

Draft technical paper

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

Recommended action by the Facilitative Working Group at its fourth meeting

The LCIPP initial two-year workplan, under activity 9, mandates a technical paper on the analysis of gaps, for the fourth meeting of the Facilitate Working Group. At its third meeting, the FWG considered a zero-order draft and made recommendations.

At FWG 4, members will be invited to consider this revised version of the technical paper and provide recommendations for its finalization.

Acronyms

BR	Biennial report of a developed country
BUR	Biennial update report of a developing country
FCCC	Framework Convention on Climate Change (see UNFCCC)
FWG	Facilitative Working Group
IPO	Indigenous Peoples Organisations
LCIPP	Local Communities and Indigenous Peoples Platform
LDC	Least Developed Country
LTGGEDS	Long-term low greenhouse gas emission development strategy
NAP	National adaptation plan
NAPA	National adaptation programme of action
NDC	Nationally determined contribution
REDD+	Reducing Emissions from Deforestation and forest Degradation
SBSTA	Subsidiary Body for Scientific and Technological Advice
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change

1. Executive summary

1. Activity 9 of the LCIPP initial two-year workplan calls for the mapping of existing policies, actions and communications under the Convention with respect to whether and how they incorporate the consideration and engagement of indigenous peoples and local communities. Many documents, including NDCs, NAPs, and other relevant submissions were mapped and this process was mandated to inform an analysis of gaps related to the consideration and engagement of indigenous peoples and local communities.

2. Gaps that were identified include: low levels of engagement with indigenous peoples and local communities; insufficient capacity-building for engagement; unidirectional training; engagement and consideration are not considered throughout the process; the need for continued engagement over time ; the conceptualization of engagement with indigenous peoples and/or local communities as a resource, rather than a process; Failing to facilitate collaboration to disseminate expertise-specific knowledge furthers the conceptualisation of indigenous peoples as a resource ; indigenous knowledge, traditional knowledge and local knowledge is promoted without a supporting infrastructure to facilitate repeated engagement and accessibility; a lack of references to indigenous technologies and practices; and that considerations of gender in relation to indigenous peoples and local communities were not included in most documents.

3. The mapping of close to 1000 documents indicated that there is a wide variation in how indigenous peoples and local communities are considered and/or engaged in national-level policy making. In general, documents reviewed did not contain references to the consideration/engagement of indigenous peoples and/or local communities. Some sub-regions, including the Pacific islands, indicate a high level of engagement with indigenous peoples and local communities but do not consistently reference this engagement in their communications. Some Parties from these sub-regions reflected that engagement of indigenous peoples and local populations” is a given” as they make up the vast majority of the populations in some of these countries.

4. Surveys were sent to Parties and to indigenous peoples, local communities, and other stakeholders to assist with the mapping process. The secretariat received 255 responses. Furthermore, six submissions of views were received, two from two groups of Parties (AOSIS and the EU), one Party (Canada), two submissions from IPOs (one from the Native Women's Association of Canada, and one joint submission from the Asia Indigenous Peoples Pact (AIPP) and the International Work Group for Indigenous Affairs), and one from the Tuvalu Climate Action Network (TuCAN)

2. Introduction

5. At its first meeting, the FWG proposed an initial two-year workplan for the LCIPP. At SBSTA 51, the workplan was welcomed by the Parties.¹ It is comprised of 12 activities, to be implemented over the course of 2020-2021.

¹ FCCC/SBSTA/2019/5, para. 46.

6. As part of the workplan, a mapping was mandated as Activity 9. It examines existing policies, actions, and communications under the Convention, with respect to whether and how they incorporate consideration and engagement of indigenous peoples and local communities.
7. The documents that were mapped and analysed include nationally determined contributions (NDCs), national communications, long-term low greenhouse gas emission development strategies (LTGGEDS), biennial reports of developed countries (BRs), biennial update reports of developing countries (BURs), national adaptation plans (NAPs), and national adaptation programmes of action (NAPAs). For more information about the methodology used for the mapping and terminology related to 'consideration' and 'engagement', please see the background document FWG3/Background Document/4G.1.²
8. This technical paper analyses gaps identified during the mapping and is informed by the submissions and surveys received. It is to be finalised for FWG 4.
9. Two surveys were developed and disseminated, one targeting National Focal Points from Parties to the Convention, and the other targeting indigenous peoples, local communities, and other stakeholders. The surveys were disseminated in English, French, Spanish and Russian, and numerous responses were received (255 respondents in total, 35 from Parties, and 220 from indigenous peoples, local communities and other stakeholders).
10. Six submissions of views were received: two from groups of Parties (AOSIS and the EU); one from a Party (Canada); two from IPOs (one from the Native Women's Association of Canada, and one joint submission from the Asia Indigenous Peoples Pact (AIPP) and the International Work Group for Indigenous Affairs); and one from the Tuvalu Climate Action Network (TuCAN)
11. The FWG will also produce a set of recommendations for the consideration of the SBSTA at its subsequent session. These recommendations will be based on the findings of this technical paper, as well as all other input received.

