traditional authorities, self-determination, intergenerational participation, gender equality, culturally appropriate procedures, among others; and d) Introduces a definition that gives content to the agreements and the free, prior and informed consent.

Although the General Mechanism of Consultation for Indigenous Peoples is an instrument that regulates the cases where collective rights are affected and is reserved for qualified cases, it also constitutes a guiding norm on how public institutions should guide their participation processes with the Indigenous villages.

Finally, it should be noted that the appearance of the Constitutional Court in 1989 constitutes a new stage for the enforceability of fundamental rights and the integration of International Human Rights Law in the Costa Rican legal system. The rights of indigenous peoples is no exception. The Court gradually began to get involved in the resolution of matters related to land, exploitation of natural resources (minerals, oil), representation institutions and competences of the Integral Development Associations, issues related to CONAI, the Indigenous Law, education matters, the Autonomous Development Law, the El Diquís Hydroelectric Project, environmental effects within Indigenous Territories, issues related to water resources, among others. Furthermore, since the rights to participation and consultation of indigenous peoples are human rights recognized in our legal system, they have begun to prosecute political processes, the creation of public standards and public works. The most recognized case is that of the PH Diquís, whose progress was suspended in 2011 by the Constitutional Court as it did not have the consultation of the indigenous peoples consulted.

1. **Institutions**

There are a few public institutions with competencies to guarantee the rights of indigenous peoples. In the case of the Executive Branch, there are currently 3 relevant institutions.

In first place, the National Commission for Indigenous Affairs (CONAI), which in general terms is the institution in charge of ensuring the protection and promotion of the rights of indigenous peoples, of generating coordination with other public institutions and of acting as coordinator of resources to promote the development of indigenous communities. Secondly, the Vice Ministry of the Presidency for Political Affairs and Citizen Dialogue, which since 2014 has assumed the coordination of multiple rights agendas within the Executive Branch. Finally, the National Directorate for Alternate Conflict Resolution of the Ministry of Justice and Peace, an institution that houses the General Mechanism for Consultation of Indigenous Peoples and the Technical Unit for Indigenous Consultation since 2018, which has gradually begun to represent the Government in many of the political-institutional spaces. The Technical Unit is in charge of the technical and financial management of the consultation processes and the establishment of Territorial Instances of Indigenous Consultation as indigenous counterparts in charge of the dialogue with the Executive during the consultation processes. It is also the administrative body that determines the application of the General Mechanism for Indigenous Consultation in a given case.

The mentioned are the main institutions in matters of dialogue and rights of indigenous peoples. However, it should be noted that most of the Executive Branch institutions have specific mandates for the care of said population. This is the case of institutions such as the ministries of Health, Education, Housing, Public Works, Culture, Agriculture, Security, Migration, Environment and Energy, Labor and Social Security, Planning, Mixed Institute of Social Assistance, National Institute of Women, Costa Rican Social Security Fund, Costa Rican Electricity Institute, Costa Rican Institute of Aqueducts and Sewers, National Children's Trust, Rural Development Institute, among others.

#### E. Potential impacts, risks associated with project activities and mitigation measures

The project, like any development and conservation initiative, will have an impact in the region. Therefore, it is important to evaluate its potential negative impacts in order to establish mitigation measures and advance towards sustainability based on local ownership, articulation with traditional environmental management systems and social legitimacy. To this end, social and environmental safeguards, consultation and participation rights have been established, and there are applicable international standards for this type of project.

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| --- | --- | --- |
| **Activity / Product** | **Impact / risks** | **Mitigation measures** |
| Component 2: Multiple GEBs (conservation of biodiversity, reduction in carbon emissions, and increase in carbon sinks) are generated in the productive landscapes in the forest area of ​​the ACLA-P buffer zone (Region 1) | | |
| Output 2.1: Twenty (20) trea nurseries for endemic and native plant species established to support landscape management tools (Boruca) | The inappropriate or unplanned location or planting of forest species may imply their loss or inability to use them. | Determine with the community and the competent institutions, the territories and areas most suitable for planting forest species, depending on whether they are for use or for conservation (for example, those that collaborate in the establishment of micro-corridors that ensure the connectivity of landscapes ) |
| Output 2.2. Financing of socio-productive community initiatives in the ACLA-P supports the implementation of the Landscape Management Tools (LMT) (Boruca) |
| The risk identified is that the forest species produced will not be planted or will have to be planted in the following season | Urge the ADIs to generate an annual work plan that allows the establishment and fulfillment of technical guidelines and clear goals; determine the recipients; the times and places in the territory where the reforestations will be carried out |
| Inappropriate or different management than required by the forest nursery, results in unhealthy production and the impossibility of taking advantage of forest species  (The technical and timely attention to pests and diseases that affect forest species; the correct operation of irrigation systems) | Establish coordination and care agreements with public institutions such as MAG, FONAFIFO and SINAC to communicate, attend and assist emergencies related to pests and diseases of nurseries and plantations or operation of irrigation systems |
| The impact of climate variability, such as landslides, droughts, rains, and floods, affect the sustainability of forest plantations | Establish a plantation management plan that allows preventing erosion and soil control, among other issues related to environmental management |
| Output 2.4. Risk mapping system for the prevention of forest fires that includes the classification of vegetation to determine its level of combustion. | The lack of spaces for exchange and dialogue may imply an exclusion of traditional indigenous knowledge related to the conservation and management of biodiversity. | Promote and encourage the involvement of representative institutions, traditional authorities, women's groups, agricultural groups, youth, and artisan groups.  Urge indigenous peoples to make contributions based on their knowledge of the territory. |
| The lack of spaces for exchange and dialogue can prevent the exploration and determination of some causes and social origins of fires. | Provide spaces that allow analyzing the various origins of fires, including those of social origin and related to territorial conflicts.  Carry out awareness campaigns with a gender perspective that address the causes of these fires. |
| Output 2.5. The participatory biological monitoring pilot program linked to PRONAMEC includes an interactive online platform for the exchange of information. | The lack of spaces for exchange and dialogue may imply an exclusion of traditional indigenous knowledge related to the conservation and management of biodiversity. | Promote and encourage participatory spaces with indigenous peoples to make contributions based on their knowledge of the biodiversity of the Territory |
| Non-confidential or inappropriate handling of the information captured by camera traps can motivate illegal hunting | - Establish verbal confidentiality agreements in the handling of information and that it is used for conservation, research or tourism purposes.  - Clarify the operating standards of the biological monitoring brigades |
| Output 2.9. Environmental education program led by ACLA-P in coordination with actors involved with the conservation of biodiversity and forests in productive landscapes. | The omission in the translation or interpretation of the content into indigenous languages ​​may lead to a lack of understanding of the same and the discouragement of indigenous languages. | Seek to have interpretation in the various training spaces  Develop content versions in Bribri and Cabécar languages |
| The absence of incorporation of indigenous peoples in the development of the contents of the education program, inhibits the opportunity to introduce ancestral knowledge on conservation in said programs | Promote participatory spaces with indigenous peoples to make contributions to the development of content.  Incorporate indigenous cultural mediators from the territories to participate in knowledge management |
| Output 2.11. Strengthened local and institutional capacities for citizen participation and governance of the productive landscapes of the ACLA-P. | The absence of an adequate understanding of the competences and limitations of the COVIRENA, may lead to attempts to supplant the functions of public authorities | Establish and explain in the induction workshops the competences and limitations of the COVIRENA and support the constitution of their annual work plans. |

