

Indigenous Peoples Planning Framework

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CAM: Second Upper Secondary Education Sector Development Program

Prepared by the Ministry of Education, Youth and Sports for Asian Development Bank.

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CURRENCY EQUIVALENTS

(as of 27 February 2018)

Currency unit	–	riel (KR)
KR1.00	=	\$0.000249
\$1.00	=	KR4,010

ABBREVIATIONS

ADB	Asian Development Bank
IPP	Indigenous People Plan
ELC	economic land concession
IPPF	Indigenous People Plan Framework
MoEYS	Ministry of Education, Youth and Sport
NIE	National Institute of Education
PCU	Project Coordinating Unit
SRS	Secondary Resource School
USE	Upper Secondary Education
USESDP	Upper Secondary Education Sector Development Program
USESDP 1	First Upper Secondary Education Sector Development Program
USESDP 2	Second Upper Secondary Education Sector Development Program

NOTES

- (i) The school year (SY) in Cambodia begins in November and ends in August.
- (ii) In this report, "\$" refers to United States dollars.

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I. INTRODUCTION

1. The proposed Second Upper Secondary Education Sector Development Program (USESDP 2) is part of the phased support of the Asian Development Bank (ADB) to develop high-quality human resources by improving the effectiveness of upper secondary education (USE). It builds on and complements ADB's ongoing First Upper Secondary Education Sector Development Program (USESDP 1). The program is intended to be categorized gender equity as a theme.

2. Lessons from previous ADB sector development programs in Cambodia highlight the effectiveness of combining a policy-based program with an investment component for a holistic, comprehensive, and integrated response to sector issues, gaps, and priorities. As such, USESDP 2 is proposed as a sector development program. It will continue to support key policy reforms and respond to unmet investment needs, particularly in the areas of quality and relevance of upper secondary education. The policy component will set the national policy framework, while the investment component will support measures to implement the policy framework.

3. USESDP2 outputs will be: (i) quality of teachers in upper secondary schools improved; (ii) quality and labor market relevance of upper secondary education improved; and (iii) institutional capacity for planning, management, and delivery of education strengthened.

4. Only two of the three program outputs - outputs 1 and 2 include civil works. The scope of work is minor and limited to the area within the boundaries of the existing facilities with state-owned land plot allocated to the MoEYS. Details of the civil works are as follows:

- Renovation and repair of National Institute of Education (NIE)
- Renovation of 2 ICT rooms in 36 SRS
- Renovation of 2 science labs in 36 Secondary Resource School (SRS)
- Renovation of libraries in 36 SRS
- Conversion of 2 classrooms to science classrooms in 50 SRS by Q4 2022.
- Renovation of classrooms to multi-purpose, project-based life skills classrooms in 25 SRS- by Q2 2023
- Conversion of two existing classrooms into science classrooms and libraries in 81 SRS US network schools by Q2 2022
- Improve WASH facilities, 18 SRS by Q4 2021
- Solar panel installation at 50 schools
- PCU office space renovations
- Construction of new library within NIE premises/campus

5. The project education facilities are located in 48 districts across the country, totaling 50 secondary resource schools (SRS). The social safeguards due diligence conducted during the project preparation stage conducted field visits to 12 educational facilities to assess the likelihood of involuntary resettlement and indigenous peoples impact due to the program. The field visits found that there were no indigenous peoples residing within the existing premises or territory of the existing school compounds or in the nearest vicinity. However, the larger project impact area expands to the provinces where the indigenous peoples and ethnic minorities are present. Based on the experience and lessons learnt from the USESDP I, it is expected that the project will have positive impact on indigenous peoples and ethnic minorities.

6. It was not possible to visit all 50 schools before the project appraisal mostly due to the

scattered spread over the country.. Given their scope for individual schools and availability of state-owned land for the project financed education facilities, it is assumed that the civil works are highly unlikely to cause impacts that would threaten IPs or EMs in any significant manner. However, in view of the above-mentioned, the MoEYS has decided to formulate this framework outlining principles, policies, guidelines and procedure to identify the impacts, potential risks and, if/when required, formulate and implement Indigenous Peoples Plans. This will apply when physical works for the educational facilities are found to cause adverse impacts on indigenous peoples based on the updated due diligence report during the project implementation stage.

II. OBJECTIVE AND POLICY FRAMEWORK

A. Principles and objectives

7. The preparation and implementation of any Indigenous Peoples Plan for the project will be strictly governed by the ADB's Safeguards Policy Statement (2009), Safeguard requirement 3: Indigenous Peoples, and applicable laws and regulations of the Royal Government of Cambodia (RGC).

8. The objective of ADB's IP Safeguards is to design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.

9. The Indigenous Peoples safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of Indigenous Peoples or affects the territories or natural or cultural resources that Indigenous Peoples own, use, occupy, or claim as an ancestral domain or asset. The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.

10. The following principles of the ADB's Indigenous Peoples Safeguard will be applied for the project:

- (i) Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely.
- (ii) Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected

Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.

