

# INDIGENOUS PEOPLES **GUIDEBOOK**

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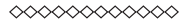
**FREE PRIOR INFORMED CONSENT AND CORPORATION STANDARDS**



**FIRST PEOPLES  
WORLDWIDE**

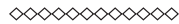


WORKING DRAFT



This report has been developed in collaboration between First Peoples Worldwide, the International Indian Treaty Council (IITC) and Trillium Asset Management (“Trillium”). First Peoples is an Indigenous-led organization dedicated to strengthening Indigenous communities through the restoration of their authority and control over their assets. IITC is an organization of Indigenous Peoples working for the sovereignty and self-determination of Indigenous Peoples and the recognition and protection of Indigenous rights, treaties, traditional cultures and sacred lands. Trillium is an independent investment management firm providing equity, balanced, and fixed income portfolios dedicated solely to sustainable and responsible investing.

These organizations have collaborated to develop this report believing that increased involvement by Indigenous Peoples with standard setting organizations is essential in protecting Indigenous lands, livelihoods and cultures.



# TABLE OF CONTENTS

<b>INTRODUCTION .....</b>	<b>2</b>
<b>ABOUT THIS BOOK .....</b>	<b>3</b>
<b>INTERNATIONAL AND REGIONAL STANDARDS AND MECHANISMS .....</b>	<b>5</b>
<b>THE UNITED NATIONS .....</b>	<b>5</b>
The United Nations Declaration On The Rights Of Indigenous Peoples: .....	6
The Minimum Standard For Rights, Dignity And Well-Being .....	
UN Conventional Mechanisms .....	6
The Human Rights Committee .....	7
Committee On Economic, Social And Cultural Rights .....	8
Committee On The Elimination Of Racial Discrimination .....	9
UN Human Rights Council Special Procedures .....	10
The Special Rapporteur On The Rights Of Indigenous Peoples .....	11
The Working Group On Human Rights And Transnational Corporations .....	12
And Other Business Enterprises .....	
Other International Agencies And Processes: A New Area For Standard Setting .....	13
UN Voluntary Guidelines On The Responsible Governance Of Tenure Of Land, .....	13
Fisheries And Forests In The Context Of National Food Security .....	
<b>OTHER GLOBAL PROCESSES .....</b>	<b>14</b>
The Organization of Economic Cooperation and Development (OECD) .....	14
<b>REGIONAL BODIES AND PROCESSES .....</b>	<b>16</b>
Organization Of American States: The Inter-American Commission On .....	16
Human Rights And Inter-American Court Of Human Rights .....	
European Court Of Human Rights .....	17
The African Commission On Human And Peoples Rights .....	18
Association Of Southeast Asian Nations .....	20

<b>PRIVATE SECTOR STANDARD SETTING BODIES .....</b>	<b>21</b>
<b>SUSTAINABILITY .....</b>	<b>22</b>
Global Reporting Initiative .....	22
<b>LAND USE AND EXTRACTIVES .....</b>	<b>23</b>
Bonsucro (Sugarcane) .....	23
Round Table on Responsible Soy .....	25
Roundtable on Sustainable Palm Oil .....	26
Round Table of Sustainable Biofuels .....	28
International Petroleum Industry Environmental Conservation Association .....	31
International Council on Mining and Metals .....	32
Forest Stewardship Council .....	34
<b>ECOSYSTEMS .....</b>	<b>36</b>
International Union for Conservation of Nature .....	36
Marine Stewardship Council .....	39
<b>FINANCE AND INVESTMENTS .....</b>	<b>40</b>
International Finance Corporation .....	40
Equator Principles .....	42
<b>FAIR TRADE AND OTHERS .....</b>	<b>44</b>
FairTrade International .....	44
Union for Ethical BioTrade .....	45
Responsible Jewellery Council .....	47



# INTRODUCTION

## | *Myrna Cunningham UNPFII Chairperson*

Tremendous progress has been made by Indigenous peoples over the last 20 years—beginning with the International Labour Organization’s signing of the Indigenous and Tribal Peoples Convention in 1989, and culminating in the adoption of the UN Declaration on the Rights of Indigenous Peoples in 2007. Thanks to these and other successes in advancing Indigenous peoples’ rights, policy makers today are much more aware of the important role Indigenous communities play in preserving land, biodiversity, and cultural values.

But Indigenous peoples must now focus on spurring the private sector to make similar rights recognitions. By advocating the adoption of Free, Prior and Informed Consent (FPIC), Indigenous peoples are changing business practices on a huge scale. FPIC has been adopted by the International Finance Corporation and other international financial institutions. And four of the ten largest companies in the world—Exxon Mobile, BP, Conoco Philips, and Suncor have all announced policies that recognize the United Nations Declaration on the Rights of Indigenous Peoples. But the private sector still has a long way to go in setting standards on policies and actions that affect Indigenous peoples.

This guide is a resource for Indigenous peoples, building on their successes, while also highlighting how to expand their voices in the standard setting processes of specific industries which impact our territories. But these steps are only the beginning—much more needs to be done to ensure that Indigenous communities obtain the legal and social rights they deserve.

This guidebook is the result of extensive collaboration among International Indian Treaty Council, Trillium, and First Peoples Worldwide. We hope it will serve as an important road map, helping pave the way for greater international recognition of Indigenous rights by governments, NGOs, international institutions, the funding and donor communities, and corporations. We are grateful for their dedication and their commitment to Indigenous communities all over the world.

In solidarity,  
Myrna Cunningham  
Chairperson of the UN Permanent Forum on  
Indigenous Issues (UNPFII)

# ABOUT THIS GUIDEBOOK

## | *Rebecca Adamson President FPW*

Indigenous politics tends to be viewed as local anecdotes, specific to individuals and communities, rather than political events of international significance. Yet in 2007 the Indigenous Peoples Movement achieved two radical victories, demonstrating the power of our global body politic. The best known of these is the United Nations successful adoption of the Declaration of Rights of Indigenous Peoples and its unprecedented endorsement internationally. The second sea change happened in the private sector--Newmont Mining shareholders, in a highly unusual move, voted 91.6 percent in favor of a directive that the company reduce its conflict with Indigenous Peoples in Peru, helping turn back years of exploitation.

The magnitude of these successes will attract allies and support for the emerging capacity of Indigenous Peoples' world leadership—Indigenous Peoples are not alone. Today, we are struggling with issues of accountability in government and in corporations—both institutions have caused environmental degradation, deteriorated social well-being and cultural erosion. But Indigenous Peoples are strategically positioned to impact public and private sector standards by realizing new business models based on balance and reciprocity with Mother Earth.

Public guidelines are those standards like UNDRIP developed by organizations of governments or individual nations. They are intended to provide recommendations or best practice to national and regional lawmakers. In contrast to public standard setting organizations, private guidelines are developed by industry organizations or NGOs focused on specific areas of concern. In both public and private sector processes there are inherent standards that require effective communication and participation by Indigenous Peoples and other affected groups in developing the standards. The ISEAL Alliance, an umbrella organization for social and environmental standards, sets out key elements for developing private sector standards by corporations or NGOs. ISEAL requires that “key stakeholders are identified and encourage to participate,” that “sufficient outreach and communications are ensured for stakeholder participation” and that “documents are publicly available.”

Although the primary obligation to protect human rights belongs to states, human rights standards are increasingly being applied to, and by, corporations. Both voluntary and legally binding initiatives are being put in place by standard-setting organizations that emphasize the obligations of companies to address the rights of Indigenous Peoples in



their policies and operations. International and regional standard setting organizations are building on these standards, and corporations are beginning to include this guidance into their own policies and operating standards. Across industries mechanisms for setting and monitoring social and environmental standards are being established at an unprecedented rate. By engaging these processes, ensuring Indigenous Peoples are on these committees and by filing recommendations for standards that uphold Indigenous Peoples rights business practices can include accountability to Indigenous Peoples.

A key best practice in standards-setting, as they apply to Indigenous Peoples, is the inclusion of the right to Free, Prior, and Informed Consent (FPIC).

- Free refers to the right to approve or decline a project without coercion or implied retaliation.
- Prior refers to the right to have sufficient time for information gathering and discussion, including the translation of materials into local languages.
- Informed refers to the right to have all relevant information available, reflecting all views and positions and including balanced information on project risks and benefits.
- Consent refers to the right to reach agreement with the full participation of authorized leaders, representatives, or decision-makers as decided by the Indigenous Peoples themselves.

FPIC for Indigenous Peoples has been incorporated into many international laws and standards, both public and private. General Recommendation XXIII of the United Nations Committee on the Elimination of Racial Discrimination (CRED), International Labor Organization Convention 169 (ILO 169), and other international instruments recognize FPIC as a right of Indigenous Peoples, and obligate states (countries) to uphold this right. FPIC is a right and is not synonymous with “consultation,” which refers to a process of dialogue and discussion.

### ***A Call to Action***

It is incumbent on Indigenous Peoples to take an active role in raising, asserting, and defending their rights, including FPIC, wherever and whenever potential violations may occur. First Peoples Worldwide has collaborated in developing this guidebook because we believe that increased involvement by Indigenous Peoples with public and private sector standard setting organizations is essential for not only protecting Indigenous lands, livelihoods, and culture but in achieving a sustainable future for all of humankind.

Rebecca Adamson  
President and Founder  
First Peoples Worldwide

# INTERNATIONAL AND REGIONAL **STANDARDS & MECHANISMS**

Public guidelines are those developed by organizations of governments or individual nations. These are intended to provide recommendations or best-practice guidance to national and regional lawmakers. While these standards are rarely legally binding, serious international condemnation may result from non-participation. The ramifications to a state of noncompliance with a UN or other international initiative may include public shaming, restricted participation in international initiatives or, in extreme cases, economic sanctions.

Primarily the member states of the UN, the African Commission on Human and Peoples Rights, the association of Southeast Asian Nations, the Organization of American States (OAS) and the European Court of Human Rights are responsible for human rights observance, protection and remedy. It is through states that corporations are licensed to do business. The legal obligation to protect human rights from third party transgressions such as evictions by conservation NGOs or transnational corporations is theirs.

## ~~~~~ UNITED NATIONS ~~~~~

Some international organizations with government members, such as the UN or the Organization for Economic Cooperation and Development, have long focused their energies on the policies and practices of states. Over time, however, these organizations have begun to place additional emphasis on the role of private actors, such as corporations, in protecting human rights, biodiversity, or other international sustainability goals.

But when a state fails in its duties to monitor and assure compliance, there are some effective international human rights mechanisms that can and do impose human rights obligations and standards on corporations through the state's legally binding obligations. This section will detail some of the more notable international standards or structures put in place by governmental or multi-state bodies to protect human and Indigenous Peoples' rights.

## UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES : *The minimum standard for rights, dignity and well-being* | 2007

UNDRIP was adopted by the UN General Assembly in September 2007. The rights it recognizes “constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.” Bolivia has adopted the UNDRIP as part of its national constitution, and other states, such as Belize have upheld its provisions, including land rights, in court cases. Although some states initially voted against it, or qualified their endorsement, no state now opposes the UNDRIP.