According to the ProDoc, the project's general risk categorization is **low risk**. The project will include activities with minimal or no risk of adverse social or environmental impacts for indigenous peoples. As part of the project, an analysis and assessment of the potential impacts and risks for the collective rights of the indigenous peoples involved is required. It should be remembered that all interventions in the 4 Indigenous Territories are given at the request or request of the respective Integral Development Associations.

To identify potential impacts for indigenous peoples, the UNDP Social and Environmental Assessment Procedure and the social and environmental risk detection checklist are used, which provide a series of guidelines to help identify whether the project it can present adverse effects, impacts and risks for indigenous peoples. When assessing potential impacts on indigenous peoples, it is important to consider: (i) All outcomes and activities outlined in the Project Results and Resources Framework and annual work plans - whether originating within or outside of the lands and territories of indigenous peoples - must be examined and reviewed for possible direct and indirect impacts in the Project's area of ​​influence, and that (ii) Project activities must be examined for possible social and environmental risks prior to implementation of planned mitigation and management measures to form a clear picture of potential risks, in the event that mitigation measures are not implemented or fail. Risks should be identified and quantified as if no mitigation or management measures were in place.

To carry out the Social and Environmental Assessment Procedure, semi-structured virtual interviews were carried out with the different actors involved in the implementation of the project. Thus, interviews were conducted with officials of the National System of Conservation Areas of the La Amistad-Pacífico Conservation Area and with the implementing officials of the United Nations Development Program. On the other hand, a meeting was held in each of the 3 indigenous territories where the project activities are carried out. Said meetings were convened through the 3 Integral Development Associations, and counted on their participation and that of the members of the Fire Brigades and the Biological Monitoring Brigades.

**What are the possible social and environmental risks?**

To preliminarily answer this question, we will use Attachment 1 of the UNDP Social and Environmental Assessment Procedure called the Social and Environmental Risk Diagnostic Checklist. Thus, a series of yes or no questions are presented, related to the potential risks that may arise in the project and the principles of the SES. All “yes” answers on the checklist point to a possible risk. The questions and their answers are presented below:

|  |  |
| --- | --- |
| **SESP Annex 1. Social and Environmental Risk Screening Checklist** |  |
| Principle 1: Human rights | Answer  (Yes/No) |
| 1. ¿Could the Project generate adverse impacts on the enjoyment of human rights (civil, political, economic, social or cultural) of the affected population and particularly of marginalized groups? | N |
| 2. ¿Is there a possibility that the Project has adverse inequitable or discriminatory impacts on the affected populations, particularly on people living in poverty or on marginalized or excluded individuals or groups? | N |
| 3. ¿Could the Project potentially restrict the availability, quality and access to basic resources or services, particularly to marginalized individuals or groups? | N |
| 4. ¿Is there a possibility for the Project to exclude potentially affected stakeholders, particularly marginalized groups, from fully participating in decisions that may affect them? | N |
| 5. ¿Is there a risk that the obligation holders will not have the capacity to fulfill their obligations in the Project? | N |
| 6. ¿Is there a risk that rights holders will not have the ability to claim their rights? | N |
| 7. ¿Were the communities given the opportunity to raise their human rights concerns regarding the Project? | Y |
| 8. ¿Is there a risk that the Project will exacerbate conflict and / or the risk of violence for the communities and individuals affected by the project? | N |
| Principle 2: Gender equality and empowerment of women |  |
| 1. ¿Is there a possibility that the proposed Project has adverse impacts on gender equality and / or the situation of women and girls? | N |
| 2. ¿Could the Project reproduce discrimination against women based on gender, especially in regards to participation in design and implementation or access to opportunities and benefits? | Y |
| 3. ¿Have women's groups / leaders raised gender equality concerns regarding the Project during the stakeholder engagement process and has this been included in the overall Project proposal and risk assessment? | N |
| 4. ¿ Would the Project potentially limit the ability of women to use, develop and protect natural resources, taking into account the different roles and positions of women and men in accessing environmental goods and services? |  |
| Principle 3: Environmental sustainability |  |
|  |  |
| Standard 1: Biodiversity Conservation and Sustainable Management of Natural Resources |  |
| 1.1 ¿Could the project cause adverse impacts to habitats (eg modified, natural and critical habitats) and / or ecosystems and ecosystem services? For example, through habitat loss, conversion or degradation, fragmentation, hydrological changes | N |
| 1.2 ¿There are proposed Project activities within or adjacent to critical habitats and / or environmentally sensitive areas, including legally protected areas (for example, nature reserve, national park), areas proposed for protection or recognized as such by authorized sources and / or indigenous peoples or local communities? | Y |
| 1.3 ¿Does the Project involve changes in land and resource use that may have adverse impacts on habitats, ecosystems and / or livelihoods? (Note: if restrictions and / or limitations on access to land apply, see Rule 5) | N |
| 1.4 ¿Would the project activities pose risks to endangered species? | N |
| 1.5 ¿Would the project represent a risk of introducing invasive alien species? | N |
| 1.6 ¿Does the project involve the clearing of natural forests, the development of plantations or reforestation? | Y |
| 1.7 ¿Does the Project involve the production and / or collection of populations of fish or other aquatic species? | N |
| 1.8 ¿Does the project involve significant extraction, diversion or containment of surface or groundwater? For example, construction of dams, reservoirs, river basin developments, groundwater extraction | N |
| 1.9 ¿Does the project involve the use of genetic resources? (eg harvesting and / or harvesting, business development)? | N |
| 1.10 ¿Would the Project generate potential adverse global or transboundary environmental concerns? | N |
| 1.11 ¿Would the Project result in secondary or consequential development activities that could lead to adverse social and environmental effects, or would it generate cumulative impacts with other known existing or planned activities in the area? | N |
| Standard 2: Mitigation and adaptation to climate change |  |
| 2.1 ¿Will the proposed Project produce significant greenhouse gas emissions or can it exacerbate climate change? | N |
| 2.2 ¿Would the possible results of the project be sensitive or vulnerable to the possible impacts of climate change? | Y |
| 2.3 ¿Is the proposed Project likely to directly or indirectly increase social and environmental vulnerability to climate change now or in the future? | No |
| Standard 3: Community Health, Safety and Working Conditions |  |
| 3.1 ¿Would the construction, operation or decommissioning elements of the Project pose potential safety risks to local communities? | N |
| 3.2 ¿Would the Project present potential risks to the health and safety of the community due to the transportation, storage and use and / or disposal of dangerous or dangerous materials? | N |
| 3.3 ¿ Does the project involve the development of large-scale infrastructure (eg dams, roads, buildings)? | N |
| 3.4 ¿Would the failure of the structural elements of the Project represent risks for the communities? (for example, collapse of buildings or infrastructure) | N |
| 3.5 ¿Would the proposed Project be susceptible or lead to increased vulnerability to earthquakes, subsidence, landslides, erosion, flooding, or extreme weather conditions? | N |
| 3.6 ¿Could the Project generate greater health risks (for example, water-borne diseases or other vector-borne diseases or communicable infections such as HIV / AIDS)? | N |
| 3.7 ¿Does the Project present potential risks and vulnerabilities related to occupational health and safety due to physical, chemical, biological and radiological hazards during the construction, operation or closure of the Project? | N |
| 3.8 ¿Does the project involve support for employment or livelihoods that may violate national and international labor standards (ie principles and standards of fundamental ILO conventions)? | N |
| 3.9 ¿Does the Project involve security personnel who may pose a potential risk to the health and safety of communities and / or individuals (for example, due to lack of adequate training or responsibility)? | N |
| Standard 4: Cultural Heritage |  |
| 4.1 ¿Will the proposed Project lead to interventions that would potentially negatively impact sites, structures or objects with historical, cultural, artistic, traditional or religious values ​​or intangible forms of culture (eg knowledge, innovations, practices)? | N |
| 4.2 ¿ Does the project propose to use tangible and / or intangible forms of cultural heritage for commercial or other purposes? | N |
| Standard 5: Displacement and Resettlement |  |
| 5.1 ¿ Would the Project potentially imply a total or partial temporary or permanent physical displacement? | N |
| 5.2 ¿Could the Project result in economic displacement (for example, loss of assets or access to resources due to land acquisition or access restrictions, even in the absence of physical relocation)? | N |
| 5.3 ¿Is there a risk that the Project will lead to forced evictions? | N |
| 5.4 ¿ Would the proposed Project possibly affect land tenure agreements and / or community property rights / customary rights to land, territories and / or resources? | N |
| Standard 6: Indigenous Peoples |  |
| 6.1 ¿Are indigenous peoples present in the Project area (including the Project's area of ​​influence)? | Y |
| 6.2 ¿Is it likely that the Project or parts of the Project are located on lands and territories claimed by indigenous peoples? | Y |
| 6.3 ¿ Would the proposed Project potentially affect the human rights, lands, natural resources, territories and traditional livelihoods of indigenous peoples? | N |
| 6.4 ¿ Has there been an absence of culturally appropriate consultations carried out with the objective of achieving FPIC on matters that may affect the rights and interests, lands, resources, territories and traditional livelihoods of the indigenous peoples involved? | N |
| 6.5 ¿Does the proposed Project involve the commercial use and / or development of natural resources on lands and territories claimed by indigenous peoples? | N |
| 6.6 ¿ Is there a possibility of a forced eviction or the total or partial physical or economic displacement of indigenous peoples, including through restrictions on access to lands, territories and resources? | N |
| 6.7 ¿Would the Project adversely affect the development priorities of indigenous peoples as defined? | N |
| 6.8 ¿ Would the Project potentially affect the physical and cultural survival of indigenous peoples? | N |
| 6.9 ¿ Would the project potentially affect the cultural heritage of indigenous peoples, including through the commercialization or use of their traditional knowledge and practices? | N |
| Standard 7: Pollution Prevention and Efficient Use of Resources |  |
| 7.1 ¿Could the Project result in the release of pollutants to the environment due to routine or non-routine circumstances with the potential for adverse local, regional and / or transboundary impacts? | N |
| 7.2 ¿ Could the proposed Project result in the generation of waste (both hazardous and non-hazardous)? | N |
| 7.3 ¿Will the proposed Project potentially involve the manufacture, marketing, release and / or use of hazardous chemicals and / or materials? Does the project propose the use of chemicals or materials subject to international prohibitions or eliminations? | N |
| 7.4 ¿ Will the proposed Project involve the application of pesticides that may have a negative effect on the environment or human health? | N |
| 7.5 ¿ Does the Project include activities that require a significant consumption of raw materials, energy and / or water? | N |