- (iii) Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.
- (iv) Ascertain the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.
- (v) Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of management arrangements for such areas and natural resources and that their benefits are equitably shared.
- (vi) Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.
- (vii) Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.

- (viii) Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.
- (ix) Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.

B. Laws and Regulations of RGC

11. Cambodia's legal system follows primarily the civil law tradition. National legislation, policies, executive regulations and international instruments are in place in Cambodia for reference as basis to uphold the human rights of indigenous peoples and ethnic minorities. These include not only the rights to land and natural resources, but also education, health, vocational training, self-determined development and self-determination, and other human rights¹.

12. The 1993 Cambodian Constitution contains no specific reference to indigenous peoples, and nor does it contain any article or provision explicitly relating to indigenous peoples' rights. The Constitution only refers to the rights of "Khmer citizens". Article 31, which provides the framework for the respect, promotion and protection of human rights of citizens, stipulates that: "Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status." The generalized reference to "Khmer" citizens is meant to refer to all Cambodian citizens. However, this phrase can be interpreted to refer exclusively to the Khmer as the majority ethnicity, and not to other minority ethnic groups in the country. In this context, the phrase has frequently proven to be a disadvantage for the indigenous peoples in Cambodia. Some constitutional provisions, however, are relevant for indigenous peoples. For example, collective ownership of immovable property is guaranteed in Article 44, which also recognizes the right to fair and prior compensation to both individual and collective owners. Moreover, the Constitution guarantees freedom of practice of religious belief (Article 4311), which implies respect for indigenous peoples' traditional practices, even though Buddhism is officially the state religion. Beyond the Constitution, there are many elements of domestic Cambodian law that protect the rights of all Cambodians, not just indigenous peoples, to be involved in the decision-making processes that govern what happens to the land they live on. National policies applicable to the indigenous peoples include:

1. National Policy on Development of Indigenous Peoples

13. The 2009 National Policy on Development of Indigenous Peoples provides the main policy framework related to indigenous land rights in Cambodia. It also sets out policy directions in the fields of culture, education, vocational training, health, environment, land, agriculture, water resources, infrastructure, justice, tourism and industry, and mines and energy.

2. Land Law, 2001

¹ Threatened Lands, Threatened Lives Human Rights Situation of the Indigenous Peoples in Cambodia, Asia Indigenous Peoples Pact (AIPP) Foundation, August 2014

14. It was an historic milestone for Cambodia to pass the Land Law in 2001. While aimed at providing a general framework for land ownership in the country, the Land Law also guarantees the recognition and protection of indigenous communities (“original ethnic minority”), traditional natural resource management systems and traditional customary land, making it the only law with specific provisions recognizing indigenous peoples’ land rights. Articles 23 to 28 of the Land Law relate to the identity and rights of indigenous communities, with provisions for collective land titling. These provisions affirm the collective ownership of indigenous land, forests and other cultural and livelihood resources. It further recognizes the role of traditional authorities, mechanisms and customs in indigenous peoples’ decision-making processes.

15. The Land Law precisely recognizes the collective rights of indigenous peoples in article 25: “The lands of indigenous communities are those lands where the said communities have established their residences and where they carry out traditional agriculture. The lands of indigenous communities include not only lands actually cultivated but also includes reserved [areas] necessary for the shifting of cultivation which is required by the agricultural methods they currently practice and which are recognized by the administrative authorities. The measurement and demarcation of boundaries of immovable properties of indigenous communities shall be determined according to the factual situation as asserted by the communities, in agreement with their neighbours, and as prescribed by procedures in Title VI of this law and relevant sub-decrees.” Article 26 grants collective ownership of land to indigenous peoples, while enjoying the same rights as individual owners. It states that “the exercise of all ownership rights related to immovable properties of a community and the specific conditions of the land use shall be subject to the responsibility of the traditional authorities and mechanisms for decision-making of the community, according to their customs”. The 2001 Land Law also recognizes the practice of shifting cultivation as part of the traditional land management system of indigenous communities. The law protects the land of indigenous communities from the undue interference by government authorities by ensuring indigenous peoples’ right to control, manage and utilize their land. Article 28 affirms that “no authority outside the community may acquire any rights to immovable properties belonging to an indigenous community”.

16. Article 248 of the Land Law prohibits persons from settling on traditionally occupied land of indigenous peoples, referring to indigenous territories which have not yet been granted any title. Such act is considered a penal offence under the Land Law, which can draw a fine of 10 to 25 million Riel, aside from administrative sanctions.

3. *Forestry Law, 2002*

17. The Forestry Law 2002, governing the management of the country’s forests, contains provisions for the official recognition of community forestry. It offers communities an opportunity to obtain user and management rights to forests in renewable periods through the Forestry Administration. This law also contains special provisions on indigenous community rights related to shifting cultivation (“nomadic agriculture”) within collectively-owned land already registered with the state. Article 37 of this law stipulates that shifting cultivation practices shall be exercised as a part of the Forestry Community Development Plan. The process of demarcation and measurement for collective land titling requires the coordination between the Ministry of Land Management, Urban Planning and Construction and the Ministry of Agriculture, Forestry, and Fishery.

