REPUBLIC OF KENYA

MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES

INDIGENOUS PEOPLE'S PLANNING FRAMEWORK FOR LAKE VICTORIA ENVIRONMENTAL MANAGEMENT PROJECT PHASE II

February 2008
TABLE OF CONTENT

ABBREVIATIONS ........................................................................................................................................... iii

EXECUTIVE SUMMARY .......................................................................................................................................... v

1. INTRODUCTION AND DESCRIPTION OF THE PROJECT .............................................................................. 1
   2. Description of the Lake Victoria Environmental Management Project ................................................. 1
      2.1 Project Objectives .................................................................................................................................... 1
      2.2 Project Components ............................................................................................................................... 1
      2.3 Management and Monitoring and Evaluation .................................................................................... 7

3. THE INDIGENOUS PEOPLE IN THE OPERATIONAL AREAS ...................................................................... 9
   3.1 Hunter-Gatherer in Kenya ....................................................................................................................... 10
   3.2 The Ogiek .................................................................................................................................................. 12
   3.3 Summary of the living condition of indigenous people in the programme operation area ............. 14

4. POTENTIAL EFFECTS OF THE PROJECT ON THE INDIGENOUS PEOPLE ............................................ 16
   4.1 Key Obstacles ......................................................................................................................................... 20
   4.2 Technical Obstacles ............................................................................................................................... 23
   4.3 Organisational Obstacles ...................................................................................................................... 24

5. THE INDIGENOUS PEOPLE PLANNING FRAMEWORK ........................................................................... 25
   5.1 The IPPF for the LVEMP II project ........................................................................................................ 25

6. COMMUNICATION FRAMEWORK ........................................................................................................... 29
   6.1 Grievance processes .............................................................................................................................. 30

7. MONITORING AND EVALUATION MECHANISMS .................................................................................... 31

ANNEXES ............................................................................................................................................................ 32
   Annex 1: Bibliography ................................................................................................................................... 32
   Annex 2: Peoples and organizations consulted .......................................................................................... 35
   Annex 3: Comments and Feedbacks from IPPF Workshop ..................................................................... 36
   Annex 4: Draft Terms of Reference for the first screening process ...................................................... 38
   Annex 4: Draft Terms of Reference for the first screening process ...................................................... 38
   Annex 5: Draft Terms of Reference for the second screening/social ..................................................... 40
   Annex 6: Draft terms of reference for consultations and the elaboration of indigenous people’s plans within LVEMP II implementation .............................................................................. 42
   Annex 7: Draft terms of reference for the option assessment on how to rehabilitate the livelihoods of evicted indigenous people ....................................................................................... 44
   Annex 8: Terms of reference for the social safeguard backstopping mission for the LVEMP II project .... 46
List of Tables

Table 1: Areas of known indigenous people in LVEMP II project.............................................12
Table 2: The potential impacts of LVEMP II project on indigenous people's activities...............17
Table 3: Indigenous People Planning Framework for LVEMP II...............................................27
### ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACHPR</td>
<td>African Commission's Working Group of Experts on Indigenous Populations &amp; Communities</td>
</tr>
<tr>
<td>ACSM</td>
<td>Active Control and Stabilization Method</td>
</tr>
<tr>
<td>CBD</td>
<td>Convention on Biological Diversity</td>
</tr>
<tr>
<td>CBO</td>
<td>Community based organizations</td>
</tr>
<tr>
<td>CDD</td>
<td>Community Driven Development</td>
</tr>
<tr>
<td>CDD</td>
<td>Community Driven Development</td>
</tr>
<tr>
<td>CDM</td>
<td>Clean Development Mechanism</td>
</tr>
<tr>
<td>CF</td>
<td>Carbon Finance</td>
</tr>
<tr>
<td>DPCC</td>
<td>District Project Coordination Committee</td>
</tr>
<tr>
<td>DSS</td>
<td>Decision Support System</td>
</tr>
<tr>
<td>EALA</td>
<td>East African Legislative Assembly</td>
</tr>
<tr>
<td>GIS</td>
<td>Geographical Information System</td>
</tr>
<tr>
<td>GoK</td>
<td>Government of Kenya</td>
</tr>
<tr>
<td>HIS</td>
<td>Hydrological Information System</td>
</tr>
<tr>
<td>IP</td>
<td>Indigenous People</td>
</tr>
<tr>
<td>IPO</td>
<td>Indigenous people's Organizations</td>
</tr>
<tr>
<td>IPP</td>
<td>Indigenous people Plan</td>
</tr>
<tr>
<td>IPPF</td>
<td>Indigenous people Planning Framework</td>
</tr>
<tr>
<td>IPR</td>
<td>Indigenous people Representatives</td>
</tr>
<tr>
<td>IPSS</td>
<td>Indigenous people Screening Structure</td>
</tr>
<tr>
<td>KAPP</td>
<td>Kenya Agricultural Productivity Program</td>
</tr>
<tr>
<td>KEFRI</td>
<td>Kenya Forestry Research Institute</td>
</tr>
<tr>
<td>KFS</td>
<td>Kenya Forest Service</td>
</tr>
<tr>
<td>KIRDI</td>
<td>Kenya Industrial Research Institute</td>
</tr>
<tr>
<td>KMFRI</td>
<td>Kenya Marine Fisheries Institute</td>
</tr>
<tr>
<td>KNCHR</td>
<td>Kenya National Commission of Human Rights</td>
</tr>
<tr>
<td>LVBC</td>
<td>Lake Victoria Basin Commission</td>
</tr>
<tr>
<td>LVDIF</td>
<td>Lake Victoria Dynamic Information Framework</td>
</tr>
<tr>
<td>LVEMP II</td>
<td>Lake Victoria Environmental Management Project Phase II</td>
</tr>
<tr>
<td>LVFO</td>
<td>Lake Victoria Fisheries Organization</td>
</tr>
<tr>
<td>M&amp;E</td>
<td>Monitoring and Evaluation</td>
</tr>
<tr>
<td>MENR</td>
<td>Ministry of Environment and Natural Resources</td>
</tr>
<tr>
<td>MIS</td>
<td>Management Information System</td>
</tr>
<tr>
<td>ML</td>
<td>Ministry of Lands</td>
</tr>
<tr>
<td>MSME</td>
<td>Micro, Small and Medium Enterprises</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>NAL</td>
<td>National Agricultural Laboratories</td>
</tr>
<tr>
<td>NEMA</td>
<td>National Environmental Management Authority</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
</tr>
<tr>
<td>NRM</td>
<td>Natural Resources Management Project</td>
</tr>
<tr>
<td>OA</td>
<td>Operational Area</td>
</tr>
<tr>
<td>OP 4.10</td>
<td>Operational Policy of the World Bank on Indigenous people</td>
</tr>
<tr>
<td>OP 4.12</td>
<td>Operational Policy of the World Bank on Involuntary Resettlement</td>
</tr>
<tr>
<td>OSIENALA</td>
<td>Friends of Lake Victoria</td>
</tr>
<tr>
<td>PES</td>
<td>Payments for Environmental Services</td>
</tr>
<tr>
<td>PIM</td>
<td>Participatory Impact Monitoring</td>
</tr>
<tr>
<td>RAP</td>
<td>Resettlement Action Plan</td>
</tr>
<tr>
<td>RPF</td>
<td>Resettlement Policy Framework</td>
</tr>
<tr>
<td>SLM</td>
<td>Sustainable Land Management</td>
</tr>
<tr>
<td>SSBM</td>
<td>Social Safeguard Backstopping Mission</td>
</tr>
<tr>
<td>WKCDD/FM</td>
<td>Western Kenya Community Driven Development and Flood Mitigation Project</td>
</tr>
<tr>
<td>WKIEMP</td>
<td>Western Kenya Integrated Ecosystem Management Project</td>
</tr>
<tr>
<td>WRMA</td>
<td>Water Resource Management Authorities</td>
</tr>
<tr>
<td>WRMP</td>
<td>Water Resource Management Plan</td>
</tr>
<tr>
<td>WRUA</td>
<td>Water Resource Users Association</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