Now, according to the SES, the third question should be asked: How important are possible social and environmental risks? This question should be answered in light of the answers given in question 2 and the table above. Thus, both the possible impact and the probability are evaluated for each identified risk. For these purposes, the type of impact and the place, the magnitude or intensity, the possibility of control, the duration, the reversibility and the involvement with the community are recorded[[28]](#footnote-28).

Since all the “yes” answers in the checklist point to a possible risk, then an analysis will be made of each of the possible risks identified.

* **1.7. Were communities given the opportunity to raise their human rights concerns regarding the Project?** A/Yes. All actions and interventions have been discussed and negotiated with the Integral Development Associations of each of the three indigenous territories, as well as with the participation of the Fire and Biological Monitoring Brigades. Additionally, there have been spaces for participation and discussion with indigenous territories to assess various aspects of project implementation. This is the case of visits to indigenous territories to assess their degree of participation in the project, their compliance with the activities carried out, and to obtain inputs to assess potential social and environmental risks. Community participation is a measure that contributes to reducing risk. On the other hand, activities related to fire monitoring, as in the case of Cabagra and Ujarrás, are previous initiatives that have received impulse and support in their strengthening through the project, but which have also been fully coordinated with the respective Integral Development Associations. In the case of the intervention in Boruca, it should be noted that it is a project proposed by the Association for Comprehensive Development of the Territory, which has also been discussed in various territorial assemblies and has the support of its associates.In general terms, the projects and activities have involved various groups in each of the territories. In the case of Ujarrás, the ADI, the resource guards, the Natural Resources Surveillance Committees (COVIRENA), the forest fire and biological monitoring brigades and even primary school teachers (who have motivated the participation and preparation of the boys and girls of the territory). In the case of Cabagra, the ADI and the forest fire and biological monitoring brigades have been involved. In the case of Boruca, and as mentioned preliminarily, the project has undergone several moments of review in the Assembly of Associates. In general terms, the participation component is perhaps where the main risks for the implementation of the project can be found; however, it has been possible to verify that the processes have had a significant opening in terms of participation, and the participation of women, young people, boys and girls. The intensity of this risk is low and can be controlled by promoting and involving various authorities and population groups in the territory. Likewise, this risk can be mitigated through spaces of transparency and accountability.

The identified risk is that there is no appropriate participation in terms of authorities and groups in vulnerable situations. However, in the execution of the project in the 3 indigenous territories, it was verified that there is participation of various territorial organizations, women and young people, and even ways of adapting the project to include the participation of boys and girls.

The impact rating is Minor (2) and the probability that the risk materializes is Not Probable (2).

* **3.1.2. Are there proposed Project activities within or adjacent to critical habitats and / or environmentally sensitive areas, including legally protected areas (for example, nature reserve, national park), areas proposed for protection or recognized as such by authorized sources and / or indigenous peoples or local communities?** A / Yes. All activities are carried out in the La Amistad - Pacific Conservation Area (ACLA-P), in particular, within the indigenous territories of Ujarrás, Cabagra and Boruca, and in direct coordination with SINAC. In the case of Boruca, the nursery was located by ADI on the farm known as Cuij-Cuij. Reforestations have been carried out within the indigenous territory, both on private properties of artisans, artisans and other members of the town, as well as in communal reforestation areas. In the case of the Fire Monitoring Brigades in Cabagra and Ujarrás, their fire response activities are carried out only within the Indigenous territories. In the case of the Biological Monitoring Brigades, their activities take place within the indigenous territories of Ujarràs and Cabagra.

In this activity, the risk that the distribution of trees for reforestation is not available to anyone within the territory has been identified, however, it was possible to verify with the Association for the Integral Development of the Boruca Indigenous Territory that calls have been made public for this distribution.

The impact rating is Negligible (1) and the likelihood of the risk materializing is Mild (1).

* **3.1.6. Does the project involve the clearing of natural forests, the development of plantations or reforestation?** A / Yes. In the case of the intervention carried out in the Boruca Indigenous Territory, there are reforestation activities for the balsa tree species, but in addition to other reforestation species for conservation and use (for example, ron-ron, Ojoche, Guachipelín, sotacaballo, cenízaro, mahogany and cedar). The Integral Development Association has distributed around 140,000 trees for reforestation, distributed among approximately 100 inhabitants of the Indigenous Territory (primarily artisans and artisans), as well as other properties managed by the Integral Development Association, such as the Cuij-Cuij farm, where find the nursery installed by the project. The project does not contemplate the support or promotion of the use or exploitation of other existing forest resources in the indigenous territory other than those produced in the nursery. One of the risks identified is related to the determination of the recipients of the trees for reforestation, however, the Integral Development Association stated that public calls have been made to show interest in the delivery of said trees.