18. As stated in Article 11: “The Ministry of Agriculture, Forestry and Fisheries shall classify, register and set boundaries for all forests within the Permanent Forest Estates. In carrying out these activities, the Ministry of Agriculture, Forestry and Fisheries shall coordinate with concerned

local communities, concerned authorities and the Ministry of Land Management Urban Planning and Construction in order to assist in registration of land property of indigenous community and preparation of the national land use map.” Indigenous communities’ right to access non-timber forest products and to practice traditional land use inside permanent protected forests are also protected by this law even if the area is authorized for economic land concession (ELC). It requires no authorization to exercise traditional livelihood practices and access to non-timber forest products.

19. Indigenous peoples’ sites of cultural or religious significance are also protected under Article 45. These include spirit forests, graveyards and ancient temples, to name a few. The destruction of spirit forests due to logging and land clearing then violates this law.

4. *Law on Natural Protection Zone, 2008*

20. This law also provides for protection and recognition of indigenous peoples’ rights to land and natural resources inside and around protected areas, including their safe access to traditionally used lands, and respect for their customs, beliefs and religions (Chapter 6). It refers to indigenous community’s way of land use as being sustainable and to be respected. Any title given over land inside and around protected zones shall be also authorized by the Ministry of Environment and be in conformity with the Land Law of 2001.

5. *Additional protection policies and regulations*

21. In addition to the promulgation of the Land Law of 2001, a number of policies and regulations were adopted in pursuit of its implementation. These policies include the following:

- 1) Interim Strategy of Land Policy Framework, 2002. This policy document reiterates the granting of collective ownership rights to indigenous communities over their lands. It goes further in ensuring user-rights to forest products for indigenous and local communities when it explicitly refers to the protection of traditional user rights of indigenous communities and their right to practice shifting cultivation.
- 2) Sub-decree 146 on Economic Land Concessions (ELC Sub-decree), 2005. According to Article 4(3) of this sub-decree, an ELC may be granted only on State private land where “environmental and social impact assessments have been completed with respect to the land use and development plan for economic land concession projects.” The Sub-Decree also stipulates public consultations in the process of granting ELCs at various steps (Art. 4, Art. 35), including participation with land registration and defining the area of the ELC. Article 35 states that public consultations must be held to discuss and review the project proposal of the ELC. However, the Sub-Decree does not provide further details on the procedure for public consultations.
- 3) Policy for Registration and Right to Use of Land of Indigenous Communities in Cambodia (IP User-Right Policy), 2009 and the Sub-Decree on Procedures of Registration of Land of Indigenous Communities, 2009. These two sub-decrees strengthen the 2001 Land Law on communal/collective land titling. It also lists the requirements for the collective land registration process (See Table 2 on p. 26).

6. *International Legal Instruments which Cambodia has Adopted*

22. Other legal considerations for this IPPF are international instruments which Cambodia has adopted. The policies include the UN Declaration of Rights of Indigenous Peoples that has the objective of ending discrimination and promoting the rights of Cambodia's recognized indigenous peoples. The UN Declaration on the Right of Indigenous People was adopted by the United Nations General Assembly in September 2007. Many countries in the world including Cambodia have voted in favour of this nonbinding declaration. Other relevant international policies adopted by Cambodia are the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICERD Article 5(e) ensures the enjoyment, on an equal footing and without discrimination, of economic, social and cultural rights, in particular the right to education and training. The ICESCR Article 13 includes the provision of free primary education irrespective of gender, ethnicity or any other consideration and commits the state party to make secondary education generally available and accessible to all, including through the progressive introduction of free education, and to working towards the provision of equal access to tertiary education, including through the provision of free secondary education. The government ratified the ICESCR in 1992.

Comparison of applicable national laws and ADB SPS

23. The national laws and regulations of RGC and ADB SPS (2009) are fairly well aligned in terms of recognition of indigenous peoples rights, especially to land. However, the main difference between RGC IP policy and that of ADB SPS (2009) is the distinction of the RGC to make a difference between IPs and ethnic minorities (EMs,) and the inclusion of groups into EMs. This is based on the Government's policy on the development of IPs approved by the Council of Ministers at the Plenary Session held on 24 April 2009 (document prepared by MRD), which is, as follows:

- (i) ***"Indigenous peoples (IPs)"*** are defined as genetically distinct IPs groups living in Cambodia and have their own distinctive languages, cultures, traditions and customs different from those of the Khmer people, who are the core nationals. The IPs include the following identified 24 groups: 1) Phnong, 2) Kuoy, 3) Tompuon, 4) Charay, 5) Kroeng, 6) Prov, 7) Kavet, 8) Stieng, 9) Kraol, 10) Mil, 11) Kachak, 12) Por, 13) Khaonh, 14) Chorong, 15) Auoy, 16) Thmaun, 17) Lun, 18) Saauch, 19) Roder, 20) Khe, 21) Raang, 22) Spung, 23) Laeun, 24) Samre. The lifestyles of those IPs adhere to their customs and they do their own agricultural and plantation works on plots of land they occupy according to the code of formulas, and the tradition of the collective use of lands. The IPs make up approximately 1 percent of the total population of the country and have been living alongside the Khmer ethnic groups in harmony in a number of provinces (i.e., Ratanakiri, Mondolkiri, Kratie, Preah Vihear, Kampong Thom, Stung Treng, Udon Meanchey, Koh Kong, Battambang, Preah Sihanouk, Bantea Meanchey, Siem Reap and other provinces/ areas.²

- (ii) ***"Ethnic Minorities (EMs)"*** are groups of Khmer ethnic groups who have their own distinctive languages, cultures, traditions and customs and who are living among the Khmer people who are core nationals.³

24. The Cambodian definition of ethnic minorities does not typically include Vietnamese, Chinese and other groups who are considered 'migrants', despite many living in Cambodia for

² National Policy on development of Indigenous Peoples. Cambodia. Approved by the Council of Ministers at the Plenary Session held on April 24, 2009. MRD. Cambodia.

³ Ibid.

generations due mainly to they reside in areas with easier access to public services and most of them are not as poor as people living in remote and mountainous areas.

25. The project will apply ADB SPS (2009) in definition of IPs and EMs, and will include Cham, Vietnamese and Chinese as EMs.

26. Another difference with the Cambodia legislation and the ADB SPS (2009) is the SPS requirement to undertake social impact assessment (SIA) for any subprojects with expected IP or EM impact. This is not a specific requirement detailed in the Cambodian law and regulations. The project will apply ADB SPS (2009) and undertake SIA prior to screening and IPP development for all subprojects with expected IP and EM impact.

27. The subproject selection criteria incorporates screening for indigenous people impacts prior to selection, and subprojects will not (i) involve commercial development of the cultural resources and knowledge of indigenous peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of indigenous peoples. Subprojects will not include components that impact forest rights and occupation in forest land for forest dwelling indigenous peoples and other traditional forest dwellers. Displacement of indigenous peoples will be avoided during subproject design. The subprojects will be screened during the update of due diligence using the IP Screening Checklist (Annex 1).

III. IDENTIFICATION OF AFFECTED INDIGENOUS PEOPLES

28. Consistent with ADB's definition of indigenous peoples, the Project identifies indigenous peoples as those having a distinct, vulnerable, social and cultural group as described above. In Cambodia indigenous communities are scattered over 15 provinces. Based on the Cambodia Country Technical Notes⁴, there are 24 groups of indigenous minorities in Cambodia, who are also called Khmer-Loeu (hill-tribes), as detailed above. Indigenous groups from the south-western and the north-eastern provinces of Cambodia have similar cultural practices. Their livelihoods are based on animal husbandry and rotational (shifting) cultivation. Collection of non-timber forest products from the natural forests and weaving are the main sources of income. The indigenous peoples often depend on forest products for their livelihoods, without destroying the land and forest that have been preserved by their ancestors. They have strong unity and respect for their customary law, practices, and religion that bring blessings of good health and high-yielding crops retain social and cultural traditions, and distinct economic activities such as group hunting, food gathering, and fishing. Cultural assimilation of Veddas has been occurring for a long time.

29. In USESDP 2, based on interpretation of ADB's SPS (2009) the ethnic minorities such as Cham, Vietnamese, Lao and Chinese are regarded as indigenous peoples and are covered by this IPPF. The IPPF will guide the preparation of subprojects so that if there are indigenous persons affected, they will have opportunities to participate and benefit equally from the subprojects through the preparation of an IPP in accordance with the ADBs SPS.⁵

30. The proposed USESDP 2 through field assessment, investigations, observation, and discussion with involved staff of MoEYS during the project preparatory stage have found out that there is no indigenous peoples or ethnic minorities (EM) residing within visited NIE and SRS