UNDRIP explicitly affirms FPIC and the obligation of states to adopt it. It also recognizes a number of closely related rights such as self-determination, participation in decision making, control and use of traditional lands and natural resources, maintenance, control, protection and development of cultural heritage including genetic resources, and security in subsistence and development.

The following articles are of particular importance in interactions of Indigenous Peoples with corporations:

- **Article 10:** Indigenous Peoples shall not be forcibly removed or relocated from their lands or territories without their FPIC,
- **Articles 19:** States must obtain the FPIC of Indigenous Peoples before adopting legislative or administrative measures,
- **Article 29:** Indigenous Peoples must give their FPIC before hazardous materials are stored or disposed of on their lands,
- **Article 32:** States must obtain FPIC prior to the approval of any development project affecting Indigenous Peoples' lands and resources, and,
- ✧ **Article 42:** Calls on states and UN agencies to “promote respect for and full application of the provisions of this Declaration.”

## UNITED NATIONS CONVENTIONAL MECHANISMS

United Nations Conventional Mechanisms (called “conventional” as they result from international human rights treaties or conventions) can also be effective in holding state parties (the countries which have ratified them) accountable for human rights obligations. In some cases they have called upon states to monitor and ensure that the corporations they license are also in compliance. Although these mechanisms result in recommendations that are not enforceable in national courts, they can damage the reputation of both states and corporations identified as human rights violators, and can exert considerable pressure for change as a result.

Compliance with UN treaties, covenants, conventions and protocols are monitored by treaty monitoring bodies (TMBs) composed of independent experts elected by the state parties. TMBs normally address the state's responsibility to protect human rights from third parties including corporations. TMBs cannot hold a corporation directly responsible for human rights violations, as the legal obligation for implementation of UN conventions belongs to the states. TMBs, however, have taken note of transnational corporations'

human rights abuses and have begun to leverage the state's responsibilities in order to help protect the human rights of Indigenous Peoples and communities against third-party misdeeds.

TMBs examine states' responsibilities to protect and uphold human rights through periodic examinations of compliance, typically conducted every four to six years. Some conventions also have established specific complaints procedures. For example, the Committee on the Elimination of Racial Discrimination (CERD) has an urgent action/early warning procedure that can be very useful to Indigenous Peoples.

All state parties are required to file periodic reports to TMBs as an element of their compliance with the relevant convention. The TMB also conducts periodic examinations in face to face meetings with state representatives, and issue conclusions and recommendations, outlining steps the state should take in order to correct violations. These are made public on the TMB's UN web page, providing another source for creating awareness and pressure.

In addition to the states' reports on their own compliance, "parallel" or "shadow" reports filed by civil society, Indigenous Nations or NGOs, can add information or challenge the states' reports with their own assessment of compliance or violations. These reports are given a great deal of weight in the state review process, and are a very important point of access that has been used effectively by Indigenous Peoples. In some cases, Indigenous Peoples are also able to directly address TMB expert members during the state review process.

TMBs also issue general recommendations and comments on particular articles in their covenants or conventions. Although not legally binding, they provide the TMB's official interpretation of the rights in their respective conventions. Many times states are directed to interpret the convention as per these interpretations found in the general comments or recommendations.

The following provide examples of guidelines, councils, or special procedures that have been developed through UN initiatives and provide protections for Indigenous Peoples' rights.



## **The Human Rights Committee | HRC | 1976**

<http://www2.ohchr.org/english/bodies/hrc/index.htm>

Membership	18 independent experts elected by state parties
Language Addressing Indigenous Peoples	General Comment 23
Scope	167 states have ratified the ICCPR. Periodic reports are required of all ratifying states. Complaints may be filed only against states parties that have ratified Optional Protocol 1.

**The Human Rights Committee (HRC)** is the TMB for the International Covenant on Civil and Political Rights (ICCPR), which was adopted in 1966 and entered into legal force in 1976. The International Covenant on Civil and Political Rights (ICCPR) is the multilateral treaty adopted by the United Nations General Assembly which commits its current 167 parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process as part of the International Bill of Human Rights which also includes the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights.

The HRC has consistently interpreted the right of self-determination to include the right to lands and natural resources, stating that the unilateral extinguishment of aboriginal title (the right of use) is inconsistent with the right of self-determination. In its General Comment 23, which interprets Article 27, the HRC requires that Indigenous Peoples have access to lands and natural resources in order to preserve their culture. These rights have been applied by the HRC to Norway (1999), Mexico (1999), New Zealand (1995), and Colombia (1992).

◇◇◇◇◇◇◇◇◇◇ *The Human Rights Committee in Action* ◇◇◇◇◇◇◇◇◇◇

In 1990, the HRC addressed a complaint submitted by the Lubicon Lake Band of Canada. It presented a number of human rights violations under ICCPR including leases and concessions to corporations for logging, oil and mining that threatened Lubicon Lake with illnesses from pollution, as well as a deteriorated economic base from lost forests, hunting and fishing. The HRC found that Lake Band's rights had been violated under Article 27: the right to practice language, culture and religion. Canada offered to "rectify the situation" in the form of monetary compensation and land swaps. But in 2007 the HRC cited continued violations of Article 1, the right of self determination, as well as Article 27 for Canada's ongoing failure to fairly deal with the Lubicon Lake Band. HRC recommended that Canada consult with the Band before granting licenses "for the economic exploitation of the disputed land, and ensure that in no case such exploitation jeopardizes the rights recognized under the Covenant."

## **The Committee on Economic, Social and Cultural Rights | CESC | 1985**

[www2.ohchr.org/english/bodies/cescr/](http://www2.ohchr.org/english/bodies/cescr/)

Membership	18 independent experts elected by state parties
Language Addressing Indigenous Peoples	No explicit mention in the ICESCR; references to Indigenous Peoples are found in its examination of periodic reports and conclusions and recommendations as well as throughout its general comments

Scope	160 states have ratified. Requires periodic state signatories. The Optional Protocol governing complaints procedures was only recently adopted (2008) and has not entered into force, requiring 10 ratifications.
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The Committee on Economic, Social and Cultural Rights (CESC) monitors compliance with the International Covenant on Economic, Social and Cultural Rights (ICESC), which was adopted in 1966 and entered into force in 1976. This Covenant has Article 1, the right of self-determination, in common with the ICCPR. The CESC has addressed the right of self-determination and the exploitation of lands and resources in their periodic examinations of the Russian Federation (2003), Ecuador (2004), and Colombia (2001).

CESC General Comment 15 (2002) imposes on states the duty to protect the right to water from third parties including individuals, groups, and corporations and also addresses the right of peoples not to be deprived of their means of subsistence.

In 2011, the CESC, noting serious human rights abuses by corporations both domestically and internationally, declared its intention to dedicate special attention to the responsibilities of states to protect against abuse by transnational corporations and other business enterprises.

## **The Committee on the Elimination of Racial Discrimination | CERD | 1969**

<http://bit.ly/sZQzxm>

Membership	18 independent experts elected by states parties
Language Addressing Indigenous Peoples	General Recommendation 23
Scope	175 states have ratified ICERD. Periodic reports are required. Complaints may be filed only against states parties that have made a declaration recognizing the competence of CERD to receive complaints. Any Indigenous Nation, Tribe, group, individual or NGO may file an urgent action/early warning against any state party.

CERD is the TMB for the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD). As well as conducting periodic examinations of parties, it also has unique complaint procedures and urgent action/early warning procedures to address developing situations. It has been effectively utilized by Indigenous Peoples to address threats from mining and other forms of resource extraction.

CERD's General Recommendation 23, adopted in 1997, interprets the ways in which

states are expected to implement the Convention with regards to Indigenous Peoples. It recognizes “...the fact that ...indigenous peoples have lost their land and resources to colonists, commercial companies and state enterprises” and that, “...the preservation of their culture and their historical identity has been and still is jeopardized.” It calls on state parties to “provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics,” and to “ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent.”

#### ◇◇◇◇◇◇◇◇◇◇ *CERD in Action* ◇◇◇◇◇◇◇◇◇◇

In 2007, during Canada’s periodic review, the International Indian Treaty Council and the Confederacy of Treaty 6 First Nations submitted a joint alternative or “shadow” report addressing human rights violations, in particular violations of FPIC, by Canadian mining companies operating in Alaska, Nevada, Montana and Guatemala. The result was a landmark recommendation affirming states’ responsibility to monitor the human rights violations of corporations it licenses. CERD expressed concern about “adverse effects of economic activities connected with the exploitation of natural resources in countries outside Canada by transnational corporations registered in Canada on the right to land, health, living environment and the way of life of indigenous peoples,” and called on Canada, to “explore ways to hold transnational corporations registered in Canada accountable.” The 2012 Periodic Examination of Canada showed it still failed to “... take appropriate legislative measures to prevent transnational corporations registered in Canada from carrying out activities that negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada, and hold them accountable.”

## **UN HUMAN RIGHTS COUNCIL SPECIAL PROCEDURES**

<http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx>

UN Human Rights Council “Special Procedures” can be effectively used to establish human rights standards against corporate abuse and address states’ responsibilities. UN Special Procedures and its system of thematic human rights investigators (usually called “rapporteurs”) act on specific complaints and examine states’ responsibility to protect human rights.

Many special procedures, such as the Working Group on Arbitrary Detentions, the Special Rapporteur on Extrajudicial or Summary Executions and the Special Rapporteur on Human



Rights Defenders, assist in requiring human rights protection from states. There are now more than 30 Special Procedures covering a wide range of human rights, which have been used effectively by Indigenous Peoples to address human rights violations. Although Special Procedures' recommendations are not legally binding, they are reported to the UN Human Rights Council, which creates strong pressure on states to respond and make changes. There is generally no need for a state to ratify or sign any specific covenant or convention to be subject to investigation under these processes.

Indigenous Peoples have utilized a number of other UN Special Procedures to effectively to call attention to human rights abuses that involve corporate activity, calling attention to the states' duty to protect rights including access to food, housing, health and freedom of religion.

### **The Special Rapporteur on the Rights of Indigenous Peoples | 2001**

<http://bit.ly/HWQ5yV> and <http://unsr.jamesanaya.org>

Membership	Independent Expert on the theme of Indigenous Peoples, appointed every three years by the president of the Human Rights Council
Language Addressing Indigenous Peoples	UN DRIP; ILO Convention 169, Treaty Body and OAS Mechanisms jurisprudence.
Scope	The Special Rapporteur may receive communications regarding any UN member and may make visits to these states upon invitation.

The Special Rapporteur on the Rights of Indigenous Peoples was established by a resolution of the UN Human Rights Council 2001.

The present Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya, has found that corporate consultation processes have not been carried out in accordance with international standards and therefore pose challenges to the exercise of the rights of Indigenous Peoples.