3. Scope of the paper

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

4. Background analysis

13. This section provides an overview of the national policies, actions and communications under the UNFCCC that were mapped. Further information is available in background document FWG3/Background Document/4G.1.
14. Some sub-regions, like the Pacific islands, include a high level of engagement with indigenous peoples and local communities. As elaborated in the AOSIS submission, in the Pacific islands the participation of indigenous peoples and local communities "in the development and implementation of relevant policies and communities under the UNFCCC is essentially a given", given that they are the dominant populations within their respective Pacific islands, and own

² Available here:

https://unfccc.int/sites/default/files/resource/Background%20document%20Activity%209_Methodology.pdf

approximately 90 per cent of land therein. This includes the associated marine tenure. As a result, many Parties within such sub-regions do not specify their engagement with indigenous peoples and local communities in their policies, communications, and actions. This was taken into account during the process of mapping documents and writing the gap analysis.

4.1. Nationally determined contributions

15. NDCs form an integral part of the Paris Agreement and are essential to achieving its long-term goals. Each NDC communicates efforts by a Party to reduce national emissions and adapt to the impacts of climate change. The Paris Agreement³ states that each Party shall prepare, communicate and maintain successive NDCs that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.

16. In its preamble, the Paris Agreement acknowledges that “Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, ... the rights of indigenous peoples...”. In the guidance for implementing the Paris Agreement, each Party, when it develops a new NDC, is encouraged to “provide information on the planning processes that the Party undertook to prepare its NDC and, if available, on the Party’s implementation plans, including, as appropriate...[d]omestic institutional arrangements, public participation and engagement with local communities and indigenous peoples, in a gender-responsive manner”.⁴ Parties are also encouraged, when developing national adaptation communications under the Paris Agreement, to include: “Gender-responsive adaptation action and traditional knowledge, knowledge of indigenous peoples and local knowledge systems related to adaptation, where appropriate”.⁵

4.2. National communications

17. A national communication is a commitment⁶ of each Party to provide a national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, a general description of steps taken or envisaged by the Party to implement the Convention, and any other information that the Party considers relevant to the achievement of the objectives of the Convention. 196 Parties have submitted national communications under the Convention.

³ Article 4, paragraph 2 of the Paris Agreement. Available at: <https://unfccc.int/process/conferences/pastconferences/paris-climate-change-conference-november-2015/paris-agreement>

⁴ Decision 4/CMA.1.

⁵ Decision 9/CMA.1.

⁶ Article 4, paragraph 1 of the Convention. Available at: <https://unfccc.int/process-and-meetings/the-convention/what-is-the-united-nations-framework-convention-on-climate-change>

4.3. Long-term low greenhouse gas emission development strategies

18. Under the Paris Agreement, countries are invited to communicate “mid-century long-term low GHG emissions development strategies,”⁷. These strategies are central to the goal of limiting global warming to well below 2°C and to pursue efforts to limit the increase to 1.5°C, representing a significant opportunity for countries to lay out their vision for achieving a low-carbon economy by 2050 while also pursuing sustainable development. 16 Parties have submitted them.⁸

4.4. Biennial reports and biennial update reports

19. BRs communicate information on Annex I Parties’ greenhouse gas emission trends, quantified economy-wide emission reduction targets, progress in achievement of this target, greenhouse gas projections, and provision of financial, technological and capacity building support. 29 Annex I Parties out of 43 have submitted BRs.⁹

20. BURs are reports submitted by non-Annex I Parties, containing updates of national greenhouse gas inventories, including a national inventory report and information on mitigation actions, needs and support received. 57 Non-Annex I Parties out of 154 have submitted BURs.¹⁰

4.5. National adaptation plans

21. NAPs are a means of identifying medium- and long-term adaptation needs and developing and implementing strategies and programmes to address those needs. NAPs are developed via a continuous, progressive and iterative process which follows a country-driven, gender-sensitive, participatory and fully transparent approach. 21 Parties out of 154 developing country Parties have submitted NAPs.¹¹

4.6. National adaptation programmes of action

22. NAPAs provide a process for the LDCs to identify priority activities that respond to their urgent and immediate needs with regard to adaptation to climate change - those needs for which further delay could increase vulnerability or lead to increased costs at a later stage. All 47 LDC Parties have submitted NAPAs.¹² 4 NAPAs from former LDCs have also been submitted¹³ and were included in the mapping.