The Lake Victoria Environmental Management Project Phase II (LVEMP II) seeks to enhance socio-economic development and biodiversity conservation within the Lake Victoria Basin (LVB) through improved utilization of information, governance of trans-boundary natural resources, investment in socio-economic development activities and improved public participation and communication. Specific interventions will be aimed at generating data and information for improved planning, reduction of point and non-point pollution, catchment protection, community driven micro-projects, policy review and harmonization, and enhanced internal and external communication on project activities and impacts. This regional project involving Kenya, Tanzania and Uganda will be coordinated by the Lake Victoria Basin Commission (LVBC). In Kenya, the project will be implemented in the Nyanza and Western Provinces.

Lake Victoria Environmental Management Project LVEMP II

Lake Victoria Environment Management Project II is based on the lessons learnt of LVEMP I, which was implemented during 1997-2005 period and proposed a second phased to address some of the key issues that were identified in the phase one. In addition, LVEMP II aims to implement priority interventions of the Strategic Action Programme (SAP), which address key environmental issue identified in the Transboundary Diagnostic Analysis (TDA) for the Lake Victoria basin (LVB).

Higher level objectives to which LVEMP II contributes

The LVEMP II will contribute towards the achievement of the EAC’s Lake Victoria Basin Development Vision and Strategy of having: "A prosperous population living in a healthy and sustainably managed environment providing equitable opportunities and benefits to the riparian communities." The Strategy's main development objectives are to achieve: (i) shared economic growth; (ii) poverty eradication; and (iii) a healthy ecosystem. This common vision serves as a shared basis for discussing perspectives, strategies and approaches for sustainable growth and development, and coordinated efforts for addressing key environmental concerns of the Lake Victoria basin.

The Project development/global environmental objectives (PDO/GEO) are to: (i) improve the collaborative management of the transboundary natural resources of the LVB; and (ii) reduce environmental stress in the Lake Victoria basin.

These project PDO/GEOs will be achieved by implementing four components:

Component 1: Strengthening governance of water and fisheries resources

This component will focus on building institutions to improve governance of transboundary natural resources of the Lake Victoria basin. Its objectives are to: (i) foster transparency, accountability, and voice; (ii) improve performance of key regional and national institutions; (iii) develop regional frameworks for the management of key transboundary natural resources — water and fisheries; and (iv) establish mechanisms for resolving disputes over the shared natural resources, and environmental impacts and/or externalities.

Component 2: Investing in pollution control and prevention measures

The main objective of this component is to reduce environmental stress in the LVB. It will finance investments aimed at reducing: (a) point and non-point sources of pollution in
priority hotspots and catchments; (b) industrial pollution; and (c) pollution risks prevention in Lake Victoria. The control of point sources of pollution would focus on major polluting cities/towns and industries on the lake shores. Similarly, the control of non-point sources of pollution would concentrate on selected sub-catchments of rivers with highest pollution loads, particularly nitrogen, and phosphorus.

Component 3: Raising public awareness and participation

The objective of this component is to increase awareness and participation of various stakeholders, including elected representatives, local communities, and the general public, on the sustainable management of Lake Victoria ecosystem. It will support education programs and communication.

The outcomes of research and ecosystem monitoring will be made available in languages that decision makers, stakeholders, and resource users can understand. Sharing of information will be done through the GIS-based regional Management Information System (MIS), focal point ministries’ websites, interaction with the media, and consultations with local communities.

Component 4: Project coordination and management

This component will provide resources necessary for the effective coordination, and monitoring and evaluation of the project activities. At regional level, these tasks will be carried out by the LVBC, while at the national level they will be the responsibility of the National Project Coordination Team (NPCT). This component will have two sub-components: project coordination; and monitoring and evaluation.

Indigenous People’s Planning Framework (IPPF)

During preparation, it became clear that some sub-projects might impact on indigenous people’s rights, lands, livelihoods, and culture particularly the Okieks who traditionally depend on some parts of Mau forest complex. To comply with international standards, including the World Bank’s Operational Policy on Indigenous people (OP 4.10), whose provisions must be met in order to qualify for funding from the World Bank, the Government of Kenya through this study has formulated an Indigenous People’s Planning Framework (IPPF). The purpose of the IPPF is to ensure that development process associated with LVEMP II fully respects the dignity, human rights, economies, and culture of indigenous people, and that the sub-projects are broadly acceptable to the affected indigenous populations. This broad acceptability can only be gained through free, prior, and informed consultations. To that end, the IPPF presents guidelines which will avert any potentially adverse effects on the indigenous people’s communities; or if avoidance proves not to be feasible, minimize, mitigate, or compensate for such negative impacts.