◇◇◇◇◇◇◇◇◇◇ *Special Rapporteur on the Rights of Indigenous Peoples in Action* ◇◇◇◇◇◇◇◇◇◇

In 2011, Special Rapporteur James Anaya filed a report on the situation of the Indigenous Peoples of Guatemala. He found a “certain degree of duty,” apart from the duties of the state, on the part of corporations to respect the rights of Indigenous Peoples.

As an annex to his report he examined the situation of indigenous peoples and violations of their rights by Montana Exploradora de Guatemala SA, a subsidiary of the Canadian multinational Goldcorp. Montana Exploradora’s Marlin open pit mine had created substantial environmental damage, posing risks to local health, lands and resources, including the subsistence of the local peoples. This situation was the cause of significant community opposition, resulting in violent repression. As a result of awareness raised by Indigenous Peoples, the InterAmerican Court of Human Rights, the ILO and the World Bank Group’s International Finance Institution’s ombudsman have all called for the suspension of mining activity by Marlin.

The Rapporteur also found that the corporation’s “consultation” had not been carried out in accordance to international standards.

## **The Working Group on Human Rights and Transnational Corporations and other Business Enterprises | 2011**

<http://bit.ly/nJVago>

Membership	5 independent experts appointed by the president of the Human Rights Council
Core Documents	The Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; and the ILO Declaration on Fundamental Principles and Rights at Work.
Language Addressing Indigenous Peoples	Reference cited in Core Documents, and UN DRIP
Scope	Communications can be sent regarding to any United Nations to the Working Group member by any Indigenous Nation, Tribe or organization. Individual communications will not be accepted.

At the Human Rights Council in 2011, guiding principles on business and human rights were recommended and a working group on Human Rights and Transnational Corporations was established. Professor John Ruggie ,the Secretary General’s Special Representative on Human Rights and Transnational Corporations and other Business Enterprises and author of the Guiding Principles delineated the duty of the Sate to involve corporations in 3 overarching HR principles. Protect against HR abuses. Respect all Human Rights. And remedy HR violations including access and appropriate judicial and non judicial mechanisms. Companies are to conduct “due diligence” as a process for “assessing actual

and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed” throughout the life of the project.

The working group on human rights and transnational corporations consists of five independent experts, balanced in geographical representation, and terms for a period of three years. The Working Group will conduct two country visits per year and seek communications from all relevant sources, including indigenous peoples and corporations. It will also work with the numerous other Special Procedures that receive communications from Indigenous Nations and NGOs. Its intent is to make recommendations to states, business and other actors on the implementation of the Guiding Principles.



## **OTHER INTERNATIONAL AGENCIES AND PROCESSES: A NEW AREA FOR STANDARD SETTING**

### **UN Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security | 2012**

The UN’s “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security” was adopted by the UN in March 2012. It recognizes the rights of Indigenous Peoples in a number of provisions. Of note is Paragraph 9.3, which reads, in part:

In the case of Indigenous peoples, states should meet their relevant obligations and voluntary commitments to protect, promote and implement human rights, including as appropriate from the International Labour Organization Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, the Convention on Biological Diversity and the United Nations Declaration on the Rights of Indigenous Peoples [UNDRIP].

These guidelines also instruct states to assume active responsibility for the human rights compliance of transnational corporations, as well as extend direct responsibility to corporations themselves. It states: “Business enterprises should act with due diligence to avoid infringing on the human rights and legitimate tenure rights of others.” The guidelines explicitly extend the guidance issued to the states regarding corporations: “Where transnational corporations are involved, their home states have roles to play in assisting both those corporations and host states to ensure that businesses are not involved in abuse of human rights and legitimate tenure rights.” Although these guidelines are identified as “voluntary” and therefore not legally

enforceable, they are an important part of the trajectory of the rights of Indigenous Peoples that are being recognized in a range of international processes. They also demonstrate the UN's awareness of the need to directly address the responsibility of corporations to embrace and implement human rights standards.

## ~~~~~ OTHER GLOBAL PROCESSES ~~~~~

### **THE ORGANIZATION OF ECONOMIC COOPERATION AND DEVELOPMENT | *OECD* | 1961**

[www.oecd.org](http://www.oecd.org)

<http://oecdwatch.org> (very helpful)

Membership	34 member states, including: Argentina, Austria, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the US.
Core Documents	OECD Guidelines for Multinational Enterprises (2011); Human rights obligations of member states (e.g., ICCPR, ICERD)
Language Addressing Indigenous Peoples	General references to human rights, with language specific to Indigenous rights found in "National Contact Point Reports on Specific Instances." The NCP representatives are usually appointed by governments.
Scope	Guidelines apply to all OECD state party transnational corporations, and under the doctrine of National Treatment, to domestic corporations; the actions of a non-state party corporation that is in the supply chain or providing services to a state party corporation can also be included.

The Organization of Economic Cooperation and Development (OECD) is a multi-state treaty organization. Originally comprised of developed, western nations, it now includes several developing states. Its purpose is to promote sustainable economic growth and employment, a rising standard of living, and the expansion of world trade.

In 1976, the OECD adopted Guidelines for Multinational Corporations. They were revised several times. The last revision, in 2011 to incorporate a great deal of the "Guiding Principles on Business and Human Rights". Professor Ruggie's work (see above), including his reference to the UN DRIP. The OECD Guidelines also contain standards on the environment, corruption and labor, in addition to human rights. This revision also provided clarity on the responsibilities of National Contact Points (NCPs) who receive and follow up on complaints of guideline violations.

The OECD voluntary Guidelines provide general standards for governments and

transnational corporations covering all major areas of business ethics. These include corporate obligations to obey the law, observe internationally recognized standards, and be aware of activities that may adversely impact “individuals belonging to specific groups or populations that require particular attention.” Corporations are encouraged to respect human rights regardless of a host state’s observance or lack of observance of these rights.

Human rights violations can be filed as “specific instances” with the NCP. The primary goal of NCPs is to encourage meetings and communications between the parties, with the view of settlement of the dispute. Where no settlement is possible, NCPs are to issue a public statement “describing the issues raised,” and where appropriate “make recommendations on the implementation of the Guidelines. This OECD mechanism, however, is entirely voluntary and a corporation can refuse to participate; if it does participate, it can refuse to meet with affected communities.

#### ◇◇◇◇◇◇◇◇◇◇ *OECD in Action* ◇◇◇◇◇◇◇◇◇◇

In a 2008 Specific Instance the NCP concluded Vedanta Resources, a British company had failed to put in place adequate and timely consultation mechanism to fully engage the Dongria Kondh. This indigenous community was directly affected by the environmental, health and safety impacts of Vedanta’s plans to construct a bauxite mine. Even though the proposed activity had been approved by the Indian Supreme Court, the NCP found that Vedanta did not respect the rights and freedoms of the Dongria Kondh.

In the Specific Instance of Goldcorp’s Marlin mine (see above), in 2011, the Canadian NCP reported on the failure of his efforts to mediate a meeting between the Indigenous complainants and the corporation. No comments on the additional allegations of violations of the right to property by the community, FPIC, the pollution of water sources, and other damages resulting from the mine activity were filed.

The OECD is, for now, the only international mechanism that allows for complaints directly examining corporate behavior and the behavior of suppliers, without regard to whether that behavior is legal within the host state. It cuts through the often complicated corporate structures that confuse ultimate responsibility. These investigations can be published and, possible affect the corporation’s image and reputation.



## REGIONAL BODIES AND PROCESSES

### THE ORGANIZATION OF AMERICAN STATES: THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS AND INTER-AMERICAN COURT OF HUMAN RIGHTS

<http://www.oas.org/en/iachr/>

Membership	7 independent experts serving in a personal capacity
Core Documents	Inter-American Declaration on the Rights and Duties of Man
Language Addressing Indigenous Peoples	None specifically; Indigenous Peoples addressed through jurisprudence
Scope	A complaint can be filed against any member of the Organization of American States by Indigenous Nations, Tribes, groups or individuals.

The OAS Human Rights Mechanisms, particularly the Inter-American Court of Human Rights (IACHR), are effective human rights enforcement mechanisms available to Indigenous Peoples in Latin America. The Inter-American Human Rights Commission (IAHRC) and the Inter-American Court of Human Rights (IACHR) have upheld the right of self-determination, the right to land, territories and resources, and the right to FPIC in a number of cases.

IACHR judgments are in the form of recommendations. All nations of the Americas except for Cuba are OAS members. If a member state does not comply with the judgment, the IACHR can take the case to the Inter-American Court of Human Rights. States may also take cases before the Court (but never have).

#### Inter-American Court of Human Rights (1979)

<http://www.corteidh.or.cr/index.cfm>

Membership	7 judges elected by the OAS General Assembly, serving in a personal capacity
Core Documents	Inter-American Convention on Human Rights (1979)
Language Addressing Indigenous Peoples	By jurisprudence
Scope	States that have ratified the American Convention on Human Rights: Argentina, Barbados, Bolivia, Brazil, Colombia, Costa Rica, Chile, Dominica, Ecuador, El Salvador, Grenada, Guatemala, Haití, Honduras, Jamaica, México, Nicaragua, Panamá, Paraguay, Perú, República Dominicana, Suriname, Trinidad y Tobago, Uruguay and Venezuela. The US, Canada, Guyana and Belize have not ratified the American Convention and are not subject to it or the Court's jurisdiction.

The Inter-American Court of Human Rights does have legally binding obligations on state parties. The Court requires states to report regularly on compliance with its judgments. The Court reports annually to the OAS General Assembly on its monitoring of compliance by the states within its judgments. It has the power to enforce its judgments on damages before the Supreme Courts of signatory states.

◊◊◊◊◊◊◊◊◊◊ ***Inter-American Court of Human Rights in Action*** ◊◊◊◊◊◊◊◊◊◊

The Court has made a number of landmark decisions supporting traditional land and resource rights of Indigenous Peoples against actions by states as well as corporations. The Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, in 2001, ordered Nicaragua to define and demarcate the boundaries of Indigenous lands and, pending that definition, cease any activity, including the issuance of logging permits to companies. In 2004 the Case of the Maya Indigenous Communities of the Toledo District (Belize), established that Indigenous Peoples have the right to be protected from harm to their environment resulting from transnational activity. In 2007 the Case of the Saramaka People v. Suriname(2007), found a violation of the Indigenous right to property when the state granted mining and logging concessions to corporations without considering the environment, or impacts on other resources used by indigenous and tribal peoples for subsistence and trade.

## THE EUROPEAN COURT OF HUMAN RIGHTS | 1959

[http://www.echr.coe.int/echr/homepage\\_EN](http://www.echr.coe.int/echr/homepage_EN)

Membership	One Judge for each of the contacting States to the European Convention on Human Rights (47) serving a non-renewable term of 9 years. Judges are elected by the Parliamentary Assembly of the Council of Europe. They are organized into three sections, and each section has “Chambers.” Once a case is found admissible by a single Judge “Rapporteur” it is referred to Chambers for decisions on the merits.
Core Documents	European Convention on Human Rights
Language Addressing Indigenous Peoples	None – the Court has as yet to address itself to Indigenous rights per se, even though many European States continue to hold Indigenous lands and territories overseas. There are Indigenous Peoples in Europe as well, in Norway, Finland and Sweden and the Russian Federation.