In this activity, several risks have been identified: that the forest species that will be harvested will not be located or planted in the planned sites; that the forest species produced do not get to be planted; that the planted species are not properly monitored and managed; that timely attention is not available for pests and diseases that affect forest species and that the effects of climate change affect the sustainability of forest plantations (landslides, droughts, rains, floods). Among the mitigation measures, it can be sought not to plant forest species in protected areas or areas with high slopes at risk of landslides; generate annual work plans that allow the establishment and fulfillment of technical guidelines and clear goals; determine the recipients, times and places of the territory where the reforestations will be carried out; generate care agreements with public institutions such as MAG, FONAFIFO and SINAC to communicate, attend and assist emergencies related to pests and diseases and plan management and erosion control, and general issues and environmental management, such as soil management and control.

The impact rating is Negligible (1) and the probability that the risk will materialize is Mild (1).

* **3.2.2. Would the results of the project be sensitive or vulnerable to the possible impacts of climate change?** A / Yes. In the case of the Boruca Indigenous Territory, the reforestation of the different forest specialties may be sensitive to droughts, floods, landslides or other climatic phenomena. For their part, the activities carried out by the fire brigades could see their demand increased in cases of droughts or other climatic phenomena. The lack of rain in the rainy seasons in the Buenos Aires area could aggravate the existence of fires, which are already common in deforested areas of Ujarràs and Cabagra.
* **6.1. Are indigenous peoples present in the Project area (including the Project area of ​​influence)?** A / Yes. Yes, the Project is developed within the Indigenous Territories of Ujarrás, Cabagra, Salitre and Boruca.
* **6.2. Is the Project or parts of the Project likely to be located on lands and territories claimed by indigenous peoples?** A / Yes. Yes, the Project is developed within the Indigenous Territories of Ujarrás, Cabagra, Salitre and Boruca.

According to the social and environmental diagnostic procedure, the combination of impact and probability allows determining that the general importance of the risk is low.

Question 4 allows determining the general categorization of the project's social and environmental risk. For the present project, the risk categorization is low, since it includes activities with very little to no risk of generating adverse social or environmental impacts.

**F. Free, prior and informed consent, consultation and participation**

As was preliminarily analyzed, in Costa Rica the administrative determination of the applicability of the Mechanism for Consultation to Indigenous Peoples is a prerogative of the Technical Unit for Indigenous Consultation, attached to the National Directorate for Alternative Resolution of Conflicts. According to the General Consultation Mechanism, the request for the start of a consultation process is an obligation of public institutions and a right of indigenous peoples, provided that it is identified that an administrative measure or project is likely to affect rights collectives of indigenous peoples[[29]](#footnote-29).

In the case of the implementation of those activities of the project "Conserving biodiversity through sustainable management in production landscapes in Costa Rica" that are carried out in the Indigenous Territories of Canton of Buenos Aires, it does not appear in the process the request to start any consultation process. Neither was it known in the visit and interviews carried out with the Integral Development Associations any request or position in this regard by the indigenous Territories.

The explanation of the circumstances described can be explained by the fact that none of the parties involved (both the indigenous peoples and the public institutions involved) have identified that the project results in an impairment of the collective rights of the indigenous peoples involved, in a change to their legal situation, their way of life, culture, spirituality or social dynamics. This also explains the fact that a process has not been carried out to obtain the free, prior and informed consent of the indigenous peoples where the process is carried out.

On the contrary, the project activities received the endorsement of the Integral Development Associations, which according to national regulations is an entity with the capacity to acquire obligations.

In addition to the General Mechanism for Consultation with Indigenous Peoples, Standard 6 of the Guidance Note UNDP Social and Environmental Standards, proposes a checklist to evaluate whether an activity may require a process of Free, Prior and Informed Consent. The table and its answers are obtained below:

|  |  |
| --- | --- |
| **Table 1. Checklist for evaluating whether an activity may require an FPIC process (partial listing)** | **Sí/No** |
| 1. ¿Will the activity involve the relocation / resettlement / removal of an indigenous population from their lands? | No |
| 2. ¿Will the activity involve the taking, confiscation, removal or damage of cultural, intellectual, religious and / or spiritual property of indigenous peoples? | No |
| 3. ¿ Will the activity adopt or implement any legislative or administrative measure that affects the rights, lands, territories and / or resources of indigenous peoples (for example, in relation to the development, use or exploitation of mineral, water or other resources; agrarian reform? ; legal reforms that may de jure or de facto discriminate against indigenous peoples, etc.)? | No |
| 4. ¿ Will the activity involve the extraction of natural resources such as logging or mining or agricultural development on the lands / territories of indigenous peoples? | No |
| 5. ¿ Will the activity involve any decision that will affect the status of indigenous peoples' rights to their lands / territories, resources or livelihoods? | No |
| 6. ¿ Will the activity involve access to traditional knowledge, innovations and practices of indigenous and local communities? | No |
| 7. ¿ Will the activity affect the political, legal, economic, social or cultural institutions and / or practices of indigenous peoples? | No |
| 8. ¿ Will the activity involve the commercial use of natural and / or cultural resources on lands subject to traditional ownership and / or under customary use by indigenous peoples? | No |
| 9. ¿ Will the activity involve decisions on benefit-sharing agreements, when benefits are derived from the lands / territories / resources of indigenous peoples (for example, natural resource management or extractive industries)? | Yes |
| 10. ¿ Will the activity have an impact on the continuity of the relationship of indigenous peoples with their land or their culture? | No |

According to the reference table, a positive answer to any of the questions posed implies a high probability that the free, prior and informed consent of the indigenous people affected by the activity will be required. However, the question covers assumptions in which the project activities may negatively affect the resources and traditional means of subsistence of the peoples in question.