In addition, the IPPF will ensure that the indigenous people receive social and economic benefits that are culturally appropriate, and inclusive in both gender and inter-generational terms. Under OP 4.10, an IPPF is for community-driven development projects, social funds, sector investments, financial intermediary loans and other projects which involve the preparation and implementation of annual investment programs. The IPPF is thus essential to the compliance of LVEMP II implementation with international standards.

This IPPF draws upon from the Indigenous people Plan developed for the Kenya Agricultural Productivity – Sustainable Land Management Project, which was adopted by the Government of Kenya in January 2006 and that of the Western Kenyan Community Driven Development and Flood Mitigation, and Natural Resources Management Projects. The report presents the findings of consultative sessions held in a participatory manner and in close cooperation with
all stakeholders (indigenous people's communities and organisations, other populations, government institutions and NGOs among others).

**Indigenous people in the operational areas**

The African Commission's Working Group of Experts on Indigenous Populations and Communities affirms that "almost all African states host a rich variety of different ethnic groups. All of these groups are indigenous to Africa. However, some are in a structural subordinate position to the dominating groups and the state, leading to marginalization and discrimination. It is this situation that the indigenous concept, in its modern analytical form, and the international legal framework attached to it, addresses."

The Lake Victoria Environmental Management Project Phase II will be implemented in 31 districts within the Kenyan side of the Lake Victoria basin. The areas of Mau forest earmarked for rehabilitation, where members of the Ogiek community are found fall within Kericho and Bureti districts. Other districts within the project area where indigenous people are found are Nandi South and Nandi North. In the remaining districts, it is not clear whether any populations fall within this category. To address this lack of information, the project provides for comprehensive screening mechanisms to identify, inform, and consult the Ogiek, and other indigenous people in all operational areas of the project, well in advance of any investment or subproject implementation.

The indigenous people face similar problems of exclusion from mainstream development activities. From the formal legal point of view, they are citizens equal to all other Kenyans. However, they do not have the same access to land and other resources, protection against cattle rustlers, social and political influence, legal status and/or organizational, technical or economic capacities as other citizens of Kenya. The Ogiek who formerly ranged over broad areas of uninterrupted forests as full time foragers, have increasingly been restricted to areas with home 'bases' involving agriculture and livestock rearing and outlying areas where they still practice some honey gathering and wildlife hunting. The continual expropriation of land and steadily intensifying restrictions on access to natural resources especially forests and land have further increased their sedentarisation, marginalization, social discrimination, and impoverishment. The Ogiek, who are more dependent on forests than others, were often in contravention of their legal utilization rights forced out of forests with little or no compensation, and with little or no land to go to or resources to live on. This kind of forced eviction from forests which the community considers as their home has resulted in some cases such as was noted in Tinderet forest, to families being scattered and children being left to fend for themselves.

**The Indigenous people Planning Framework for LVEMP II**

The indigenous people's increased dependence on farming and livestock rearing and aspiration to access social services and decision-making institutions are not sufficient to give them opportunities equal to those of other Kenyan citizens. Most indigenous people are landless, illiterate, and lack legal access to natural resources or other assets for income-generation. They are ill-equipped to defend even the informal, de facto access that they retain to the remnants of their 'homelands' from encroachment or restriction by outside authorities and interests.

The aspirations of the indigenous people in the project area are (i) to live in peace with their neighbours, (ii) to have access to sufficient land to practice agriculture and graze a their livestock, (iii) to have access to forests to gather honey for consumption and sale, (iv) to practice their culture, (v) to have equitable access to social infrastructure and technical
services, and (vi) to be fairly represented in the institutions which make decisions affecting their lives at local, regional and national levels.

This report proposes a specific framework to address the needs and rights of indigenous people in the LVEMP II project. This is necessary to mitigate the risks and challenges currently facing indigenous people and to ensure that they are not perpetuated. The project will provide opportunities and mechanisms for indigenous people to ensure that they do not:

(a) face further physical and economic displacements from land and forests traditionally utilized by them as a source of livelihood and basis for their cultural and social survival;
(b) lose legal access to natural resources, which are an important source of livelihood and basis for their cultural and social system;
(c) become marginalized in the society and become alienated from nation life;
(d) receive less support from governmental services;
(e) have less capacity to defend their legal rights;
(f) become or remain dependent on other ethnic groups and;
(g) lose their cultural and social identity.

The Government of Kenya has made clear its intention that "land issues requiring special intervention, such as historical injustices, land rights of minority communities (such as hunter-gatherers, forest-dwellers and pastoralists) and vulnerable groups will be addressed, the rights of these groups will be recognized and protected" (Draft Land Policy p.6). The reason is that "minority communities are culturally dependant on specific geographical habitats. Over the years, they have lost access to land and land based resources that are important to their livelihoods. This follows the gazettement of these habitats as forests or national reserves or their excision and allocation to individuals who subsequently obtain titles to the land. These communities are now recognized internationally as minority groups deserving special protection by the State with regard to their land rights and ability to manage their natural resources in a sustainable manner.

These communities have not been represented adequately in governmental decision making at all levels since they are relatively few in number. Their political and economic marginalization has also been attributed to the fact that colonial policies assimilated them into neighbouring communities. In addition, the colonial Government alienated their land through forest preservation policies, which effectively rendered them landless as they were denied the right to live in the forests. Colonial capitalism also led to the marginalization of hunter-gatherer communities at the expense of agricultural expansion. To protect and sustain the land rights of the minorities, the Government shall:-

(a) undertake an inventory of the existing minority communities with a view to obtaining a clear assessment of their status and land rights; and
(b) facilitate the practice of their land tenure and resource management systems by providing a suitable legal framework" as provided for in the Draft Land Policy.

The LVEMP II Project will fund a two-level screening process to identify possible adverse effects on Indigenous people. In primary screening, all groups which are in a subordinate position to the dominating groups and the state" (and thus indigenous according to the definition quoted above), will be identified in all operational areas.

The secondary screening will consist of a detailed social assessment undertaken for each of these indigenous communities. This modus operandi will simultaneously assist the
indigenous people in the project area to establish claims within the parallel national land restitution process proposed under the draft land policy, and fulfil the operational requirements of OP 4.10. To implement this strategy, the project will:

(a) assist the indigenous people to create an elected Indigenous people's Screening Structure (IPSS) in all districts where indigenous people use or claim land and/or resources; and

(b) empower these IPSS to document, in free, prior and informed consultations, the indigenous people's position on all funding requests, which might impinge upon land or resources, which have been identified in the social assessment and in line with the land policy as rightly theirs.