Scope	The Court accepts complaints from individuals as well as state-to-state complaints from States parties to the Convention: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, and the United Kingdom.
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The European Court of Human Rights decides complaints alleging violations of the civil or political rights under the European Convention on Human Rights. Much like the Inter-American system, its final judgments can be enforced against the 47 Council of Europe States members that have ratified the Convention. The European Court has applied human rights standards, primarily Article 8 of the European Convention (right to respect for private and family life), to acts of corporations damaging the environment.

The European Court has not addressed Indigenous Peoples' rights directly, even though several European countries continue to hold indigenous territories overseas, as well as having Indigenous Peoples, primarily the Saami Peoples, within European countries. It has a case before it challenging the forced removal of the Chagos Islanders from the Island of Diego Garcia by the United Kingdom in preparation for a US military base.



## THE AFRICAN COMMISSION ON HUMAN AND PEOPLES RIGHTS | *ACHPR* | 1986 entry into force

[http://www.achpr.org/english/\\_info/news\\_en.html](http://www.achpr.org/english/_info/news_en.html)

Membership	11 members serving renewable 6 year terms elected by the Assembly of Heads of State and Government
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Core Documents	African Charter on Human and Peoples' Rights
Language Addressing Indigenous Peoples	<p>By its very name, The African Charter on Human and Peoples Rights expressly recognizes and protects collective rights by employing the term 'peoples' in its provisions, including in its Preamble. The Charter recognized as rights of Peoples: (Article 17.3), Promotion and protection of morals and traditional values recognized by the community; (Article 19), Equality of all Peoples; "Nothing shall justify the domination of a people by another;" (Article 20), the right to existence, the "inalienable right of self-determination," and the right to "freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen." (Article 21), "All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it;" (Article 22), "All peoples shall have the right to their economic, social and cultural development...;" (Article 23), A Peoples' right to Peace and Security; (Article 24), A Peoples right to the environment "favourable to their development."</p> <p>It should also be noted that where a right is recognized as an individual right, the ACHPR has also recognized it collectively in examining the rights of Indigenous Peoples.</p>
Scope	The African Charter on Human and Peoples Rights are applicable to all States members of the Organization of African Unity, now African Union, virtually all African States.

The ACHPR receives cases concerning the 1981 African Charter on Human and Peoples Rights. In 2005 the African Commission adopted an expansive and noteworthy report entitled, "Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities." The decisions of the ACHPR, although legally binding, are not enforceable, unlike the European and Inter American Court decisions that can be enforced through State party processes. Like UN processes, although legal binding and obligatory, decisions can be and many times are, ignored.

### ◇◇◇◇◇◇◇◇◇◇ **ACHPR in Action** ◇◇◇◇◇◇◇◇◇◇

In 2002 it applied seven articles of the Charter to Nigeria, a signatory, for the environmental damage caused by Shell Corporation on Ogoni Peoples' lands. Their ruling called on Nigeria to undertake a "comprehensive cleanup of lands and rivers damaged by oil operations," and to ensure that the social and environmental impact of future oil development in Nigeria does not harm local communities.

Rights violated include the right to health and the right to clean environment as recognized under Articles 16 and 24 of the African Charter, as well as Article 14, the right to property, interpreted by the ACHPR as including the right to safe housing. It also found a violation of the right to food, implicit in Articles 4 (life), Article 16 (health) and Article 22 (the right to economic, social and cultural development). Most relevant to transnational corporations, the ACHPR applied Article 21, the right of Peoples to freely dispose of their wealth and natural resources. Part 5 of Article 21, provides that, "States Parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation



particularly that practised by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.” The ACHPR noted that, “The intervention of multinational corporations may be a potentially positive force for development if the State and the people concerned are ever mindful of the common good and the sacred rights of individuals and communities.”

## THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS

### *ASEAN | Intergovernmental Commission on Human Rights | 2009*

[www.aseansec.org/22769.htm](http://www.aseansec.org/22769.htm)

Membership	The Asian Intergovernmental Commission on Human Rights is not yet fully formed. The ASEAN Countries inaugurated it in 2009, and adopted its Terms of Reference in 2012.
Core Documents	An ASEAN human rights declaration is being drafted by a group of experts.
Language Addressing Indigenous Peoples	None yet.
Scope	As a Human rights declaration is yet to be drafted or adopted, it is difficult to predict its scope, whether it will require ASEAN State parties to ratify, or if it will be applicable to all without ratification, like the Inter American Declaration. ASEAN State members include: Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam,

In 2009, ASEAN inaugurated the Intergovernmental Commission on Human Rights and adopted terms of reference for it. An ASEAN declaration of human rights is being drafted by a group of experts, criticized recently by Asian NGOs as a secretive process without human rights NGO consultation or input.



# PRIVATE SECTOR STANDARD SETTING BODIES

In contrast to public standard setting organizations, private guidelines are developed by industry organizations or non-profits focused on specific areas of concern. They are voluntary, but compliance may be a pre-requisite for important organizational memberships or branding marks.

Industry-led initiatives may seek to improve the long-term sustainability of their field. They may also be looking to address negative perceptions of their industry, as was the case of the Responsible Jewelry Council and the International Council on Mining and Metals. They encourage, and sometimes require, members to improve practices or procedures in order to protect the public's perception of their industry.

Standards are also set by NGOs seeking to advocate for improved corporate practices. Some of these groups provide certification that corporations operate according to the best standards or offer the use of branding marks which companies can use in marketing their products.

Other NGO standard setting organizations will use their international presence and broad stakeholder base to bring pressure on legislators and corporate policymakers. The International Union for Conservation of Nature (IUCN), for example, has coordinated industry-wide sessions on mining and Indigenous rights. NGO standards may also, as the Global Reporting Initiative does, create an atmosphere of corporate peer pressure, where industry members are encouraged to meet the best practices upheld by their competitors.

Organizations that follow best practices for standard setting participate in programs led by the ISEAL Alliance. The ISEAL Alliance has developed a Code of Good Practice in developing standards that includes:

- Identifying key stakeholders and encouraging their participation in standards development,
- Ensuring sufficient outreach and effective communication tools for stakeholder participation,
- Weighting the variety of opinions equally and following balanced decision-making,
- Conducting regular reviews of the standards, and,
- Making sure the documents are publicly available.

Within the private sector standard setting mechanism there are various means for Indigenous Peoples to have input. Some processes are open to membership on the board and some encourage participation on the standards setting committee. Whether led by an industry organization or NGO mechanism all processes can accept and should encourage written comments by Indigenous Peoples. What follows are the private sector mechanism and contact information for Indigenous Peoples to gain input in those processes where their territories and livelihoods may be affected.

## ~~~~~ SUSTAINABILITY ~~~~~

### **GLOBAL REPORTING INITIATIVE | 1997**

[www.globalreporting.org](http://www.globalreporting.org)

Region of Operation	While any organization in the world may use the GRI, it has regional representation in the Netherlands, Australia, Brazil, China, India and the United States. An office will open in South Africa in late 2012.
Membership Size	There are more than 600 Organizational Stakeholders.
Member Examples	Organizational Stakeholders can be business enterprises, public and private organizations.
Membership Requirements	Organizational Stakeholders register online in a simple form. A fee is assessed according to the annual turnover of the organization.
Language Addressing IPs	<p>The Global Reporting Initiative offers guidelines for reporting on a company's approach to indigenous communities, in its general Guidelines as well as in sector specific supplement. Guidance includes:</p> <ul style="list-style-type: none"> <li>• Reporting on processes and mechanisms related to: minimization of potential adverse impacts, relocation, consultation and informed participation, implementation of development benefits, and approach for purposely isolated communities.</li> <li>• Reporting on how indigenous peoples are taken into consideration in the project planning,</li> <li>• Decision-making and impact mitigation processes.</li> </ul> <p>(Source: Sustainability Reporting Guidelines &amp; Oil and Gas Sector Supplement, URL: <a href="https://www.globalreporting.org/resource/library/OGSS-G3.1-Complete.pdf">https://www.globalreporting.org/resource/library/OGSS-G3.1-Complete.pdf</a>)</p>

The Global Reporting Initiative (GRI) is a nonprofit organization which encourages corporate transparency by providing a reporting framework around sustainability topics. It provide guidelines for reporting on a range of social, economic and environmental indicators. The guidelines are continuously improved through a consensus seeking, multi-

stakeholder process. GRI is currently working on the development of the next generation of the Guidelines which will be published in May 2013.

Companies and organizations wishing to use the GRI Framework are provided with reporting templates, introductory workshops, supporting publications and software certifications. More than 2,100 organizations issued sustainability reports guided by the GRI Framework in 2011.

GRI is governed by three main entities. The board of directors has final decision-making authority, a technical advisory committee oversees development of the frameworks, and a stakeholder council offers guidance on strategic issues and assesses potential changes to the Frameworks. Stakeholder council members are nominated through an annual open call for nominations. More than 600 organizations from over 60 countries participate as organizational stakeholders.

The GRI's Reporting Guidelines have multiple indicators which touch upon Indigenous Peoples in some way. One of the key Human Rights Performance Indicators requests corporate reporting specific to incidents involving Indigenous Peoples. Additional social performance indicators request reporting on community impact and engagement. Sector-specific frameworks for the mining and metals and the oil and gas sectors have more in-depth informational requirements, including reporting on consultation processes, relocation and benefits sharing.

#### **Contact Details:**

For inquiries regarding the Organizational Stakeholders program: [os@globalreporting.org](mailto:os@globalreporting.org).

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## ~~~~~ LAND USE AND EXTRACTIVES ~~~~~

### **BONSUCRO (SUGARCANE) | 2005**

[www.bonsucro.com](http://www.bonsucro.com)

Region of Operation	Global.
Membership Size	Members are organizations. There are currently 58 globally diverse members.