⁴ Country Technical Note on Indigenous Peoples' Issues. 2012

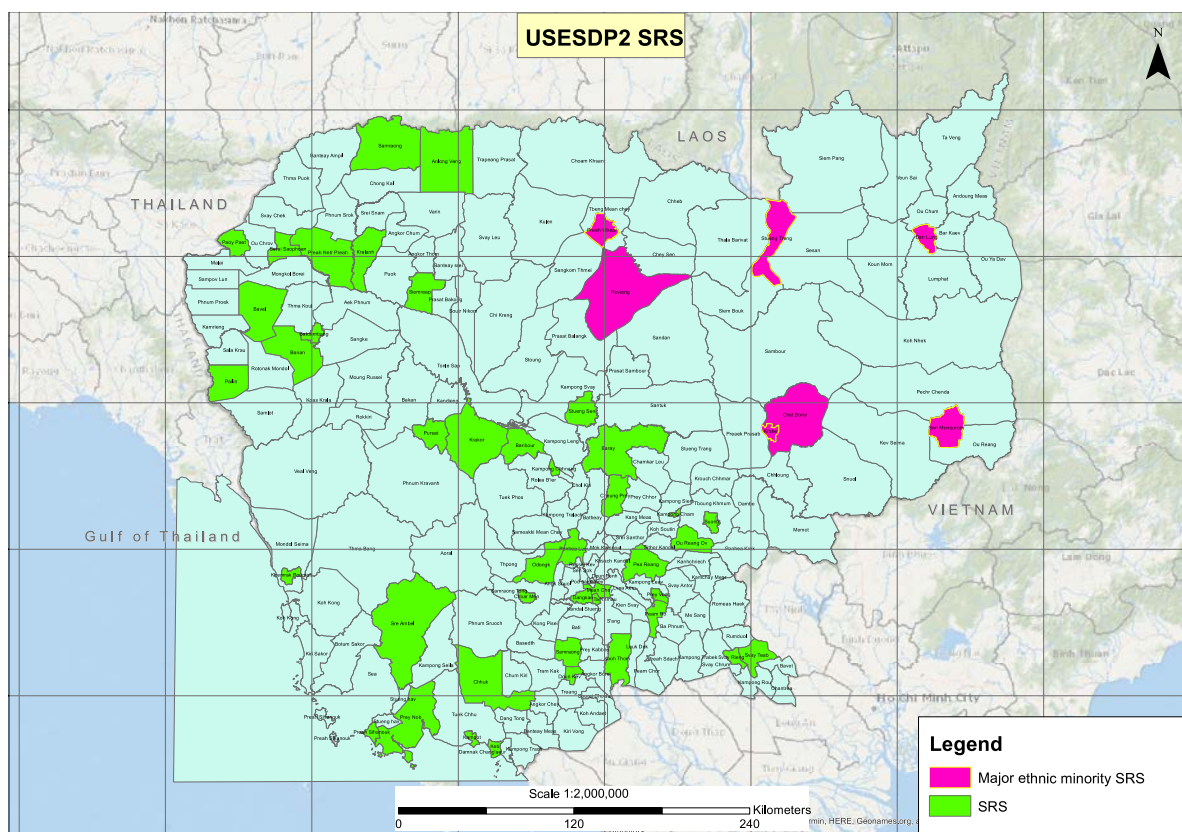
⁵ The IPPs as relevant will follow the outline IPP as provided in ADBs SPS Annex to Appendix 3, page 63

premises and their vicinity. It is expected that they will not be affected by physical or civil works implementation, which is including construction of a new library within the NIE compound and renovation of existing classrooms; therefore, there will be no impact on IPs and EMs in terms of livelihoods and living standards.

31. The project has been classified as **category B** for indigenous peoples because the anticipated impacts are beneficial as IPs and EM's children will have access to the project/program provided by the proposed USESDP 2. Majority of IPs' livelihoods depend on the agriculture and collecting non-forest timber products, therefore capital resources for their children attending schools, especially for higher education can be a limiting factor. Other obstacles include limited access to roads in remote areas and early marriage. Improving the educational facilities and training teachers in the remote rural areas will benefit the population in large, but also have anticipated positive impacts on IP youth. The proposed USESDP 2 will encourage IP students, especially the females, to complete USE.

32. For purposes of the IPPF matrix of actions, IP and EM provinces are referring, but not limited to Ratanakiri, Mondulakiri, Kratie, Stung Treng, Preah Vihear, Oudar Mean Chey, Tboung Khmum, Kampong Thom, Kampong Speu, Sihanoukville, Koh Kong and/or Pailin provinces. The map below shows the provinces where the 50 SRS are located, and SRS with major IP populations are indicated with pink.

Figure 1. Location of SRSs and the provinces with high IP prevalence



IV. SOCIAL IMPACT ASSESSMENT AND IPP FOR USESDP 2

33. A qualified and experienced social specialist will be contracted to conduct a full social impact assessment (SIA) in a culturally appropriate and gender-sensitive manner in consultation with indigenous peoples if the screening finds adverse impact on the IPs in any of the educational facilities. The updated due diligence reports will contain information regarding the screening of all the 50 projects financed educational facilities at the project implementation stage before award of any civil work contracts.

34. The Social Impact Assessment will be carried out in case adverse impact is identified and the scope will be guided by the following in line with ADB's SPS (2009):

- (i) Review of the legal and institutional framework applicable to Indigenous Peoples in project context.
- (ii) Provision of baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
- (iii) Identification of key project stakeholders and elaborating a culturally appropriate and gender-sensitive process for meaningful consultation with Indigenous Peoples

at each stage of project preparation and implementation, taking the review and baseline information into account.

- (iv) Assessment based on meaningful consultation with the affected Indigenous Peoples communities, the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.
- (v) Inclusion of a gender-sensitive assessment of the affected Indigenous Peoples' perceptions about the project and its impact on their social, economic, and cultural status.
- (vi) Identification and recommendation of the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects based on meaningful consultation with the affected Indigenous Peoples communities and to ensure that the Indigenous Peoples receive culturally appropriate benefits under the project.