For subprojects which do not in the first instance gain broad support from the affected indigenous people, the District Project coordination Committees (DPCC) which decides on the funding of subprojects and the IPSS will search for mutually acceptable solutions.

Indigenous people Plans (IPP) can be prepared to assist and reflect transparent decision-making in the case of controversial subprojects, and will also be elaborated for large scale infrastructures, if the screening suggests that rights, livelihoods, and culture of the indigenous people might be affected. Taken together, the measures described above would ensure that negative impacts are avoided.

The project will apply five mechanisms to ensure that indigenous people receive cultural appropriate benefits. These will include:

(a) support and capacity building provided to IP communities through the IPSS to assist community planning and applications for resources for priority sub-projects;

(b) provision of preferential treatment to IP communities for subproject identification and funding;

(c) allowing IP communities the option of making the required community sub-project contribution in kind (i.e. through labour or the supply of local materials);

(d) invitation of IP representatives to sit in the District Project Coordination Committees and decision making bodies at catchment level; and

(e) enhancement of the capacities of the indigenous people using appropriate participatory tools.

The Government of Kenya, recognizes that, given, their close association with land, forests, water, wildlife, and other natural resources, the physical relocation of indigenous people, or other measures which reduce their access to livelihood-related resources, has complex implications, and may entail significant adverse impacts on their identity, culture, and customary livelihoods. For these reasons, the option assessment will explore to the extent possible the feasibility of re-establishing access to land and land-based resources that are key to their livelihood. Where this is not feasible, the LVEMP II project will commission for each forest a Resettlement Action Plan (RAP) in accordance with international standards (World Bank OP 4.12 Involuntary Resettlement). The RAP will include a land-based resettlement strategy, compatible with the indigenous people's cultural preferences. Discussions with a broad range of stakeholders indicate a willingness of all parties to work together with the projects and the indigenous people to implement the measures outlined above. The main parties responsible for the implementation of the IPPF for the LVEMP II are the Ministry of Environment and Natural Resources, the Ministry of Lands, the Kenya National Commission for Human Rights, the indigenous people's organizations and the indigenous people themselves.
The measures elaborated here will ensure that the LVEMP II project will:-
(a) reduce poverty for all ethnic groups and lower the dependence on and degradation of natural resources;
(b) promote the effective management of natural resources, which offers benefits to the entire population and as well as environmental sustainability and biodiversity;
(c) foster the full respect for the dignity, rights and culture of the indigenous people;
(d) assure that the indigenous people receive culturally appropriate benefits equal to any other ethnic groups;
(e) protect the indigenous people from suffering adverse effects; and thus comply with international standards (OP 4.10).
1. INTRODUCTION AND DESCRIPTION OF THE PROJECT

The Government of Kenya (GoK) has requested for financial assistance from the World Bank to implement the second phase of Lake Victoria Environmental Management Project. The project seeks to enhance socio-economic development and biodiversity conservation the Lake Victoria basin and will contribute towards on-going initiatives of achieving the Lake Victoria Basin's Development Vision. To contribute effectively to the Basin's vision, the project's long-term impact is that of enhanced biodiversity conservation and management which will be achieved through improved livelihoods in communities that will participate in the project, and enhanced protection of target sensitize ecosystems.

2. Description of the Lake Victoria Environmental Management Project II

This section describes the proposed Lake Victoria Environmental Management Project Phase II (LVEMP) including the different components and activities and outcomes expected during the duration of the project. It begins by describing the project objectives, project components, and then the potential subprojects.

2.1 Project Objectives

The LVEMP II will contribute towards the achievement of the EAC's Lake Victoria Basin Development Vision and Strategy of having: "A prosperous population living in a healthy and sustainably managed environment providing equitable opportunities and benefits to the riparian communities." The Strategy’s main development objectives are to achieve: (i) shared economic growth; (ii) poverty eradication; and (iii) a healthy ecosystem. This common vision serves as a shared basis for discussing perspectives, strategies and approaches for sustainable growth and development, and coordinated efforts for addressing key environmental concerns of the Lake Victoria basin.

The Project development/global environmental objectives (PDO/GEO) are to: (i) improve the collaborative management of the transboundary natural resources of the LVB; and (ii) reduce environmental stress in the Lake Victoria basin.

2.2 Project Components

Lake Victoria Environment Management Project II is based on the lessons learnt of LVEMP I which was implemented during 1997-2005 period and proposed a second phased to address some of the key issues that were identified in the phase one. The project has four main components: (i) Strengthening governance of water and fisheries resources; (ii) Investing in pollution control and prevention measures; (iii) Raising public awareness and participation; and (iv) Project coordination and management.

Component 1: Strengthening governance of water and fisheries resources

This component will focus on building institutions to improve governance of transboundary natural resources of the Lake Victoria basin. Its objectives are to: (i) foster transparency, accountability, and voice; (ii) improve performance of key regional and national institutions; (iii) develop regional frameworks for the management of key transboundary natural resources - water and fisheries; and (iv) establish mechanisms for resolving disputes over the shared natural resources, and environmental impacts and/or externalities. It will have four sub-
components: applied research; ecosystem monitoring; harmonization of policy, regulations, and standards; and institutional development and strengthening.

**Sub-component 1.1: Applied research**

This sub-component will finance continuation of priority water and fisheries research to fill the knowledge gaps on environmental, social, and economic related aspects; and use outcomes to inform LVB policy and management decisions. Priority will be given to regional research programs, which are focusing on transboundary issues. Multi-disciplinary research programs, which link physical and biological sciences to social and economic aspects, would be emphasized. Further, the project will ensure that individual research proposals are collectively producing a cohesive body of knowledge, which addresses a common set of goals and management objectives. Emphasis will also be put on translating scientific research outputs generated under LVEMP I into practical and cost-effective management interventions.

The expected outcome of this component is that LVBC and the LVB countries use scientific and socio-economic knowledge generated to inform policy decisions on the sustainable management of the LVB ecosystem.

**Sub-component 1.2: Ecosystem monitoring**

This sub-component will finance the strengthening of existing and developing new scientific and socio-economic: (a) data gathering protocols; (b) ecosystem monitoring tools; and (c) data sharing mechanisms. It will also support the monitoring of key environmental parameters, using GEF’s indicators (process, stress reduction, and environmental status) for international waters projects. The results from the ecosystem monitoring will guide the natural resources and environmental management decisions. The ecosystem monitoring tools, would include: (i) Water Information System (WIS) for monitoring surface water, groundwater, and water quality; (ii) Decision Support System (DSS) for the basin water resources; (iii) Atmospheric deposition monitoring network; (iv) GIS-based database for the land use, hydrology, and biodiversity, and related Lake Victoria Dynamic Information Framework (LVDIF); and (v) Regional framework for fish stocks assessment.