Member Examples	Members include NGOs (World Wildlife Fund), producers (Shell, Petrobras, North Sea Petroleum) and consumer product companies (Pepsico, Cargill, Unilever, Coca-Cola).
Membership Requirements	Potential members must submit applications, including signing the Bonsucro Code of Conduct. Details of the applicant company are posted to the Bonsucro website for 30 days and stakeholders are invited to comment.
Language Addressing IPs	<p>The Bonsucro Production Standard is intended to function as an auditable document, not a reporting framework. The standard includes five principles, each containing key indicators. When all core criteria and 80% of the all indicators are satisfied, compliance is achieved and Bonsucro certification awarded.</p> <p>Principle 1 includes one indicator “to demonstrate clear title to land in accordance with national practice and law” -- the right to use the land can be demonstrated and is not legitimately contested by local communities with demonstrable right.</p> <p>Principle 5 includes two indicators “to ensure active engagement and transparent, consultative and participatory processes with all relevant stakeholders”:</p> <ul style="list-style-type: none"> <li>• Existence of grievance and dispute resolution processes recognized by all stakeholders.</li> <li>• Percentage of stakeholder engagement meetings where a consensus driven process drove agreement. Companies seeking compliance must disclose whether their consultation process includes providing gender sensitive and indigenous people with information in advance of consultation. Evidence of consensus-driven negotiated agreements are to be demonstrated. (Paraphrased.)</li> </ul> <p><a href="http://www.bonsucro.com/standard/continuous_improvement.html">http://www.bonsucro.com/standard/continuous_improvement.html</a></p>

Bonsucro’s mission is to improve the social, environmental, and economic sustainability of sugarcane by promoting the use of a global metric standard. The Bonsucro Standard incorporates a set of principles, criteria, and indicators to certify producers of sugar, ethanol and its derivatives who comply with them. It also acts as a guide for companies in the sugar and ethanol value chain who wish to procure sustainable feedstock and supplies. The metric is expected to better inform those in the financial sector who wish to make more sustainable investments. Proposals to develop or review a new standard may be submitted by any interested party.

The decision to develop or review a new standard rests with the board of directors. When a revision is recommended, working groups are formed to implement the process and gather expertise. Working groups must include member(s) representing potentially affected stakeholders. The working group is charged with drafting the objectives of the work, a list of interested parties, and producing drafts of the revised standard both prior to and following stakeholder feedback, including an assessment of risks and impact of each change.

**Contact Details:**

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[www.bonsucro.com](http://www.bonsucro.com)



## ROUND TABLE ON RESPONSIBLE SOY | RTRS | 2006

<http://www.responsiblesoy.org>

Region of Operation	RTRS certification activities currently take place in Argentina, Brazil and Paraguay, but can be applied anywhere soy is grown. Members come from all over the world, but are primarily located in Argentina, Brazil, India, the Netherlands and the United Kingdom.
Membership Size	There are over 150 members, including producers (29), industry, trade and finance (73), civil society (16) and observers (32).
Member Examples	Aapresid, Bioeste, Conservation International, Cotrimaio, Desarrollo Agrícola del Paraguay, Gebana, The Nature Conservancy, Solidaridad, WWF
Membership Requirements	Applicants to the RTRS submit a fee and apply through a simple form on the organization's website.
Language Addressing IPs	<p>The RTRS Production Standards requires that community rights assessments should aim to identify:</p> <ul style="list-style-type: none"> <li>• The collective uses and rights of traditional land users,</li> <li>• The places and landscape conditions needed to satisfy these rights,</li> <li>• The places/issues where there is conflict between the property rights and the traditional land use rights, and,</li> <li>• And teach a solution to resolve possible conflicting land uses and/or agree proposals for compensation.</li> </ul> <p>(Section 3.2.1 in <i>RTRS Standard for Responsible Soy Production</i>, Version 1.0 at <a href="http://bit.ly/AluEZ1">http://bit.ly/AluEZ1</a>)</p>

The Round Table for Responsible Soy (RTRS) aims to encourage international dialogue on responsible soy production, processing and trade. Coordinating producers, industry, trade and banking representatives, NGOs and governments, it developed the RTRS “Principles and Criteria” which cover sustainability issues such as the environment, labor conditions, community relations, and agriculture practices. RTRS has created a certification scheme related to these principles for chain of custody and soy production. The first farm was certified in June 2011.

In order to receive certification, the RTRS standards requires that soy producers recognize the rights of Indigenous People and smallholders. Comprehensive and participatory community right assessments must be carried out and documented evidence is required that affected communities have given free, prior and informed consent as well as proper compensation. Certification will not be provided to land where appropriate ownership and consent cannot be proven.

The General Assembly is the highest decision-making body and it is comprised in three equal parts by soy producers, industry trade and finance representatives and civil society organizations. All three parts are equally represented on the Executive Board and have equal voting power. The Executive Board is elected by the General Assembly and manages operation activities and most decision making. In addition, observing members (regulatory bodies, government agencies, consultants, and academia) have equal rights to propose discussion agendas.

The FTRS website holds that public consultation is open for the next certification audits of the RTRS Production Standard. The pertinent materials have not yet been released to the public. The 7<sup>th</sup> annual RTRS conference will be held May 23-24 in the United Kingdom.

#### **Contact Details:**

Round Table on Responsible Soy Association  
Uruguay 1112, 3° Piso (C1016ACD)  
Buenos Aires  
Argentina  
+54 11 4519 8005  
[info@responsiblesoy.org](mailto:info@responsiblesoy.org)

## **ROUNDTABLE ON SUSTAINABLE PALM OIL | 2004**

[www.rspo.org](http://www.rspo.org)

Region of Operation	46 countries
Membership Size	740 members

Member Examples	Conservation International, Oxfam, National Wildlife Federation, IKEA, Sainsbury, Boots, Royal Ahold, Tesco, Walmart, Rabobank, Cargill, ADM
Membership Requirements	<p>“Ordinary” members are commercial enterprises. The rest of the membership is split between “affiliates” (supportive individuals or organizations), and “supply chain associates.”</p> <p>Applicants must submit an online application form along with a signed Code of Conduct to the Secretariat, which is evaluated by the Executive Board; members may submit comments on the application during an open period.</p>
Language Addressing IPs	<p>In the Principles &amp; Criteria for Sustainable Palm Oil, Principle 6 and its eleven criteria address the “responsible consideration of employees and of individuals and communities affected by growers and mills.” They reference, for example, the “adequate consideration of the impacts on the customary or traditional rights of local communities and indigenous people, where these exist,” and the right of indigenous peoples to “express their views through their own representative institutions,” in “any negotiations concerning compensation for loss of legal or customary rights.” (Source: <a href="http://bit.ly/J0waD8">http://bit.ly/J0waD8</a>)</p>

The RSPO works to promote the growth and use of sustainable palm oil through cooperation within the supply chain and open dialogue with its stakeholders. Its principle tasks are to:

- Research and develop definitions and criteria for sustainable production and use of palm oil,
- Undertake practical projects designed to facilitate implementation of sustainable best practices,
- Develop solutions to practical problems related to the adoption and verification of best practices for plantation establishment and management, procurement, trade and logistics,
- Acquire financial resources from private and public funds to finance projects under the auspices of RSPO, and
- Communicate RSPO’s work to all stakeholders and to the broader public. RSPO has set up certification schemes that are audited by accredited independent parties and cut across the entire supply chain.

RSPO projects include:

- Principles & Criteria for sustainable palm oil
- National implementation & interpretation of the Principles & Criteria
- Local indicators of the P&C
- Smallholders
- Greenhouse gas working group
- HCV (high conservation value) -RSPO Indonesia working group



- RSPO procedures for new plantings
- Biodiversity conservation
- Task Group on RED (the European Commission's Renewable Energy Directive)

RSPO was originally based on an informal cooperation between a number of palm oil businesses and the World Wildlife Fund. It currently represents 50% of global palm oil production. About 70% of members are processors, traders and consumer goods makers. Palm oil producers represent about 17%, and retailers, banks and investors, and NGOs focused on the environment, society or development comprise the remaining portion. An executive board of 16 members, who are elected by a general assembly for two-year terms, manages the RSPO. NGO members have been allocated four (two social and two environmental) board seats. "This is to ensure all stakeholders have fair say in guiding the RSPO and its activities. Civil society representatives can also influence the process through active participation in RSPO projects such as the Development of Principles & Criteria for Sustainable Palm Oil."

It is seated in Zurich, with a secretariat in Kuala Lumpur, and a satellite office in Jakarta.

The governance, aims, outcomes of the RSPO have been controversial. Organizations such as Friends of the Earth, Greenpeace and Rainforest Action Network have been critical of the organization to varying degrees. A common theme that underlies their criticisms is a fear that the certified trading credits offered provide a dubious technical solution that has failed to address underlying social problems or cope with rising and unsustainable demand for palm oil products.

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 www.rspo.org

## ROUND TABLE ON SUSTAINABLE BIOFUELS

Region of Operation	Global
Membership Size	More than 130 member organizations based in more than 30 countries from all continents and representing a range of stakeholders, including fuel makers, large and small farmers, oil companies, investors, NGOs, UN agencies, governments and research institutes.

Member Examples	Cosmo Biofuels Group, Grupo Kuo, National Corn Growers Association, Sun Biofuels, Biofuels UK Ltd, Petrobras SA, Confederation of China Bio-energy, National Biodiesel Board, Boeing, Inter-American Development Bank, Associated Labor Unions-Trade Union Congress of the Philippines, Fundación Solar, Rural Amazonian Promotion and Development Center, Conservation International, Natural Resources Defense Council, Sierra Club, WWF International, UNCTAD, United Nations Environment Programme
Membership Requirements	Applicants to the RSB pay a fee and must commit to support the vision, mission, objectives, and systems of the RSB.
Language Addressing IPs	<p>“Criterion 2a. Biofuel operations shall undertake an impact assessment process to assess impacts and risks and ensure sustainability through the development of effective and efficient implementation, mitigation, monitoring and evaluation plans.” This requires “Where biofuel operations will have significant social impacts, as measured during the screening exercise, a social impact assessment process shall be carried out using local experts to ensure that local customs, languages, practices and indigenous knowledge are respected and utilized”</p> <p>“Criterion 2b. Free, Prior &amp; Informed Consent (FPIC) shall form the basis for the process to be followed during all stakeholder consultation, which shall be gender sensitive and result in consensus-driven negotiated agreements.” This requires “The ESIA facilitators shall invite all locally-affected stakeholders, local leaders, representatives of community and indigenous peoples groups and all relevant stakeholders to participate in the consultative process.” And “Participatory methodologies described in the RSB Impact Assessment Guidelines (RSB-GUI-01-002-01) shall be used to ensure meaningful stakeholder engagement. Special attention shall be made to ensure that women, youth, indigenous and vulnerable people can participate meaningfully in meetings and negotiations. Where the need is identified by the ESIA facilitator, there shall be informal workshops to build local understanding in the community of the processes that may impact them directly to aid meaningful engagement.”</p> <p>Principle 5. In regions of poverty, biofuel operations shall contribute to the social and economic development of local, rural and indigenous people and communities. Criterion 5.b In regions of poverty, special measures that benefit and encourage the participation of women, youth, indigenous communities and the vulnerable in biofuel operations shall be designed and implemented.</p> <p>Principle 9. Biofuel operations shall maintain or enhance the quality and quantity of surface and ground water resources, and respect prior formal or customary water rights. Criterion 9.a Biofuel operations shall respect the existing water rights of local and indigenous communities.</p> <p><a href="http://rsb.epfl.ch/files/content/sites/rsb2/files/Biofuels/Version%202/PCs%20V2/11-03-08%20RSB%20PCs%20Version%202.pdf">http://rsb.epfl.ch/files/content/sites/rsb2/files/Biofuels/Version%202/PCs%20V2/11-03-08%20RSB%20PCs%20Version%202.pdf</a></p>

The Roundtable on Sustainable Biofuels (RSB) provides and promotes the global standard and certification scheme for sustainable production of biomass and biofuels. The RSB has developed a third-party certification system for biofuels sustainability standards, encompassing environmental, social and economic principles and criteria through an open, transparent, and multi-stakeholder process. RSB is hosted by the Swiss Federal Institute of Technology in Lausanne.