The question was answered as affirmative, since in the case of the reforestation activities of the raft forest species in the Boruca Indigenous Territory, the installed tree nursery generates a distribution of trees for reforestation, which after a few years would be used by artisans. However, throughout the implementation of the project it has been verified that the mechanisms for the approval of the project have been public, through the assemblies of the Integral Development Association, and the distribution of the species has been open to all interested persons within the Territory.

However, the fact that there is no obligation to carry out a process of consultation or free, prior and informed consent does not imply that the project is carried out unilaterally by public institutions. The execution of the project must have the full authorization of the Integral Development Associations, the legal representative of the Indigenous Territory with "full legal capacity to acquire rights and contract obligations of all kinds", but also its execution must be carried out in a participatory, transparent and incorporate the participation of the various populations that make up the indigenous people.

The General Consultation Mechanism for Indigenous Peoples provides a series of principles and guidelines that can serve as recommendations for the implementation of project activities, both for the public institutions involved and for indigenous peoples. Regarding the Consultation Mechanism, it should be noted that the standards contained were obtained through a consultation process, which had the free, prior and informed consent of 22 of 24 territories, including the territories of Ujarrás, Cabagra , Salitre and Boruca.

Below are those that may be useful for the execution of this project:

* **Intercultural dialogue**. Intercultural dialogue is the relationship between cultures that implies the ability to understand the particularities of two or more frames of cultural reference in order to identify meeting points, in an environment of recognition of the dignity and human rights of the participants. It is a fundamental tool for processes that involve joint work between public institutions and indigenous peoples, since it allows preventing taxation as a form of relationship[[30]](#footnote-30).
* **Promotion of the involvement of organizations and institutions representing the indigenous people.** Although the Integral Development Associations are the representative institutions legally recognized by the legal system, it is advisable to include other recognized institutions that have been chosen or recognized by the indigenous people to represent their affairs, rights, interests and decisions. These can be legally or culturally recognized[[31]](#footnote-31).
* **Respect for representative organizations of indigenous peoples.** Public institutions must include and take into account representative organizations of indigenous peoples, respecting the forms of organization established in the legal system and their own structures recognized by indigenous peoples. The foregoing does not imply the exclusion of the participation of the indigenous people or that decisions are made exclusively by representative organizations. Although these institutions are representative of the interests and decisions of the indigenous people, the management of transparent spaces for dialogue with the members of the indigenous people is recommended[[32]](#footnote-32).
* **Inclusion of traditional authorities**. Any process of intercultural consultation and dialogue must take into account the traditional community structures and institutions that, customarily, are recognized by an indigenous people as a source of advice or decision-making[[33]](#footnote-33).
* **Self-determination.** Recognized by the United Nations Declaration on the Rights of Indigenous Peoples, it constitutes the right of indigenous peoples to freely determine their political status, to freely achieve their economic, social and cultural development. It implies the right to take part in the decision-making processes that affect them, as well as to participate fully, if they wish, in the political, economic, social and cultural life of the State. The recognition of this right is fundamental in the execution of projects that involve indigenous peoples and their territories, as it allows the initiatives to be adapted to their priorities[[34]](#footnote-34).
* **Intergenerational participation.** The active and effective participation of indigenous youth, as well as of different age groups, is essential for the implementation of projects and activities with indigenous peoples and in their territories[[35]](#footnote-35).
* **Gender equality.** In any project or activity carried out with indigenous peoples or in their territories, it is essential to guarantee the active, effective and equal participation of indigenous women[[36]](#footnote-36). This standard is derived from both international and national obligations.
* **Culturally appropriate procedures.** Culturally appropriate procedures. Although this standard refers to the format of the procedures and stages that must be followed in a consultation process, they are also valid for the dialogue procedures that must be carried out for the execution of projects with indigenous peoples and within their territories. The procedures will be culturally appropriate, when they allow the free and adequate expression of the cultural, social and political organization systems of the indigenous peoples, as well as their forms of communication and their language, within the framework of their worldview. All stages of the dialogue must be appropriate and be adjusted to the cultural, socioeconomic, geographic, demographic and climatological particularities of the indigenous territories consulted. Likewise, all the technical peculiarities of the administrative measure, bill promoted by the Executive Power or private project to be consulted must be taken into account, in order to adapt the consultation procedure to the reality of indigenous peoples.
* **Information and indigenous languages.** Every process of dialogue derived from the implementation of a project involves information exchanges. Such exchanges must tend to take place in a way that is culturally appropriate for indigenous peoples. This implies the need for information to be accessible both in Spanish and in the language of the indigenous people[[37]](#footnote-37). This standard is not only provided for in the General Mechanism of Consultation for Indigenous Peoples, but is also contained in the constitutional obligation of the State to ensure the maintenance and cultivation of indigenous languages[[38]](#footnote-38). This standard must be interpreted and understood in the light of the oral tradition of indigenous languages, that is, their speakers do not necessarily read or write their language, of tradition and oral learning[[39]](#footnote-39).