The expected outcome of this sub-component is that LVBC and LVB countries use reliable environmental health and natural resources (land, water, and fisheries) data of the Lake Victoria basin ecosystem for planning sustainable management of the LVB resources.

**Sub-component 1.3: Harmonization of policies, regulations, and standards**

The main objective of this sub-component is to improve the policy and regulatory framework for the management of water and fisheries resources of the LVB. This would reduce conflicts on both the allocation of the basin’s resources amongst competing uses (e.g., domestic water supply, irrigation, industrial, environmental flows, energy etc.), and the utilization of shared transboundary natural resources (water and fisheries). The expected outputs under this sub-component include: (i) national policies governing the utilization of fisheries and water resources are harmonized; (ii) regional regulatory standards for water and fish quality, and their enforcement mechanisms are developed; (iii) regional standards for industrial and municipal effluent discharges into sewerage and river systems are developed and uniformly applied in LVB; and (iv) integrated water and fisheries resources management participatory approaches are mainstreamed in the regional and national programs.

The expected outcome of this sub-component is that the LVB countries have a common policy, legal, and regulatory framework for natural resources and environmental management.
Sub-component 1.4: Institutional development and strengthening

The objective of this sub-component is to improve the management of the shared LVB resources. This sub-component will focus on: (a) strengthening the regional and national institutions mandated to govern transboundary natural resources; (b) developing regional management frameworks; and (c) studying options for establishing sustainable financing mechanisms.

The project will finance the capacity building programs of the regional, national, and local institutions responsible for coordination, research, management of resources, and enforcement of environmental standards. This includes LVBC and LVFO; national LVB authorities/offices, fisheries, and environmental management institutions; and local government authorities. Capacity will be enhanced through long and short term training, technical assistance, provision of office and laboratory equipment, and research/monitoring marine vessels. The main outputs of this component will be: (i) LVBC Secretariat's Office, Communication, and Information Resource Center upgraded to become a regional database/information hub; (ii) Lake Victoria research vessel - RV Jumuiya fully equipped for water quantity and quality monitoring; (iii) water, fisheries, and soil laboratories equipment upgraded; and (iv) Long- and short-term training, Technical Assistance, and study tours provided to staff of various institutions according to the needs assessment.

The project will also finance the development of natural resources and environmental management frameworks. The key outputs include: (i) a regional Water Resource Management Plan (WRMP); (ii) an updated Lake Victoria Integrated Fisheries Management Plan (IFMP); and (iii) basin-wide Watershed Management Strategy (WMS). Finally, it will finance the development of sustainable financing mechanisms, including operationalizing the Fish Levy Trust Funds (FLTFs), and studying options for establishing the Lake Victoria Environmental Trust Fund (LVETF).

The expected outcome of this sub-component are: (i) Enhanced national and district level capacity for enforcement of the environmental standards and sustainable management of the natural resources in the LVB; and (ii) LVB countries adopt common transboundary natural resources (water and fisheries) and environmental management frameworks.

Component 2: Investing in pollution control and prevention measures

The main objective of this component is to reduce environmental stress in the LVB. It will finance investments aimed at reducing: (a) point and non-point sources of pollution in priority hotspots and catchments; (b) industrial pollution; and (c) pollution risks in Lake Victoria.

The control of point sources of pollution would focus on major polluting cities/towns and industries on the lake shores in Kenya, Tanzania, and Uganda. Similarly, the control of non-point sources of pollution would concentrate on selected sub-catchments of rivers with highest pollution loads, particularly sediment, nitrogen, and phosphorus. There will be four sub-components: liquid and solid waste management; watershed rehabilitation; industrial pollution control, and pollution risk prevention.

Sub-component 2.1: Liquid and solid waste management

The objective of this sub-component is to reduce point sources of pollution by supporting public investments, including: (i) rehabilitating selected wastewater treatment plants and connecting them to constructed and/or restored wetlands; (ii) providing ecological sanitary services; and (iii) improving solid waste management. The LVEMP II will target highly eutrophic hotspots, including Winam Gulf (Kenya), Murchison Bay (Uganda), Napoleon and
Mwanza Gulfs (Tanzania), which together receive 57 percent of the total Biological Oxygen Demand (BOD) loads to the Lake Victoria. The project will finance planned rehabilitation of sewerage treatment and solid waste management systems of major urban centers around the Lake Victoria - Kisumu, Homa Bay, Mwanza, Musoma, Bukoba, Entebbe, Jinja, and Kampala. The Pollution Control Plans (PCPs) for hotspot areas will be developed and used to prioritize specific intervention measures.

Since the majority of population living in the Lake Victoria basin rely on onsite sanitation facilities (pit latrines, septic tanks, and cesspits), the project would support municipal authorities in the collection, treatment, and disposal of sludge in areas not served by the sewerage systems. It would also support the construction of ecological sanitation toilets in poor and underserved peri-urban, beach, and rural communities. Priority would be given to the public institutions' facilities, such as schools, health centers, landing beaches, and markets.

Solid waste is a significant polluting source to the Lake Victoria. The project would, therefore, provide technical and financial support to municipal authorities for the management of open dumps and/or landfills. The support would include solid waste collection, transportation, and disposal. Some research and pilot activities for collecting landfill biogas or methane using Active Control and Stabilization Method (ACSM) would also be supported.

The expected outcome of this sub-component is that municipal authorities reduce amounts of point sources of pollution - untreated urban effluents, nutrient loads from leachates, and greenhouse gases emissions.

**Sub-component 2.2: Watershed rehabilitation**

This sub-component seeks to reduce non-point source pollution (sediment loads, nutrients, and hydro-chemicals), by supporting community-driven investments in rehabilitating nine (out of 22) priority degraded sub-catchments of the Lake Victoria. These include catchments of rivers Kagera (shared by Burundi, Rwanda, Tanzania, and Uganda); Simiyu, Eastern Shore Streams, and Grumeti in Tanzania; Gucha-Migori, Nyando, and Sondu-Mirimu in Kenya; and Bukora and Katonga in Uganda.