35. The first step is to screen each educational facility using of the form provided in Annex 1 for potential impacts on indigenous peoples. This will be done after the design for each educational facility is completed and during the update of the combined safeguards due diligence report.

36. If the screening finds any adverse impact on IPs, the IPP will be developed in order to respond to the issues identified including through the group consultations, and it will set out the necessary measures that need to be undertaken by the project to ensure that:

- (i) Affected indigenous peoples receive culturally appropriate social and economic benefits;
- (ii) When potential adverse impacts on indigenous peoples are identified, that these will be avoided to the maximum extent possible; and
- (iii) Where this avoidance is proven to be impossible, based on the meaningful consultations with indigenous people communities, the IPP will outline measures to minimize, mitigate, and compensate for the adverse impacts.

37. If physical displacement from customary lands occurs or trigger any of the conditions set forth under ADB SPS (2009) policy on indigenous peoples, the IPP will include legal recognition of customary rights and territories for project activities that involve customary land acquisition and ascertain broad community support. If there is any involuntary resettlement impacts on indigenous peoples, a combined indigenous peoples and land acquisition and resettlement plan will be prepared in accordance with the ADB's SPS (2009).

38. The project will submit the IPP to ADB for clearance so that it can be publicly disclosed and posted on the ADB website together with other safeguards and project related documents. The project and the executing and implementing agencies will ensure that there are sufficient financial and human resources allocated before implementing the IPP. The IPP should be implemented in coordination with the Ministry of Rural Development, local authorities and indigenous people leaders. The activities and the outcomes of the IPP's implementation will be recorded in a manner and in the language understood by the ethnic groups and displayed in places accessible to them that will be identified based on the community consultations.

Furthermore, this information will also be disseminated at the community, commune and district levels, and through relevant government offices.

V. PROJECT IMPACTS

39. The principal beneficiaries of the overall program will be the poor and disadvantaged Cambodian youth. While there are few official ethnicity-based education statistics, lack of inclusion in education can be inferred based on the fact that indigenous groups live in those regions with predominantly higher poverty rates and lower school enrolment, such as Monduliri and Ratanakiri. In general, these provinces have (i) more villages without school provision; (ii) more under-resourced primary schools; and (iii) a severe lack of qualified teachers. Though indigenous youth do enroll in school, the dropout rate is very high, particularly in the first two years of schooling.

40. Previous studies have emphasized that many teachers are not natives of the communities in which they teach, do not speak the local language, and, thus, have some difficulty communicating with and teaching local/IP student/pupil. Indigenous Peoples' attitudes about education are mixed, as some indigenous parents expressed that they want their children to be literate in Khmer in order to take advantage of higher economic opportunities and to avoid discrimination. However some IP groups have shown a pervasive reluctance to send their children to school.

41. The anticipated project benefits on IPs include gaining and improving access of IP teachers and students to NIE in terms of knowledge and quality; improving access for IP students to project/program's deliveries including public utilities, social facilities, services, pilot training, curricular program/syllabus etc.; IP students benefits from Institutional Capacity for Planning, Management, and Delivery of Education Strengthened.

VI. CONSULTATION AND PARTICIPATION

42. The consultation and participation provides the occasion and the process by which stakeholders influence and become co-responsible for development initiatives and decisions that affect them. The project will conduct meaningful consultations with the affected indigenous peoples throughout the project lifecycle to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. Full consultation and information disclosure will be undertaken with all the affected indigenous peoples in each of the educational facility to ensure that the needs, priorities and preferences of indigenous peoples are adequately reflected. This includes their leaders, rights groups, community-based organizations, line agencies and project implementation unit representatives as well as larger IP and EM community.

43. All consultations will be documented. The mitigation measures and strategies will be presented to the members of the ethnic minority groups at community level meetings so that they are able to provide their input before the measures are finalized. The mechanisms and procedures

for the documentation of the consultation process that gains broad support from the affected IP communities will be undertaken in the following manner:

- (i) Initial discussions are conducted with indigenous peoples to inform them about the project and its scope as well as the local project-specific grievance redress mechanism and relevant procedures;
- (ii) Focus group discussions inform indigenous peoples about the potential impacts and benefits from the subproject;
- (iii) Community meeting(s) are held to further discuss indigenous peoples' concerns and recommendations; and
- (iv) A documentation of the outcome of the informal consultation process (i.e., minutes of meetings) is published.

44. The consultations including the supporting documents and the summaries of discussions will be reflected in the updated due diligence report and in the periodic project reports and submitted to ADB.

45. MoEYS/PCU/SRS will organize a series of consultation and participation, covering the SRS where project/program are proposed/or IP target provinces. The consultation and participation will be open to all stakeholders within the SRS and neighboring communities. The consultation and participation will provide opportunities and encourage all participants to ask questions, express preferences and concerns and raise other related issues.