RSB Certificates are recognized by the European Union under the Renewable Energy Directive. The first RSB Certificate was issued at the end of January 2012. Several companies are currently at different stages of the certification process.

In January 2009 the Roundtable on Sustainable Biofuels adopted a new governance structure, with open membership divided into Chambers representing the different actors along the supply chain, as well as different types of civil society and government groups. RSB Chambers each elect two members to the RSB Steering Board (usually one from the global South and one from the global North), who will make all of the decisions regarding the RSB strategy, any changes to the standards, and approve the various options for certification, with decisions made via consensus.

The RSB is currently inviting public comment on whether and how the RSB standards should address indirect impacts of biofuel production. Public comments are due by May 15, 2012

#### Contact Details:

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# INTERNATIONAL PETROLEUM INDUSTRY ENVIRONMENTAL CONSERVATION ASSOCIATION

*IPIECA* | 1974

Region of Operation	Global, representing over half of the world's oil production.
Membership Size	32 companies, including all six “super majors,” seven national oil companies, and 14 associations.
Member Examples	Members of IPIECA include: BP, Chevron, ConocoPhillips, ExxonMobil, International Association of Oil & Gas Producers, Marathon, Petrobras, Regional Association of Oil and Natural Gas Companies in Latin America and the Caribbean, Repsol, Saudi Aramco, Shell, Statoil, Talisman Energy and the World Petroleum Council.
Membership Requirements	Corporate members must be international companies with operations in exploration, production or refining of petroleum. Association members must be oil and gas industry associations.
Language Addressing IPs	<p>General principles</p> <ul style="list-style-type: none"> <li>• Respect the rights of Indigenous Peoples.</li> <li>• Minimize adverse impacts.</li> <li>• Maximize the benefits resulting from a company's operations.</li> </ul> <p>(Source: Indigenous Peoples and the Oil and Gas Industry: Context, Issues and Emerging Good Practice, at <a href="http://bit.ly/lpArMn">http://bit.ly/lpArMn</a>.)</p>

Formed in 1974, IPIECA is the oil and gas industry's international organization focused on social and environmental issues. IPIECA develops benchmarking studies of best practices, acts as an active education forum and engages with external stakeholders.

A general committee, comprised of senior representatives from IPIECA member companies meets once a year to set the strategic direction and policies of the organization. An executive committee meets tri-annually to coordinate the implementation of the General Committees decisions. Within IPIECA, a number of specialist working groups, populated by members, exist. These groups address topics such as biodiversity, oil spill preparedness and social responsibility.

In 2008, IPIECA established a Task Force focused on Indigenous Peoples. In 2011, it published “Indigenous Peoples and the Oil and Gas Industry: Context, Issues and Emerging Good Practice,” which focuses on consultation, benefits sharing, and best practices for engagement.

IPIECA has convened a number of stakeholder dialogues in the past. It requests that stakeholders contact the secretariat if they have feedback to provide on existing or planned IPIECA activities.

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[www.ipieca.org](http://www.ipieca.org)

**INTERNATIONAL COUNCIL ON MINING AND METALS | 2001**

Region of Operation	Argentina, Colombia, Chile, Venezuela, Brazil, Peru, Canada, Mexico, USA, South Africa, China, India, Indonesia, Japan, Belgium, United Kingdom, Australia
Membership Size	21 companies, 31 mining associations
Member Examples	AngloAmerican, BHP Billiton, Freeport-McMoRan, JX Nippon Mining & Metals, Mitsubishi Materials, Rio Tinto, Cámara Asomineros Andi – Colombia, Cámara Minera de México (CAMIMEX), Chamber of Mines of South Africa, Instituto Brasileiro de Mineração, World Coal Association, World Gold Council
Membership Requirements	Commit to improving sustainability performance, report annually on progress

Language Addressing IPs	<p>Nine distinct commitments are made. In truncated form, these are:</p> <ul style="list-style-type: none"> <li>- Acknowledging and respecting the social, economic, environmental and cultural interests.</li> <li>- Understanding the perspectives of Indigenous Peoples regarding a project's potential impacts.</li> <li>- Engaging with Indigenous Peoples in a fair, timely and culturally appropriate way.</li> <li>- Building cross-cultural understanding.</li> <li>- Encouraging governments to participate in alleviating problems faced by Indigenous Peoples.</li> <li>- Designing projects to avoid potentially significant adverse impacts of mining.</li> <li>- Seeking agreement with Indigenous Peoples on programs to generate net benefits.</li> <li>- Supporting appropriate frameworks for facilitation, mediation and dispute resolution.</li> <li>- Seek broad community support for new projects.</li> </ul> <p>(Source: Position Statement on Mining and Indigenous People at <a href="http://www.icmm.com/document/293">www.icmm.com/document/293</a>.)</p>
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The International Council on Mining and Metals (ICMM) seeks to encourage sustainable development by the mining and metals industry. The organization believes that successful mining and metals operations require the support of the communities in which they operate. ICMM's objective is to "build effective and constructive relationships with IP that are based on respect, meaningful engagement and mutual benefit."

Member companies report annually on their commitment to improve their sustainability performance. They report on the systems and approaches used by their companies to identify and prioritize sustainability risks, and the systems used to address these risks.

ICMM was formed in 2001 as the mining industry became increasingly concerned that its poor reputation was negatively impacting its ability to sustain profits, access new assets and maintain investor confidence. In 2005 the group published the 'Indigenous Peoples Issues Review.' In 2005 and 2008, ICMM joined with the World Conservation Union (IUCN) to host two Roundtables on Indigenous Peoples' issues. In 2008, the organization released its final "Position Statement on Mining and Indigenous Peoples" which was accompanied by an operational handbook "Good Practice Guidance."

ICMM is governed by a Council, composed of the CEOs of all ICMM member companies, two elected members from member associations and the ICMM's President. It meets bi-annually. Executive Working Groups, meet four times a year, and additional Associations Coordination Group meets twice bi-annually for discussion of controversial issues. Two members from this group are elected to sit on the ICMM Council.

ICMM explicitly states its interest in engaging with Indigenous Peoples, although outreach calls and emails to the organization requesting individual contract information were not returned.

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**FOREST STEWARDSHIP COUNCIL | 1993**

Region of Operation	1,100+ forest management units are certified, with a total of about 125 million hectares in 80 countries, estimated to represent 5% of the world's managed forests.
Membership Size	406 individual members and 422 organizational members.
Member Examples	Members include individuals, NGOs, forestry management companies, retailers and others.
Membership Requirements	Potential members must submit applications supported by two current FSC members, describe how their organizations are structured, detail how their work supports the FSC's mission and suggest which "chamber" (social, environmental, or economic) they would like to participate in.

Language Addressing IPs	<p>Principle 3 of the FSC Principles and Criteria for Forest Management addresses the legal and customary rights of Indigenous Peoples to own, use and manage their lands. Four criteria support this Principle, as paraphrased below:</p> <ul style="list-style-type: none"> <li>3.1 Indigenous peoples shall control forest management on their lands unless they delegate control with free and informed consent to other agencies.</li> <li>3.2 Forest management shall not diminish the resources or tenure rights of indigenous peoples.</li> <li>3.3 Sites of special cultural, ecological, economic or religious significance shall be clearly identified, recognized and protected by forest managers.</li> <li>3.4 Indigenous peoples shall be compensated for the application of their traditional knowledge regarding the use of forest species or management systems in forest operations.</li> </ul> <p>(<a href="http://bit.ly/9zSn5x">http://bit.ly/9zSn5x</a>)</p> <p>Additional policies and principles address Indigenous Peoples' rights, including the "FSC Global Strategy," "High Conservation Value Forests," "Process Requirements for the Development and Maintenance of Forest Stewardship Standards," and Principles 2, 3, and 4 of the "FSC Principles and Criteria for Forest Management."</p>
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The FSC was established to promote sustainable forestry management, offering trademark assurance and accreditation for companies, organizations and communities participating in sustainable forestry management. FSC trademark on products indicate that they have been sourced from forests managed according to the "FSC Principles and Criteria." These criteria include compliance with laws, tenure and use rights, community relations, management planning, monitoring and Indigenous rights.

FSC accredits certification bodies which then evaluate, monitor and certify that forests are being managed to FSC standards. It offers two types of certifications, one for forest management and the other for chain of custody (or supply chains), which tracks materials from the forest through the production and manufacture process. These can be found on paper goods, furniture and other consumer products.

Originally adopted in 1994, the "FSC Principles and Criteria" underwent a four-year review process completed in January 2012. A series of five meetings were held in 2009 with representatives of Indigenous Peoples in order to revise this Principal 3 and its associated criteria. Changes to the policy included that certified operations identify and uphold legal and customary rights of indigenous peoples.

The FSC is governed by a general assembly of FSC Members, a nine-member board of directors, and a Director General. Representatives of Indigenous communities have frequently been in one or more of the directors' positions. The general assembly is made up of the three membership chambers: environmental, social and economic. The



social chamber is for individuals and nonprofit, academic, or technical institutions. The environmental chamber is for those institutions with an interest in environmentally viable forest stewardship. The economic chamber is for organizations and individuals with commercial forestry interests. In Canada, a fourth chamber is specific to indigenous communities and has equal representation.

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## ~~~~~ ECOSYSTEMS ~~~~~

## INTERNATIONAL UNION FOR CONSERVATION OF NATURE

*IUCN* | 1948

[www.iucn.org](http://www.iucn.org)

Region of Operation	160 countries
Membership Size	1,200+ member organizations, including 200+ government and 900+ NGOs, as well as 11,000 scientists and experts.
Member Examples	Members can be states, government agencies, political/economic integration organizations, and NGOs. Individuals can join the IUCN's issue-specific Commissions.
Membership Requirements	Members must demonstrate that their policies, activities and history share and support the objectives of IUCN. Organizations must demonstrate a certain level of transparency and have been in existence for three years.

Language Addressing IPs	65 policy decisions with reference to indigenous peoples have been adopted by IUCN Members. IUCN aims to adhere to the principles and provisions laid out in UNDRIP. Its mission corresponds directly to Article 29.1 and IUCN agrees that indigenous peoples “have the right to the conservation and protection of the environment and productive capacity of their lands or territories or resources.” IUCN policy outlines FPIC as a fundamental component of its activities. By endorsing UNDRIP, IUCN has articulated its commitment ensuring that indigenous peoples’ rights and concerns are integrated into its Programme; it identifies UNDRIP as a reference to guide engagement.
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Sometimes called the World Conservation Union, the IUCN is a unique global partnership that encourages the conservation of the integrity and diversity of nature and the equitable and sustainable use of natural resources. IUCN has supervised thousands of field projects, facilitated scientific and social standards, and helped many countries prepare national conservation strategies. It considers itself to be the world’s oldest and largest environmental network.