#### G. Appropriate benefits

This section seeks to identify the measures that will be taken to ensure that indigenous peoples receive the possible social and economic benefits derived from the project, in an equitable and culturally appropriate manner, as well as a review of the processes that lead to the distribution agreements of said benefits. For the review of these social and economic benefits, a review is proposed for each of the territories and each of the activities carried out.

In the case of the Boruca Indigenous Territory and the installation of the balsa tree nursery and other species for reforestation, the main benefit derived for the members of the indigenous people is the possibility of receiving said species from the Integral Development Association. According to the stages implemented so far, it has been found that the project was presented and approved in an assembly of the associates, and that open calls have also been made for those interested in reforesting their properties with the raft tree. This reforestation will allow the members of the indigenous people, the eventual use to be used as raw material for their crafts. Likewise, the tree nursery has been used for the reproduction of other species that will be used for reforestation and conservation of various areas of the territory.

In the case of the support provided to the Fire Brigades and the Biological Monitoring Brigades in the Indigenous Territories of Ujarrás and Cabagra, the main benefit derived for the members of the indigenous people is the technical support provided by SINAC officials, training on identification of birds, snakes, amphibians and butterflies; equipment such as field guides, biodiversity monitoring cameras, uniforms and equipment for fire fighting pumps. First, it should be indicated that said support implies a benefit that is directly used by the entire Indigenous Territory. On the other hand, the support provided to the Fire Brigades improves the response to fires that occur during the dry season. In the case of the Biological Monitoring Brigades, they allow generating information and knowledge about the quantity and distribution of biodiversity, allowing measures to be taken for its conservation. For both brigades, it must be ensured that they maintain a degree of openness so as to allow the integration of the inhabitants of the territory.

**H. Capacity support**

Project activities will be carried out by the National System of Conservation Areas of the Ministry of Environment and Energy. The indigenous peoples are represented by each of the 4 Associations for the Integral Development of the Indigenous Territories of Ujarrás, Salitre, Cabagra and Boruca. The relationship between SINAC is direct and independent with each of the ADI. Each of the activities implemented by SINAC is negotiated, discussed and implemented by the ADI, and the existing dialogue and relationship mechanisms are maintained.

One fundamental aspect when working with indigenous peoples and contexts of cultural diversity is the fact that both the characteristics of diversity and the specific rights of indigenous peoples are little known by those who participate in project management, thus reproducing conflicts that can be avoided. Although risk and impact mitigation measures and intercultural strategies are contemplated, the conceptual and instrumental capacities of the institutions must be strengthened. This is particularly important when working with representative institutions of indigenous peoples; participation of other instances; authorities and populations in vulnerable situations such as children, youth, women and the elderly.

Within the framework of the project and under the objective of mitigating the derived risks, it is important to provide a continuous training program on indigenous peoples, perspectives and rights, both for the officials in charge of implementation and other related institutions. Thus, it is vital to develop a training module on the rights, context and particularities of the indigenous peoples involved. This module can contain basic definitions about indigenous peoples, their characteristics, elements about their identity and culture, analysis of multicultural societies, about the participation of populations such as children, youth, women and the elderly. Additionally, it can cover issues related to the collective rights of indigenous peoples to land, territories and resources; to prior consultation and free, prior and informed consent; on the forms of decision-making of indigenous peoples, among others.

1. **IPPP Actions Proposal**

The project Conserving biodiversity through sustainable management in production landscapes in Costa Rica and the activities carried out in the La Amistad-Pacífico Conservation Area (“ACLAP”), in the southern Pacific of Costa Rica, particularly in the indigenous territories of Ujarrás, Salitre, Cabagra and Boruca, generates a series of potential impacts for the collective rights of indigenous peoples that can be mitigated. As analyzed, the UNDP Social and Environmental Assessment Procedure (SESP) and the social and environmental risk detection checklist made it possible to determine that the categorization of general risks derived from project activities is low risk, as it includes activities with very little to no risk of generating adverse social or environmental impacts, with a low probability that risks will materialize.

Thus, for each product, the risks identified and the mitigation measures proposed, a series of indicators and activities are proposed.

|  |  |  |  |
| --- | --- | --- | --- |
| Component 2: Multiple GEBs (conservation of biodiversity, reduction in carbon emissions, and increase in carbon sinks) are generated in the productive landscapes in the forest area of ​​the ACLA-P buffer zone (Region 1) | | | |
| **Output** | **Indicators** | **Activities** | **Period** |
| Output 2.1: Twenty (20) tree nurseries for endemic and native plant species established to support landscape management tools.  Output 2.2. Financing of socio-productive community initiatives in the ACLA-P supports the implementation of the Landscape Management Tools (LMT).  Boruca. | At least 2 planning sessions are held to draw up the reforestation and plantation management work plan. | Prepare an annual work plan that allows to establish technical guidelines and reforestation goals in the determined sites | 2020- 2021 |
| Agreements are promoted with 2 public institutions to manage technical support for the management and maintenance of plantations and for the care of pests and diseases and the effects derived from climate change | Initiate a dialogue and generate assistance agreements with public institutions such as MAG, FONAFIFO and SINAC to communicate, attend and assist emergencies related to pests and diseases and the effects of climate change |
| Output 2.4. Risk mapping system for the prevention of forest fires that includes the classification of vegetation to determine its level of combustion. | The Fire Brigades introduce traditional indigenous knowledge for the prevention and attention of fires into their work. | It is proposed to hold 1 workshop in each territory to integrate indigenous traditional knowledge for the prevention and attention of fires, which includes reflection on the social origins of fires (in conjunction with the activity planned for product 2.5) | 2021-2022 |
| Output 2.5. The participatory biological monitoring pilot program linked to PRONAMEC includes an interactive online platform for the exchange of information. | The Biological Monitoring Brigades introduce indigenous traditional knowledge related to the conservation and management of biodiversity into their work. | It is proposed to hold 1 workshop in each territory to integrate traditional knowledge related to the conservation and management of biodiversity (in conjunction with the activity planned for product 2.4) | 2021-2022 |
| The Biological Monitoring Brigades reaffirm their commitment to maintaining the confidentiality of information on biodiversity collected in camera traps | It is proposed to hold 1 workshop with each of the Biological Monitoring Brigades to reaffirm their commitment to maintaining the confidentiality of information on biodiversity | 2021-2022 |
| Output 2.9. Environmental education program led by ACLA-P in coordination with actors involved with the conservation of biodiversity and forests in productive landscapes. | The contents of the environmental education program are accessible in the languages ​​of the indigenous peoples | The temporary hiring of indigenous cultural mediators of the territories is proposed to participate in various stages of knowledge management, among others, for the interpretation and / or translation of the contents of environmental education programs with the participation of the populations. recipients, and with the intervention of cultural mediators of the participating peoples | 2021-2022 |
| Output 2.11. Strengthened local and institutional capacities for citizen participation and governance of the productive landscapes of the ACLA-P | The COVIRENA created in indigenous territories have a clarity of their functions, community roles and their relationship with public institutions | It is proposed to hold 1 training and induction workshop on the roles and responsibilities of the COVIRENA and the creation of their annual work plans. | 2021-2022 |