⁷ Article 4, paragraph 1 and 19 of the Paris Agreement. Available at: <https://unfccc.int/process/conferences/pastconferences/paris-climate-change-conference-november-2015/paris-agreement>

⁸ As at 13 September 2020.

⁹ As at 13 September 2020.

¹⁰ Ibid.

¹¹ As at 13 September 2020

¹² As at 13 September 2020

¹³ As at 13 September 2020

5. Survey results

23. Two surveys were developed and disseminated. The first targeted National Focal Points from Parties to the Convention, and 35 responses were received. The second survey targeted indigenous peoples, local communities, and other stakeholders; with 220 responses received. The surveys were disseminated in English, French, Spanish and Russian. For detailed information on the survey results, please see background document FWG3/Background Document/4G.2¹⁴ which compiles the results.

24. Most of the Parties that responded to the survey included information in their responses about how indigenous peoples and/or local communities have been involved in different policies, communications and/or actions at the national level. Several Parties reported that they have awareness-raising initiatives to keep indigenous peoples and/or local communities informed about the preparation of respective policies, communications and actions under the Convention, and that indigenous peoples were engaged in consultation during the early preparation phase. Just less than half of those respondents also said that indigenous peoples gave input to reviews of drafting, and/or that they participated in implementation of the policy/action.

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

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

6. Analysis of gaps

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

6.1. There are low levels of engagement with indigenous peoples and local communities

28. Many Parties mentioned or referenced considerations of indigenous peoples and local communities and their respective ways of knowing and forms of knowledge. Some also referred to tribal peoples/communities. Many of these references were to consultations, meetings, workshops or to other singular events. Some Parties did report more detailed engagement processes, however in general there were comparatively few documents that communicated engagement on an ongoing basis. The ways of knowing of indigenous peoples, as well as traditional knowledge, seems to be, to a large extent, not considered even though indigenous peoples and local communities can offer solutions and a more holistic and sustainable way of living with nature.

¹⁴ Available here:

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

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

6.2. There is insufficient capacity building for engagement

30. Based on the relatively low levels of participation referenced in the documents, as well as the responses to the survey, there is a lack of capacity for engagement. Almost all (94%) of the survey responses from Parties stressed the need for access to capacity development for engagement aimed at indigenous peoples and local communities, while 80% mentioned the need for decision-makers to access capacity development on how to engage more with indigenous peoples.

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

6.3. Training is often unidirectional

32. There are many references to training for indigenous peoples and local communities. Some communications referenced specific examples of training using co-created tools or resources, or in cross-training, or training to use specific resources to facilitate engagement. These were, however, not the majority, and thus a gap that was identified here is the unidirectional flow of information in most cases (from government experts to indigenous peoples or local communities).

33. Where this is the case, the potential for co-creation of knowledge and maximum translation of understanding of that knowledge may be lost, and the perspectives and concerns of the 'trainees' may not be accounted for. Furthermore, there was a lack of mention of the need for government officials to build their capacity to engage with indigenous peoples and local communities, which also constitutes a gap.

6.4. Engagement and consideration are not included throughout the project/process

34. Engagement often only takes place at one stage of a process. The phase in which indigenous peoples and local communities participated most was the planning phase.

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

36. Instances were identified where engagement occurred only during the preparation phase, during the implementation phase, or during the evaluation phase of a project. This represents an opportunity for cocreation, but only at specific stages of a project, therefore possibly missing opportunities for the cocreation of knowledge and solutions across all stages, and the creation of a more comprehensive outcome.

6.5. The need for continued engagement over time

37. Engagement takes place only when a project/initiative/etc. is being carried out, rather than on an ongoing basis, including when it is being implemented. This could result in indigenous peoples and local communities being consulted on a case-by-case basis at the discretion of the implementing body, instead of forming the basis of bidirectional and continuous engagement. It could also result in a lack of ownership by indigenous and local communities of projects and actions that affect them and their livelihoods.

6.6. The conceptualization of engagement with indigenous peoples and/or local communities as a resource, rather than a process.

38. If indigenous peoples and local communities and their ways of knowing are conceptualised as a resource to be used when required, rather than as people with their own distinct needs and inputs in societies, then engagements may be seen as a requirement to complete a task, rather than a method of co-creating and co-implementing mutually beneficial solutions.