VII. DISCLOSURE

46. The MoEYS/PMU will submit the following documents for disclosure on ADB's website: (i) IPPF; (ii) the social safeguards due diligence report and its updates; (iii) IPPs as relevant; and (iv) social safeguards monitoring reports.

47. MoEYS/PCU/SRS has prepared a project/program simple information brochure in Khmer with pictures and photos to ensure it is well understood by the affected communities. This will be distributed to SRS and NIEs as well as the affected communities including the IPs and EMs. The project information brochure contains the following information:

- (i) Project background, objectives, project components, outputs, and outcomes.
- (ii) Perception of IPs and EMs regarding USESDP 2 (program implementation)
- (iii) Positive impacts of the Project/program- beneficial
- (iv) Procedures for the grievance redress (if any)
- (v) Contact persons for any queries
- (vi) Post in SRS and its Provincial Department of Education, Youth and Sport.

48. The MOEYS/PCU will disclose updated project brochure to the project affected people during the implementation stage to ensure transparency and access to project related information among local communities and other relevant stakeholders.

VIII. INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS

49. The project coordination unit (PCU) will be responsible for screening of the educational facilities, social impact assessment and preparation of IPPs as relevant. at the implementation stage in close cooperation with other relevant DGSE and Ministry of Rural Development. International and national consultants will assist in integrating IP concerns into USESDP 2

activities, working closely with the PCU, as well as orient staff in project agencies on social inclusion issues (including inclusion of IPs and other ethnic minorities).

50. Participation of indigenous peoples'/ ethnic minority communities will be facilitated through the development of a participatory planning and monitoring processes during the implementation stage. This will include strengthening the participation of indigenous peoples'/ethnic minority community representatives in consultations process and undertaking an analysis of the socio-economic situation and access to education, barriers faced etc. at the local level, specifically for the IPP where relevant.

51. Capacity Building for MoEYS and the PCU will be implemented through improving the understanding of IP safeguards to support targeted interventions in provinces with indigenous persons/ethnic minority populations. This will include:

- (i) Strengthening the social assessment and screening capacity of the MoEYS and PCU at the central level and in provinces with indigenous persons'/ethnic minority populations;
- (ii) Improving the delivery of culturally appropriate services at the Provincial level targeting information and behaviour change communication activities;
- (iii) Including indigenous peoples/ethnic minorities into the project monitoring and evaluation process; including focus on activities implemented to address the concerns of indigenous peoples'/ethnic minorities following the updates of the due diligence.

IX. GRIEVANCE REDRESS MECHANISM

52. The project coordination unit (PCU) will be engaged under the project/program to, serve as the main unit of DGSE to receive grievances from beneficiaries of the project.

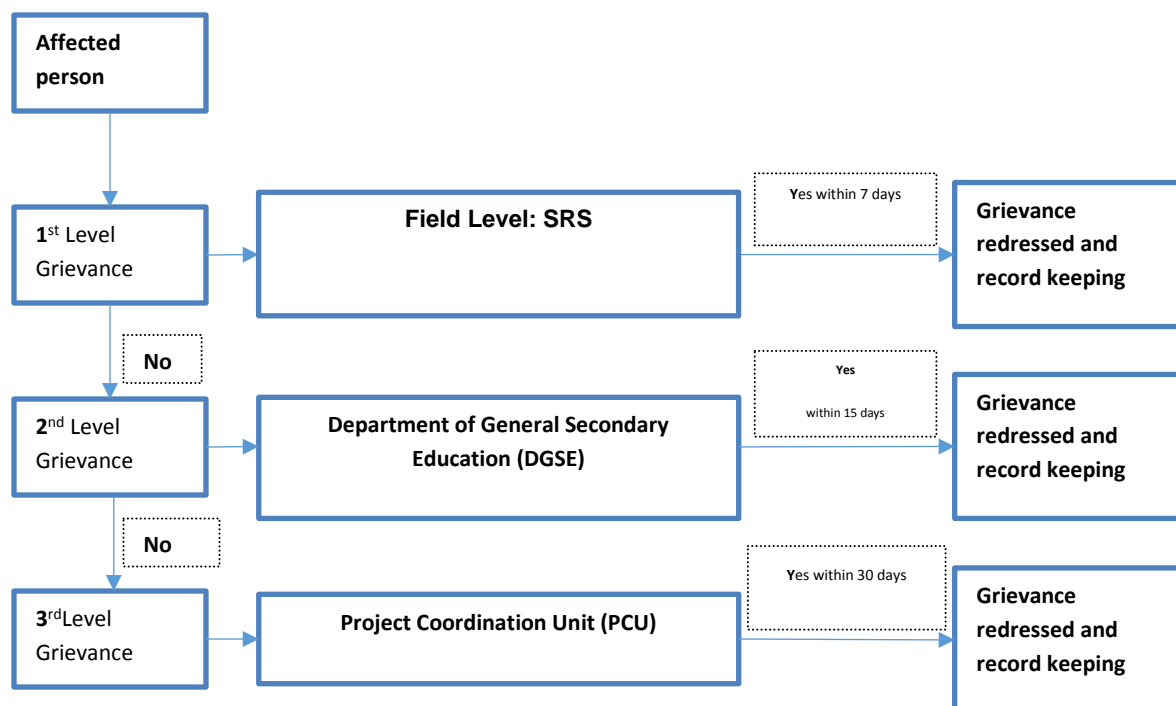
53. A well-defined grievance redress and resolution mechanism will be established to address grievances and complaints regarding the project, including the IP/EM related issues in a timely and satisfactory manner. A grievance committee will be established at SRSs. The procedures for grievance redress are set out below:

54. **Stage 1:** Complainant will submit a letter of complaints/requests to the SRS and the SRS will be obliged to register it in the grievance log and provide the complainant an immediate written confirmation of receiving the complaint. If after 7 days the aggrieved person does not hear from SRS or if the complainant is not satisfied with the decision taken by in the first stage, the complaint will be lodged to the Department of General Secondary Education.

55. **Stage 2:** The Department of General Secondary Education has 15 days within which to resolve the complaint to the satisfaction of all concerned. If the complaints cannot be solved in this stage, the Department of General Secondary Education will bring the case to the PCU.

56. **Stage 3:** The PCU meets with the aggrieved party and tries to resolve the complaint. Within 30 days of the submission of the grievance, the PCU shall implement the decision.

Figure 1: Grievance Redress Mechanism



X. MONITORING AND REPORTING ARRANGEMENTS

57. The primary responsibility for monitoring lies with MoEYS as the project executing agency and will be coordinated by its PMU/PCU. The monitoring exercise will be routinely conducted by the PMU safeguards team. The PMU, through periodical monitoring reports, summarize the progress of screening and due diligence as well as implementation of any actions related to IP/EM under the project. The MoEYS will submit the monitoring results semiannually to ADB, and these reports will be posted on the ADB website. SRS will be responsible for checking the procedures and resolutions of grievances and complaints (if any). The SRS may recommend further measures to be taken to redress unresolved grievances to make sure that the implementation is in compliance with the IPP and IPPF. The quarterly progress reports will be prepared by SRS and submitted to the MoEYS/PCU and ADB/CARM.

XI. BUDGET AND FINANCING

58. Budget and financing is important to ensure that the process of implementing the IPP. If an IPP will be required based on the updated due diligence report, each indigenous people plan will have its own budget. The executing agency will provide sufficient resources to formulate an IPP for each education facility that will have impacts on indigenous peoples. A detailed budget will be prepared by the PCU taking into account all activities associated with the formulation and implementation of the IPP. Such budgets will be an integral part of the subproject cost and will be made available during the project implementation.

INDIGENOUS PEOPLES IMPACT SCREENING CHECKLIST

KEY CONCERNS (Please provide elaborations on the Remarks column)	YES	NO	NOT KNOWN	Remarks
A. Indigenous Peoples Identification				
1. Are there socio-cultural groups present in or use the project area who may be considered as "tribes" (hill tribes, scheduled tribes, tribal peoples), "minorities" (ethnic or national minorities), or "indigenous communities" in the project area?				
2. Are there national or local laws or policies as well as anthropological researches/studies that consider these groups present in or using the project area as belonging to "ethnic minorities", scheduled tribes, tribal peoples, national minorities, or cultural communities?				
3. Do such groups self-identify as being part of a distinct social and cultural group?				
4. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories?				
5. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture?				
6. Do such groups speak a distinct language or dialect?				
7. Has such groups been historically, socially and economically marginalized, disempowered, excluded, and/or discriminated against?				
8. Are such groups represented as "Indigenous Peoples" or as "ethnic minorities" or "scheduled tribes" or "tribal populations" in any formal decision-making bodies at the national or local levels?				
B. Identification of Potential Impacts				
9. Will the project directly or indirectly benefit or target Indigenous Peoples?				

KEY CONCERNS (Please provide elaborations on the Remarks column)	YES	NO	NOT KNOWN	Remarks
10. Will the project directly or indirectly affect Indigenous Peoples' traditional socio-cultural and belief practices? (e.g. child-rearing, health, education, arts, and governance)				
11. Will the project affect the livelihood systems of Indigenous Peoples? (e.g., food production system, natural resource management, crafts and trade, employment status)				
12. Will the project be in an area (land or territory) occupied, owned, or used by Indigenous Peoples, and/or claimed as ancestral domain?				
C. Identification of Special Requirements <i>Will the project activities include:</i>				
13. Commercial development of the cultural resources and knowledge of Indigenous Peoples?				
14. Physical displacement from traditional or customary lands?				
15. Commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of Indigenous Peoples?				
16. Establishing legal recognition of rights to lands and territories that are traditionally owned or customarily used, occupied or claimed by indigenous peoples ?				
17. Acquisition of lands that are traditionally owned or customarily used, occupied or claimed by indigenous peoples?				