The project will provide matching grants to organized communities to promote local partnerships in addressing degradation of the watershed. Community-Driven Development (CDD) approaches will be used to scale up watershed rehabilitation interventions; the latter will comprise two categories: (i) soil and water conservation; and (ii) livelihoods improvement. The soil and water conservation will include interventions that are predominantly public goods or benefits, such as protection of steep slope farmland, reforestation and afforestation, sediment retention structures, village infrastructure (drinking water boreholes, access roads, protection of natural springs), catchment or forest protection, water hyacinth control, and rehabilitation of degraded wetlands. These interventions would be implemented largely by communities. The livelihoods improvement interventions include activities that are largely household-based, and with substantial private benefits. These will include terracing and contouring of farms on gentle slopes, horticulture and economic trees, forage and livestock development, irrigation and drainage, rain water harvesting, energy supply, ecological sanitation toilets, integrated pest management, aquaculture, small scale fish processing, fish landing sites, and cold storage facilities. These will be financed to provide incentives for communities to participate in soil conservation programs.
The expected outcomes of implementing this sub-component are: (i) increased adoption of sustainable land management practices by farming communities in the targeted sub-catchments; (ii) increased adoption of sustainable fishing practices and hygiene standards by the targeted Lake Victoria fishing communities; and (iii) improved livelihoods of the households in the participating communities.

**Sub-component 2.3: Industrial pollution control**

The objective of this sub-component is to reduce industrial pollution, by pre-treating wastes onsite, and enhancing efficiency in raw material utilization – through sorting, reuse, and recycling activities. The major polluting industries located mainly in Kismu and Eldoret (Kenya); Mwanza and Bukoba (Tanzania); and Kampala and Jinja (Uganda) will be targeted. This sub-component will ensure that industries reduce pollution loads from effluents through: (i) adoption of Cleaner Production Technologies and Sustainable Consumption (CPT&SC); (ii) compliance enforcement to effluent standards; and (iii) public education and awareness campaigns. The project will also support the updating of inventory of factories and their pollution loads and posting the information on the public website, to increase public pressure. Annual CPT Awards will be promoted to provide incentives for industries to reduce wastes and treat effluents on site.

The expected outcome of this sub-component is increased adoption of cleaner production technologies and sustainable consumption by industries.

**Subcomponent 2.4: Pollution risk prevention**

The main objectives of this sub-component are to: (i) prevent marine vessel accidents, which could be major source of pollution, including oil spills; (ii) improve safety of navigation for both passenger and fishing vessels; and (iii) reduce green house gases released into the atmosphere.

This sub-component will therefore finance the survey and mapping of marine transport routes in the Lake Victoria; and installation of navigation equipment and facilities, such as light houses, lighted buoys, radar system, rescue operation equipment, and early warning system. So far, a total of 194 locations to be equipped with aids to navigation have been identified, and out of these, 106 sites are considered as high priority. The project will also finance the installation of the lake-wide communication, emergency response, and early warning systems.

Finally, this sub-component will support the linking of afforestation and reforestation programs with private Carbon Finance (CF) mechanisms. Existing pilots in Kenya, Tanzania, and Uganda will be scaled up to areas with secure land tenure systems. The municipal councils participating in the pilot ecological landfill and sanitation programs, and collection of methane gas; and industries adopting cleaner production technologies, which reduce green house gases will also be linked to the Cleaner Development Mechanism (CDM) financing.

The expected outcomes of this sub-component are: (i) increased preparedness to respond to pollution problems in the Lake Victoria; and (ii) enhanced security and safety of navigation in the Lake Victoria.

**Component 3: Raising public awareness and participation**

The objective of this component is to increase awareness and participation of various stakeholders, including elected representatives, local communities, and the general public, on the sustainable management of the Lake Victoria ecosystem. It will support public education programs and communication.
The outcomes of research and ecosystem monitoring will be made available in languages that decision makers, stakeholders, and resource users can understand. Sharing of information will be done through the GI-based regional Management Information System (MIS), focal point ministries’ websites, interaction with the media, and consultations with local communities.

This component will have three sub-components: internal communication; regional and national outreach program; and community awareness and participation program. These sub-components have been designed to address specific information needs of project implementation teams, policy makers, and communities.

Sub-component 3.1: Internal communication

This sub-component will finance the development of communications system for improving sharing of data and information among the implementing agencies. This would enhance sharing of existing technical knowledge and implementation experiences, at the regional, national, local, and community levels. Specifically, the sub-component's outputs will include an: (i) internal communications system to facilitate information sharing; and (ii) information sharing protocol among LVBC, member countries, and implementing agencies.

The main outcome of this sub-component would be an improved project implementation performance at the regional, national, district, and community levels.

Sub-component 3.2: Regional and national outreach program

This sub-component will focus on delivering Lake Victoria's environmental education programs to the policy makers and public at large. Its objectives are to ensure an understanding of the key environmental issues for the sustained public funding commitment to project and long-term sustainability. Therefore, the outreach program would target the East African Legislative Assembly (EALA), national parliamentarians, local politicians, donor community, and the general public. The project will support: (i) development of regional and national public awareness and education materials for the sustainable use of LVB resources; (ii) outreach activities to seek political buy-in of the parliamentarians, and ensure success and sustainability.

The main outcome of this sub-component is an established political will to maintain long-term financing commitment for interventions initiated under the project.

Sub-component 3.3: Community awareness and participation program

This sub-component will focus on creating communities' awareness of the key environmental issues of the LVB and the benefits of their participation in the CDD investments for the rehabilitation of the watershed. In particular, the project will organize public meetings for local communities to promote: (a) adoption of non-point pollution measures, including use of ecological toilets, and soil erosion control; and (b) unsustainable natural resources utilization behavior.

The project will support the development of: (i) training modules for teaching environmental and socio-economic impacts of Lake Victoria’s watershed degradation; (ii) guidelines for the Preparation and Implementation of Community Sub-projects, translation into local languages, and wide dissemination; (iii) synergies and linkages with existing awareness programs in the LVB; and (iv) mechanisms for resolving communities’ conflicts on shared or common resources use.

The expected outcome of this sub-component is enhanced communities' ability to plan, manage, implement, and monitor prioritized watershed rehabilitation investments.

Component 4: Project coordination and management
This component will provide resources necessary for the effective coordination, and monitoring and evaluation of the project activities. At regional level, these tasks will be carried out by the LVBC, while at the national level they will be the responsibility of the National Project Coordination Teams (NPCTs). This component will have two sub-component—project coordination; and monitoring and evaluation.