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

6.7. Failing to facilitate collaboration to disseminate expertise-specific knowledge furthers the conceptualization of indigenous peoples as a resource

40. Activities were communicated by Parties in which engagements resulted in the sharing of knowledge and co-implementation of strategies by governments and indigenous peoples and/or local communities. Some Parties described engagements where persons with complementary skills co-created knowledge and solutions in the area of their shared expertise, but this form of engagement was not commonly communicated and represents a gap.

41. Where specific links are not made between individuals in this way, opportunities are missed to create pathways and partnerships based on mutual understanding and interest. Opportunities may also be missed to translate information between the complementary understandings of, for example, so-called ‘western science’ and indigenous knowledge/science. Getting different knowledge holders together with other scientists would enable these individuals to disseminate their translated understanding more effectively throughout their respective communities.

42. Some communications contained detailed descriptions of, for example, indigenous practices and techniques. Some examples of existing partnerships were identified between indigenous rainmakers and non-indigenous meteorologists, between nomadic hunters and maintainers of Geographic Information Systems, and between farmers and scientists.

43. Overall, 32 examples of a similar partnership or information dissemination were communicated.

6.8. Indigenous Peoples’ knowledge, traditional knowledge and local knowledge is promoted without a supporting infrastructure to facilitate repeated engagement and accessibility

44. A lack of supporting infrastructure or institutionalisation to facilitate that engagement was identified through the mapping. While many communications referenced effective, substantive, or sometimes ongoing engagement, there was a lack of indications as to how these engagements were

institutionalised or how their outcomes were collected and disseminated to future engagements/processes.

45. In all reviewed documents, 20 specific infrastructures were communicated that were designed to create a framework for ongoing engagement with indigenous peoples and local communities (some refer to tribal peoples).

46. Where a co-created infrastructure is not established, engagement, despite possibly being ongoing, may be more difficult to facilitate than if an infrastructure were in place. This may create barriers to the engagements themselves as well as potentially leading to missed opportunities to co-create knowledge beyond the scope of specific projects or initiatives.

47. Examples of existing frameworks or infrastructures referenced by Parties include educational curricula for youth and the public, locally-managed energy schemes contributing to national mitigation efforts, collaborations between national and indigenous parliaments and governments, and national frameworks for the permanent representation of indigenous peoples in national governments.

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

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

49. Very few of the mapped documents referred to indigenous peoples' practices or technologies. Only 14 NCs, 3 NDCs, 2 BURs, 1 BR, and 1 NAPA mention "indigenous technologies".

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

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

6.10. Consideration of the rights of indigenous peoples and local communities is lacking

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

53. A lack of consideration of the rights of indigenous peoples, in addition to being a gap itself, may result in worsening of other gaps already identified. A lack of consideration to the right of participation, for example, may result in less effective engagement of indigenous peoples in long-term policy- and decision-making processes. Furthermore, a lack of consideration of the UN Declaration on the Rights of Indigenous Peoples, even with long-term engagement, may result in policies that are don't safeguard rights.

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

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

6.11. Considerations of gender and youth in relation to indigenous peoples and local communities is lacking

56. Some distinctions were made related to gender and local communities/indigenous peoples, however these were mostly not in terms of engagement. Few documents included descriptions of policies, programmes or actions that directly addressed the impacts of climate change on and considerations of different genders.

57. This is noted in submissions from the NWAC and Canada as being especially important, due to the challenge of 'double discrimination' faced by indigenous women due to the intersectionality of their gender and indigeneity.

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

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

60. Canada highlights the importance of recognizing how people of different genders, races, ethnicities, religions, ages and physical or mental disabilities experience policies programmes and initiatives differently. The participation of indigenous youth was highlighted in the joint submission from Asia Indigenous Peoples Pact (AIPP) and the International Work Group for Indigenous Affairs (IWGIA), where the engagement of youth in monitoring mechanisms for NDCs was recommended.

61. Few analysed documents contain references to the engagement of indigenous youth in policy and national frameworks. Where references are made to youth, they are often confined to facilitating the passing on of knowledge and culture or creating opportunities for education or engagement in science. The facilitation of these opportunities is important, but there may also be the potential to increase youth engagement in policy by reaching out and creating pathways for

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

7. Conclusion

62. Analysis of the documents and survey results found limited evidence of engagement of indigenous peoples and local communities in national climate policy in many Parties. Though participation of indigenous peoples and local communities in the climate process under the Convention is growing, in large part via the LCIPP, there are still numerous gaps. Most apparent among these is the absence of engagement with, and inclusion of, indigenous peoples, local communities, and their practices, knowledge and technologies