Funded by governments, bilateral and multilateral agencies, foundations and member organizations, it is governed by a member-elected Council. Its work is framed by a Global Programme, developed and approved by IUCN members every four years at the World Conservation Congress.

The work of IUCN programmes on Indigenous Peoples is broad, supporting:

1. Indigenous rights to land and resources in protected areas,
2. Sustainable use and ecosystem management,
3. Access and benefit sharing of biological resources,
4. Maintenance and recognition of traditional knowledge, and,
5. Indigenous rights in the context of climate change mitigation and adaptation.

Of its six commissions, the Commissions on Environmental, Economic and Social Policy (CEESP), the World Commission on Protected Areas (WCPA) and the Commission on Environmental Law (CEL) have work streams which focus on indigenous peoples. The WCPA has published a document entitled “Indigenous and Traditional Peoples and Protected Areas: Principles, Guidelines and Case Studies.”

IUCN’s Forest Programme has been actively involved in advocating a greater voice for Indigenous Peoples in REDD (Reducing Emissions from Deforestation and Forest Degradation), a greenhouse gas reduction attempt currently under negotiation at the UN Framework Convention on Climate Change (UNFCCC). This effort included a publications entitled “Indigenous Peoples and REDD-plus” and “Indigenous and Traditional Peoples and Climate Change: Vulnerability and Adaptation.”

In addition, IUCN has led an initiative to address the impact on indirect land use change and biofuels on Indigenous Peoples, organizing a workshop in 2010 which included a range

of stakeholders. The workshop developed a framework to assess the selection and success of indirect land use mitigation measures.

In 2000, WCPA and CEESP created a joint theme on Indigenous Peoples, Local Communities, Equity and Protected Areas, which focuses on Indigenous Peoples and communities living within protected areas, including World Heritage Sites or national parks. In 2011, CEESP and CEL created a Specialist Group on Indigenous Peoples and Customary Law.

To address business practices and standards, IUCN has coordinated with the ICMM (see above) to create a stakeholder dialogue process with Indigenous Peoples about several aspects related to operations of the mining industries, in particular application of FPIC.

IUCN's World Conservation Congress will be held in September 2012 in Korea. A significant number of sessions and workshops which address Indigenous Peoples issues.

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## MARINE STEWARDSHIP COUNCIL | 1997

(URL: [www.msc.org](http://www.msc.org))

Membership Size	274 fisheries worldwide are engaged in the MSC program; 148 are certified and 126 are in assessment. Annual recorded catches of fisheries certified or in assessment represent >10% of global seafood capture for human consumption.
Member Examples	Certified fisheries: Annette Island Reserve salmon (Indigenous), Bering Sea and Aleutian Island flatfish, Bristol Channel sea bass. Retailers using the MSC label: Whole Foods Market, Waitrose, Findus, and Quick Restaurants.
Membership Requirements	Compliant fisheries and their downstream customers can use the MSC eco-label.
Language Addressing IPs	None; however, the MSC Fishery Standard references “those who depend on the fishery for their livelihoods, including, but not confined to subsistence, artisanal, and fishing-dependent communities shall be addressed as part of this process.”  <a href="http://www.msc.org/documents/scheme-documents/msc-standards/MSC_environmental_standard_for_sustainable_fishing.pdf">http://www.msc.org/documents/scheme-documents/msc-standards/MSC_environmental_standard_for_sustainable_fishing.pdf</a>

MSC was established to promote sustainable wildcapture fisheries management. The overarching goals are: recognizing and rewarding sustainable fishing practices, influencing the choices people make when buying seafood, and working with partners to transform the seafood market to a sustainable basis.

The MSC standard, the Principles and Criteria for Sustainable Fishing, was drafted following consultation involving more than 300 organizations and individuals globally. The standard strives for consistency with the following international norms: The Code of Conduct for Responsible Fishing (UN FAO), [Guidelines for the Ecolabeling of Fish and Fishery Products from Marine Capture Fisheries \(UN FAO\)](#), [The Code of Good Practice for Setting Social and Environmental Standards \(ISEAL\)](#), and [World Trade Organization Technical Barriers to Trade Agreement](#).

MSC's core program includes a standard for sustainable fishing (The MSC Environmental Standard for Sustainable Fishing) and a standard for seafood traceability (The MSC Chain of Custody Standard for Seafood Traceability.)

Fisheries can attain the Environmental Standard for Sustainable Fishing by appointing an independent accredited certifier to assess the fisheries against the MSC standards. Once certified, all companies upstream to the retailer that want to sell seafood from the certified fishery must undergo a detailed traceability audit to meet the MSC Chain of Custody Standard. Once approved by the MSC, the business may use its blue eco-label.

The MSC is governed by a Board of Trustees which is informed by a Technical Advisory Board and a Stakeholder Council including geographically diverse representatives from industry, science, and environmental groups. Additionally, separate working groups made up of individuals from the three governing bodies are formed when regional or topical

issues require study.

The MSC Technical Advisory Board maintains the standards. Proposals to review or revise a standard may be submitted by any interested party. MSC standards are reviewed at least every five years, with the next formal review scheduled for January 2013.

The two main ways to get involved in the policy development process are to identify an issue or contribute to a program improvement under consultation.

The MSC's 100-member staff is spread across the headquarters and offices in Seattle, Sydney, Edinburgh, Berlin, The Hague, Paris, Cape Town, Tokyo, and the Baltic region.

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## ~~~~~ FINANCE AND INVESTMENTS ~~~~~

### **INTERNATIONAL FINANCE CORPORATION | 1956**

[www.ifc.com](http://www.ifc.com)

Region of Operation	IFC works in more than 100 developing countries.
Membership Size	Owned by 183 member countries of the UN (and restricted to those countries). Projects financed range from small to medium enterprises to significant infrastructure development.

Language Addressing IPs	<p>The objectives of Performance Standard 7 requires project planners to:</p> <ul style="list-style-type: none"> <li>• To ensure that the development process fosters full respect for Indigenous Peoples.</li> <li>• To anticipate and avoid adverse impacts of projects on communities, or when avoidance is not possible, to minimize and/or compensate for such impacts.</li> <li>• To promote culturally appropriate sustainable development benefits.</li> <li>• To maintain an ongoing relationship based on informed consultation and participation.</li> <li>• To ensure the Free, Prior, and Informed Consent (FPIC) of the affected communities.</li> <li>• To respect and preserve the culture, knowledge, and practices of Indigenous Peoples.</li> </ul> <p>(source: Performance Standard 7, Indigenous Peoples at <a href="http://bit.ly/HJIKYV">http://bit.ly/HJIKYV</a>.)</p>
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The International Finance Corporation, a member of the World Bank Group, is the largest global development institution focused exclusively on the private sector. IFC's purpose is to create opportunity for people to escape poverty and improve their lives. IFC offers development-impact solutions through firm-level interventions (direct investments, advisory services, and the IFC Asset Management Company); by promoting global collective action; by strengthening governance and standard-setting; and through business-enabling-environment work.

Project examples include residential apartments in Papua New Guinea, pharmaceutical company support in Brazil, and waste water treatment in India.

Each IFC member country, through a Board of Governors and a Board of Directors, helps to direct IFC's programs. The Board of Governors delegates most of its powers to a 25- member Board of Directors. Voting is done on a weighted basis according to each member's share capital.

The IFC's "Performance Standards on Environmental and Social Sustainability" define clients' roles and responsibilities for managing their projects, and their requirements for receiving and retaining IFC support. They are designed to help clients avoid, mitigate and manage environmental and social risks. All IFC investments are assessed for consistency with the applicable Performance Standards. Performance Standard 7 is specific to Indigenous Peoples. It includes guidance on avoidance of adverse impacts, participation and consent, relocation, mitigation and development benefits. It was recently updated to require Free, Prior and Informed Consent (FPIC) in certain situations.

Originally adopted in 2006, the Standards were reviewed through a public consultation process and updates became effective in January 2012. IFC clients, civil society, development institutions, donors, foundations and companies participated in this review.

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**EQUATOR PRINCIPLES | 2003**

<http://www.equator-principles.com/>

Region of Operation	Global
Membership Size	76 financial institutions
Member Examples	Arab African International Bank, Banco Bradesco S.A., Banco Comercial Portuguese, Bank of America, Bank of Montréal, Citigroup, Credit Suisse, HSBC, ING, JP Morgan Chase, Manulife Financial, Royal Bank of Scotland, TD Bank, Wells Fargo.
Membership Requirements	Members must be financial institutions that make project finance loans, credit or advisory services.
Language Addressing IPs	<p>Principles No. 5 states: “For projects with significant adverse impacts on affected communities, the process will ensure their free, prior and informed consultation [emphasis added] and facilitate their informed participation as a means to establish, to the satisfaction of the Equator Principles Financial Institutions, whether a project has adequately incorporated affected communities’ concerns.” A footnote adds that FPIC must apply to the entire project. Also: “The borrower will tailor its consultation process to the language preferences of the affected communities, their decision-making processes, and the needs of disadvantaged or vulnerable groups. Consultation with Indigenous Peoples must conform to specific and detailed requirements as found in [IFC] Performance Standard 7. Furthermore, the special rights of Indigenous Peoples as recognized by host-country legislation will need to be addressed.”</p> <p>Source: <a href="http://www.equator-principles.com/index.php/the-eps-and-official-translations">http://www.equator-principles.com/index.php/the-eps-and-official-translations</a></p>

The [Equator Principles](http://www.equator-principles.com/) (EPs) are a credit risk management framework for finance institutions to manage environmental and social risk in project finance transactions. The EPs are adopted voluntarily by financial institutions and are applied where total project

capital costs exceed \$10 million. They are primarily intended to provide a minimum standard for due diligence to support responsible risk decision-making. The EPs were launched in 2003 at the initiative of nine international banks and the IFC.

The EPs are based on the IFC [Performance Standards](#) on social and environmental sustainability (see below) and on the [World Bank Group Environmental, Health, and Safety Guidelines](#). They are intended to serve as a common baseline and framework for by each adopting institution's implementation of its own policies, procedures and standards.

Member institutions pledge to reject projects if the borrower will not or is unable to comply with policies and procedures that implement the EPs. While they are not intended to be applied retroactively, members will apply them to all project financings covering expansion or upgrade of an existing facility where changes in scale or scope may create significant environmental and/or social impacts, or significantly change the nature or degree of an existing impact.

Members are expected to report annually on the number of transactions screened, their categorization (e.g., type of finance, region, sector), and information regarding implementation of the EPs into the institution's project finance evaluation processes.

Of several ongoing working groups, NGOs and Civil Society provides a forum for dialogue and communication with the NGOs for whom the EPs are relevant. The Social Risks working group "is working to understand emerging practices in social risk management in project finance," according to the web site. Working groups on biodiversity and climate change engage with the IFC to implement that body's standards and share good practices.