**Sub-component 4.1: Project coordination**

This sub-component would finance the incremental operating costs of the various committees, including the Regional Policy Steering Committee (RPSC), National Project Steering Committee (NPSC), and the National Technical Advisory Committee (NTAC). In addition, this component would meet the capital and operating costs of the Regional Project Coordination Team (RPCT) to be located in the LVBC Secretariat; and the NPCTs, which will be mainstreamed in the Focal Point Ministries (FPMs). The National Project Coordinators (NPCs) could be employed on competitive basis to coordinate project implementation activities during the first two years. This sub-component would also strengthen the financial and procurement management functions in the LVBC and NPCTs to enhance project’s resources management and accountability. Finally, funds would be available to recruit a few incremental staff, such as secretaries and drivers, under the operational costs category.

**Sub-component 4.2: Monitoring and Evaluation (M&E)**

This sub-component would provide resources for the establishment of the regional and national GIs-based M&E and Management Information System (MIS); and the collection, analyses, storage, and dissemination of the project’s implementation performance, outcomes, and impact data and information. To accomplish the M&E functions, LVBC and each FPM will hire and/or assign a qualified M&E specialist. The project will maintain sets of indicators for M&E, capturing the ILBM governance indicators, and GEF’s indicators for international waters projects, and the socio-economic status of participating communities. This sub-component will ensure that monitoring reports, including quarterly and annual project implementation progress, procurement, financial and audit reports are produced regularly.

The expected outcome of this component is that project resources are used efficiently to generate the intended results and achieve its objectives.

Not all the above components trigger the O.P. 4.10 Indigenous Peoples because it is evident that it is Component 2—Investing in pollution control and prevention measures that are likely to affect Indigenous Peoples when rehabilitating watersheds in Kenya. This component will support activities including afforestation and reforestation, rehabilitation of degraded wetlands and protection of steep slopes among others.

**2.3 Management and Monitoring and Evaluation**

The project will provide the resources for an effective management and monitoring of the project activities. It will also provide significant funds to the Ministry of Lands to elaborate a national resettlement policy and rehabilitate the livelihood of people, who have been evicted from forests. Management of the tasks undertaken by the two line ministries will be mainstreamed within the ministries. Funds will also be made available for the development and implementation of a communications strategy and an overarching framework for monitoring and evaluation. To accomplish the management of monitoring and evaluation,

---

3 Policies, institutions, stakeholder participation, rules, information, and finances.

4 Process, stress reduction, and environmental status.
each ministry will have an M&E expert assigned. Additional resources will be made from other sustainable development projects in Kenya, namely NRM, WKCD/FM, Kenya Agricultural Productivity Programme (KAPP), Kenya Agricultural Productivity – Sustainable Land Management Project (KAP/SLM) and Western Kenya Integrated Ecosystem Management Project (WKIEMP) to establish an overarching management information system and impact evaluation system.

During project preparation, it became clear that the project might to some extent, impact on indigenous people’s rights, lands, livelihoods and culture. To comply with international standards such as the World Bank’s operational policy on indigenous people (OP 4.10) and to qualify for funding from the World Bank the Government of Kenya has commissioned the elaboration of this Indigenous people Planning Framework (IPPF) to ensure that the development process fully respects the dignity, human rights, economies, and culture of indigenous people and that the project and its IPPF is able to gain through free, prior, and informed consultations, the broad community support from the affected indigenous people. In that perspective, the IPPF develops guidelines to (a) avoid potentially adverse effects on the indigenous people’s communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. (c) The IPPF aims also to ensure that the indigenous people receive social and economic benefits that are culturally appropriate and gender as well as intergenerationally inclusive.

An IPPF is the instrument required by the OP 4.10 for community-driven development projects, social funds, sector investment operations, financial intermediary loans, and other project, which also involve the Indigenous People’s Planning Framework for the project preparation and implementation of annual investment programmes; thus the IPPF is the instrument necessary to achieve the compliance of LVEMP II project with international standards. The IPPF derives from the Indigenous peoples Plan of the Kenya Agricultural Productivity – Sustainable Land Management Project (IPP-KAP/SLM) and WKCD/FM and NRM, both of which have been adopted by the Government of Kenya in January 2006 and December 2006 respectively.

The IPPF for the LVEMP II project embodies the following elements:

(a) An introduction to the types of components, subcomponents and subprojects likely to be proposed for financing under the project;

(b) A short introduction to the indigenous people, which might be affected by this project;

(c) The potential positive and adverse effects of this project on the indigenous people;

(d) A plan to carry out social assessments for such project/subproject;

(e) A framework to ensure free, prior, and informed consultations with the affected indigenous people’s communities at each stage of the preparation and implementation of the projects;

(f) Disclosure arrangements for IPPs to be prepared under the IPPF;

(g) Institutional arrangements (including capacity building where necessary) for screening project-supported activities, evaluating their effects on indigenous people, preparing IPPs, and addressing any grievances;

(h) Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project.
3. THE INDIGENOUS PEOPLE IN THE OPERATIONAL AREAS

According to the UN Human Right and Indigenous Issues no. 92, there is no internationally agreed upon definition of indigenous people. However, for operational purposes and in line with other international organizations, such as the UN Working Group on Indigenous Populations, the UN Permanent Forum on Indigenous Issues and the International Labour Organisation, the OP 4.10 of the World Bank suggests "to use the term "indigenous people" in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:-

(a) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;

(b) collective attachment to geographically distinct habitats or ancestral territories in the operational area and to the natural resources in these habitats and territories;

(c) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and

(d) an indigenous language, often different from the official language of the country or region.

The African Commission's Working Group of Experts on Indigenous Populations and Communities outlines the problems related to the use of the term "indigenous people" in Africa: "There is no question that all Africans are indigenous to Africa in the sense that they were there before the European colonialists arrived and that they have been subject to subordination during colonialism. We thus in no way question the identity of other groups. When some particular marginalized groups use the term indigenous to describe their situation, they use the modern analytical form of the concept (which does not merely focus on aboriginality) in an attempt to draw attention to and alleviate the particular form of discrimination they suffer from. They do not use the term in order to deny other Africans their legitimate claim to belong to Africa and identity as such" (ACHPR 2005: 88). "Almost all African states host a rich variety of different ethnic groups and all of these groups are indigenous to Africa.

However, some are in a structural subordinate position to the dominating groups and the state, leading to marginalisation and discrimination. It is this situation that the indigenous concept, in its modern analytical form, and the international legal framework attached to it, addresses" (ACHPR 2005: 114).