1. Executive Branch. General Mechanism of Consultation with Indigenous Peoples, art. 1. [↑](#footnote-ref-1)
2. Ibíd, art. 2.e. [↑](#footnote-ref-2)
3. X National Population Census 2011, Social and Demographic Characteristics, pág. 39. Disponible en <https://bit.ly/2UZ48Dd> [↑](#footnote-ref-3)
4. Ibíd. [↑](#footnote-ref-4)
5. Ibíd., p. 29. [↑](#footnote-ref-5)
6. Ibíd. [↑](#footnote-ref-6)
7. Ibíd. [↑](#footnote-ref-7)
8. Guevara Víquez, Federico. *Basic Chronology of the Indigenous Peoples of Costa Rica: From the beginning of the 16th century to the year 2000. Available at* <https://bit.ly/2V0RGTD> [↑](#footnote-ref-8)
9. Ibíd, p. 31. [↑](#footnote-ref-9)
10. Ibíd, p.. 30. [↑](#footnote-ref-10)
11. X National Population Census 2011, Social and Demographic Characteristics, p. 57. Available at <https://bit.ly/2UZ48Dd> [↑](#footnote-ref-11)
12. Guevara Víquez, Federico. *Basic Chronology of the Indigenous Peoples of Costa Rica: From the beginning of the 16th century to the year 2000,* p.. 25. Available at <https://bit.ly/2V0RGTD> [↑](#footnote-ref-12)
13. Ibíd. p. 26. [↑](#footnote-ref-13)
14. Ibíd. [↑](#footnote-ref-14)
15. Ibíd. p. 27. [↑](#footnote-ref-15)
16. Legislative Assembly. Ley No.5703 de 6 de junio de 1975, Reform of the Political Constitution of the Republic of Costa Rica. [↑](#footnote-ref-16)
17. Legislative Assembly. Ley N° 9305 del 24 de agosto del 2015, Reform of the Political Constitution of the Republic of Costa Rica. [↑](#footnote-ref-17)
18. American Convention on Human Rights. Entry into force July 18, 1978. [↑](#footnote-ref-18)
19. United Nations Declaration on the Rights of Indigenous Peoples, approved by the United Nations General Assembly on September 13, 2007. [↑](#footnote-ref-19)
20. Legislative Assembly. Indigenous Law No. 6172 of November 29, 1977. [↑](#footnote-ref-20)
21. Ibíd., arts. 1-7. [↑](#footnote-ref-21)
22. Ibíd., arts. 5. [↑](#footnote-ref-22)
23. Ibíd., arts. 4. [↑](#footnote-ref-23)
24. Executive Branch. Regulations to the Indigenous Law, Decree No. 8487-G, of April 26, 1978, art. 3. [↑](#footnote-ref-24)
25. Executive Branch. Executive Decree No. 40932-MP-MJP General Mechanism for Consultation with Indigenous Peoples [↑](#footnote-ref-25)
26. Executive Branch. Regulations to the Indigenous Law, Decree No. 8487-G, of April 26, 1978, art. 1. [↑](#footnote-ref-26)
27. Ibíd., art. 2.e. [↑](#footnote-ref-27)
28. SESP, p. 19. [↑](#footnote-ref-28)
29. Executive Branch. General Mechanism for Consultation with Indigenous Peoples, art. 27. [↑](#footnote-ref-29)
30. Ibíd., art. 3.c. [↑](#footnote-ref-30)
31. Ibíd., art. 3.d. [↑](#footnote-ref-31)
32. Ibíd., art. 3.d. [↑](#footnote-ref-32)
33. Ibíd., art. 3.e. [↑](#footnote-ref-33)
34. Ibíd., art. 3.f. [↑](#footnote-ref-34)
35. Ibíd., art. 3.g. [↑](#footnote-ref-35)
36. Ibíd., art. 3.h. [↑](#footnote-ref-36)
37. Ibíd., art. 12.c. [↑](#footnote-ref-37)
38. Legislative Assembly. Political Constitution of the Republic of Costa Rica, art. 76. [↑](#footnote-ref-38)
39. Ibíd., art. 12.c. [↑](#footnote-ref-39)