The Equator Principles Association is governed by a 14-member steering committee that coordinates the administration, management and development of the EPs. The Equator Principles Secretariat manages the day to day running of the EP Association.

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# FAIR TRADE AND OTHERS

## FAIR TRADE INTERNATIONAL | 1997

www.fairtrade.net

Region of Operation	58 countries.
Membership Size	25 members around the world produce or promote products that carry the <a href="#">FAIRTRADE Certification Mark</a> : three producer networks, 19 labelling initiatives, two marketing organizations, and one associate member.
Member Examples	Fairtrade Africa, Fairtrade Latin America and the Caribbean, Network of Asian and Pacific Producers.
Membership Requirements	<p>Members promote or produce products carrying the Fairtrade certification mark. Membership is open to licensing organizations and producer networks that meet relevant criteria. Among other criteria, licensing organizations must demonstrate support for civil society organizations, and enter into an agreement to license the Fairtrade label in a manner acceptable to FLO. Producer networks must demonstrate a democratic structure ensuring equal representation of, and accountability to all members.</p> <p><a href="http://www.fairtrade.net/fileadmin/user_upload/content/2009/about_us/documents/flo-constitution-june-2011-english.pdf">http://www.fairtrade.net/fileadmin/user_upload/content/2009/about_us/documents/flo-constitution-june-2011-english.pdf</a></p>
Language Addressing IPs	<p>Specific mention of indigenous peoples' rights and cultural heritage are not found in FLO's Fairtrade Standards for small producer organizations, standards for hired labor, or the Fairtrade trade standards.</p> <p>They are referred to in "Fairtrade and Fairmined Standard for Gold From Artisanal and Small-scale Mining, Including Associated Precious Metals," a document produced with the Alliance for Responsible Mining in March 2010. The section "Multicultural Nature" reads, in part:</p> <p style="padding-left: 40px;">Artisanal and Small-scale Mining (ASM) often develops in contexts of ethnic and cultural diversity. Where indigenous peoples or other ethnic groups are owners of the territory and are different from the miners themselves, responsible ASM organizations will undertake consultations based on the spirit of ILO Convention 169, with respect for local cultural practices in order to reach agreements with the local traditional authority and community, with regards to the impacts and benefits of mining operations and trading in that indigenous or ethnic territory.</p> <p><a href="http://www.fairtrade.net/fileadmin/user_upload/content/2009/standards/documents/Gold_Standard_Mar2010_EN.pdf">http://www.fairtrade.net/fileadmin/user_upload/content/2009/standards/documents/Gold_Standard_Mar2010_EN.pdf</a></p> <p>FLO has joined Forest Stewardship Council (FSC) in a joint pilot of the FSC and FLO Standards (2009-2013). The pilot will test dual labeling as a way to improve market access for small FSC certified forest producers. A description of the project acknowledges the importance of forests to the 60 million indigenous peoples who generate their livelihoods and income from them.</p>

FLO's mission is to promote sustainable development and reduce poverty through fair trade. Originally known as the Fairtrade Labeling Organizations International, Fairtrade International is the global umbrella group for Fairtrade producers and labeling organizations. Key to the furtherance of its mission is the development and maintenance of international Fairtrade standards, including Fairtrade minimum prices and premiums for all certified products. Fairtrade International coordinates Fairtrade labeling, organizes support for producers, and promotes trade justice.

FLO's Standards Committee (appointed by a governing board elected by the general assembly) ensures that relevant stakeholder views and alignment with FLO's mission and policy statements are considered in any standard changes or amendments. When new Fairtrade standards are proposed, members can comment at each stage of the process. The standards committee meets four times a year with upcoming 2012 meetings scheduled in June, September and November.

Note: In late 2011, Fair TradeUSA left FLO after FLO determined that it could not support its plan to certify large-scale coffee plantations under its "FairTrade for All Initiative." FLO members voiced strong support for a global standard focused on securing market access on Fairtrade terms for smaller-scale farmers.

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## UNION FOR ETHICAL BIOTRADE | 2007

[www.ethicalbiotrade.org](http://www.ethicalbiotrade.org)

Region of Operation	Global (no members from Asia)
Membership Size	32 commercial members, 12 non-commercial
Member Examples	Members list is available at <a href="http://www.ethicalbiotrade.org/members/trading.html">http://www.ethicalbiotrade.org/members/trading.html</a> .

Membership Requirements	Membership is open to companies, trade associations, NGOs, community producers or collectors, national biotrade programs and others. Trading Members are directly involved in natural ingredient supply chains and must commit to continuous progress towards the Ethical BioTrade standard for the conservation of biodiversity, respect of traditional knowledge and equitable sharing of benefits all along the supply chains. Affiliate Members support the implementation of the Ethical BioTrade standard but are not directly involved in trading.
Language Addressing IPs	<p>Of the seven principles in the “Ethical BioTrade standard”:</p> <ul style="list-style-type: none"> <li>• “Fair and Equitable Sharing of Benefits” includes references to respect and recognition for traditional knowledge and practices,</li> <li>• “Respect for the Rights of Actors” reads: “Taking into account human rights and working conditions of indigenous and local communities,” and</li> <li>• “Clarity About Land Tenure” states: “Respecting land tenure and rights over natural resources.”</li> </ul> <p>Important to note that IPs are important stakeholders, specifically addressed in the Ethical BioTrade standard, particularly in the last revision, which addressed the UNDRIP. Ongoing work to support the integration of IPs into ethical sourcing of biodiversity.</p>

UEBT is a nonprofit membership association that promotes the “Sourcing with Respect” of ingredients that come from biodiversity. Trading members commit to gradually ensuring that their sourcing practices comply with the Ethical BioTrade standard, promoting the conservation of biodiversity, respect for traditional knowledge and equitable sharing of benefits along supply chains. The organization manages an internationally recognized standard (“Ethical BioTrade standard”) to provide orientation and independent verification of company practices. Members can use the UEBT logo to communicate their work to bring its practices in line with the Ethical BioTrade standard. The Ethical BioTrade standard cannot be used to certify products. The Ethical BioTrade standard is revised at least every five years, as stipulated by the ISEAL Code of good practices for setting social and environmental standards.

Once a company is approved for membership, it undergoes an independent audit. The operations, management system and a sample of natural ingredient supply chains of the applicant are assessed against the Ethical BioTrade standard. Based on the audit results, the company then develops a work plan to establish a biodiversity management system and begin its implementation towards ethical sourcing of biodiversity. Audits occur every three years. A summary of audit reports is made publicly available on the UEBT website. Companies must also report annually on progress to the UEBT Secretariat.

UEBT views Indigenous communities as key stakeholders and has reached out actively for their input during the two public consultation phases of the standard revision process. In-person meetings, workshops and online consultations are three of the communications tools used.

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## RESPONSIBLE JEWELLERY COUNCIL

[www.responsiblejewellery.com](http://www.responsiblejewellery.com)

Region of Operation	Members are in 40 countries, although there is a high concentration in Belgium, France, and the United Kingdom.
Membership Size	RJC has 360 Members. Almost half are in diamond trading, cutting or polishing, one-fifth are in jewellery manufacturing or wholesale, and one-fifth are retailers.
Member Examples	Cartier, De Beers Group, Fair Trade Jewelry Co., Gemological Institute of America, Chanel, Jewelers of America, Rio Tinto, Piaget
Membership Requirements	Members must be actively commercially involved in the diamond, gold and/or platinum metals jewellery supply chain. They must commit to being independently audited and certified against the Code of Practices within two years of joining.
Language Addressing IPs	<p>The Code of Practices requires RJC Members with Mining Facilities to:</p> <ul style="list-style-type: none"><li>• Respect the rights of Indigenous Peoples as articulated and defined in applicable provincial, national and international laws and their social, cultural, environmental and economic interests, including their connection with lands and waters.</li><li>• Seek to obtain broad-based support of affected Indigenous Peoples and to have this support formally documented, including partnerships and/or programs to provide benefits and mitigate impacts.</li></ul> <p><i>Source: Code of Practices, URL: <a href="http://www.responsiblejewellery.com/responsible-jewellery-practices">http://www.responsiblejewellery.com/responsible-jewellery-practices</a></i></p>

The RJC is a non-profit organization seeking to address responsible business practices throughout the diamond and gold jewellery supply chain. Motivated by a desire to reassure consumers, the RJC's 360 member companies commit to responsible practices related to human rights, social and environmental practices. The RJC Code of Practices applies to businesses through the jewellery supply chain. Certification under the RJC system indicates that a business is operating under the Code of Practices. RJC is a part of the ISEAL Alliance, the best practices standard bearer for standards setting organizations.

The RJC is governed by a Board of Directors, which provides oversight to an Executive Committee and Management Team and a number of Committees. The Standards Committee oversees standards development and is made up of members representing the jewellery supply chain as well as NGOs, academia and other standards institutions. Up to 12 non-industry members can be appointed by the Board; these stakeholders are elected as individuals and not as representatives of any organization. At least two Standards Committee meetings are held annually.

During 2012 the RJC is planning to undertake a review of its Code of Practices, first published in 2009. Comments on the 2009 Code of Practices, and its potential to create positive impacts for Indigenous Peoples, including FPIC, will be welcome as part of the 2012 Standards Review.

The RJC is seeking to be transparent about the standards development process, and encourage and use input from a range of stakeholders. Outside of the formal review process, stakeholders submit their ideas to the RJC, which can be taken through Committees to the Board. If approved by the Board, new language is prepared by the Standards Committee and presented for 60 days of public comment. After these comments are incorporated, another draft is released and opened for another 60 day comment period. This process is followed for 3-4 comment periods, depending on the presence of outstanding issues.

RJC has worked with the following organizations in the Code's Development: Solidaridad, WWF, PACT, Partnership Africa Canada, Human Rights Watch, Flora and Fauna International, Alliance for Responsible Mining, Diamond Development Initiative.

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## LIST OF ACRONYMS

<b>ACHPR</b>	African Commission on Human and Peoples Rights
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CERD</b>	Committee on the Elimination of Racial Discrimination
<b>CESC</b>	Committee on Economic, Social and Cultural Rights
<b>FPIC</b>	Free Prior and Informed Consent
<b>HRC</b>	UN Human Rights Committee, the TMB for ICCPR
<b>IACHR</b>	Inter-American Human Rights Commission
<b>IAHCR</b>	Inter-American Court of Human Rights
<b>ICESC</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>ILO</b>	International Labor Organization
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>IUCN</b>	International Union for the Conservation of Nature
<b>OAS</b>	Organization of American States
<b>OECD</b>	Organization of Economic Cooperation and Development
<b>NCP</b>	National Contact Point
<b>NGO</b>	Nongovernmental organization
<b>TMB</b>	Treaty monitoring bodies
<b>UN</b>	United Nations
<b>UN DHR</b>	UN Declaration of Human Rights
<b>UN DRIP</b>	UN Declaration on the Rights of Indi



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