In that logic, it becomes clear that the indigenous concept is nothing fixed once and forever, but that it is possible that certain groups, which are marginalized and discriminated at national level, might at a local level be in a dominant position or at least able to defend their rights, interest and to voice their needs in local fora. Social discrimination might also change with time. It is possible that a group, which at a certain period had been in a dominant or equal position to others becomes marginalized and socially discriminated. Nevertheless, it seems as in most cases indigenous people remain for structural reasons throughout history in a marginalised and discriminated position.

The project will become active in the operational area in the Lake basin which is inhabited by many ethnic groups, some of who consider themselves as being the indigenous people of the area. Following the outlined modern indigenous concept, the question to ask is whether all ethnic groups have the same chance to benefit from the project and voice their concern if their rights, interests, needs, livelihoods, culture or desires are affected by the projects. The
following will document that this is not the case and that the Ogiek are the indigenous people to be addressed in the IPPF.

It has to be noted that the following description of the baseline situation of the indigenous people in Kenya are not comprehensive scientific ethnographies. They are rather rapid assessments of the situation found in 2007/2008 and based entirely on the documents listed in the bibliography and discussions with the people on the ground and listed in the contact list appended. It builds on the Indigenous people Plan of the WKCDD/FM and NRM projects, which was adopted by the GoK in December, 2006.

3.1 Hunter-Gatherer in Kenya

Hunter-gatherers in Kenya are often addressed as Torobbo, Dorobo, Ndorobo, or Wandorobo, which are all Swahili words derived from "il Torobbo," the Maa-term for cattle, i.e., in the Maasai understanding "poor people". In the coastal areas hunter-gathers are mostly addressed by the Somali term "Boni", which refers to someone without possessions, and/or "Sanya", which means in Somali "to gather together to use for a general purpose". Assimilation policies and lack of recognition of separate and distinct identities of hunter-gatherers started under the colonial government, when the stated policy was "wherever possible the Dorobo should become members of and be absorbed into the larger tribes with which they have most affinity" (Adams, 1932). The post-independence governments do not provide for a classification of 'hunter-gatherers' as separate groups of the Kenyan population.

The hunter-gatherers are further marginalised through their way of living and their livelihood patterns, as in Kenya all hunting is illegal since the 1970's and all policies, sector strategies and projects solemnly address the needs and interests of agriculturalists and/or pastoralists. From a national perspective, this makes perfect sense as more than 95% of the Kenyan population depends on these two sources of livelihood and origin from cultures which are closely associated with one of the two. If one considers that most people depend on agriculture and cattle grazing, the ban on all hunting also seems not that much of a problem as game meat has for most ethnic groups been only a cultural meaning, but of no economic importance. The problem for them is not that they are unable to hunt, but that the compensation schemes for human-wildlife conflicts are either hardly ever paid (crop destruction) or very low. Nevertheless, there are people in Kenya who traditionally depended entirely on non-agricultural and non-pastoral use of forests among whom are the Ogieks.

Another form of marginalisation resulted from the limited understanding of hunter-gatherer livelihood strategies by the colonial powers. Huge parts of the land used before the advent of the colonialists by hunter-gatherers, teeming with wildlife, were allocated to white settlers, who considered these empty landscapes as the traditional lifestyle of hunter-gatherers doesn't leave obvious signs of settlement or care-taking ship. Even where hunter-gatherer "ownership" or "habitation" was obvious, people were moved off the land to make way for white settlers that preferred the healthier highlands to the malaria-infested plains. During this time much of the wildlife was decimated by game hunters, long before the post-colonial government came into power. With independence, productive hunter-gatherer land was grabbed by the more dominant groups, scattering the people and forcing them to seek refuge deeper in the forests, higher up the mountains or to move to marginal areas which were infested by tsetse flies and mosquitoes. During the same time, the forests were taken away when the government unilaterally gazetted them as national parks, forest reserves or national reserves.

Hunter-gatherer communities were summarily evicted from the forests, which had been the source of their livelihoods for thousands of years. The goal of the Sessional Paper No. 4 of
2006 on Forest Policy is to enhance the contribution of the forest sector in the provision of economic, social and environmental goods and services and one of the specific objectives of this policy is to contribute to poverty reduction, employment creation and improvement of livelihoods through sustainable use, conservation and management of forests and trees. A key strategy outlined in the draft policy is the empowerment of local communities to manage forests through community forest associations. It makes clear that sustainably managed indigenous forests can supply goods and services to meet the demand of the growing population. These forests will be put under efficient and sustainable multipurpose management, which combines biodiversity conservation and water-catchment functions together with the production of tangible benefits for forest adjacent communities.

A shortcoming of the Draft Forest Policy and the Forests Act (2005) in view of international standards such as the Convention on Biological Diversity (CBD); to which Kenya is a signatory, is its unclear position towards user rights and settlements in forests. The CBD makes clear that "each contracting party shall, as far as possible and as appropriate respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

One of the issues to be solved by the project in accordance with international standards such as the social safeguards of the World Bank (here especially OP 4.10 Indigenous people & OP 4.12 Involuntary Resettlement) is the existence of large group of people living in or adjacent to protected and gazetted forests. In that line, the resettlement policy framework of the LVEMP II project and this IPPF become important elements to achieve the objectives of this project. Due to that it seems logical that the findings of these two social safeguard instruments are mainstreamed in all project documents.

The Ministry of Lands (ML) has initiated the formulation of a comprehensive policy for the administration and management of Kenya's land. The overall objective is to provide for sustainable growth and investment and the reduction of poverty in line with the Government's overall development objectives. The policy is expected to guide the development of laws that provide all citizens, particularly the poor, with equal opportunities to access and beneficially occupy and use land and guarantee the economic, equitable and environmentally sustainable allocation and use of land. It will also establish appropriate regulatory arrangements for the productive, sustainable use and equitable distribution of land. Technical reports to various aspects have been developed and a draft land policy is available. The LVEMP II project will use the positions expressed in the draft land policy whatever the implementation status of this document is as the problem here is that one can not determine whether the important and far reaching enhancements such as the recognition of the user rights of indigenous people and the specific problems of hunter-gatherers will be maintained in the final version of the law.

Following is a short introduction to the indigenous people addressed in this IPPF, to their history, their livelihood strategies, their social organisation, and in general to the marginalisation and social discrimination, they are facing, and its underlying causes. Table 1 show the operational areas of the LVEMP II project and the areas of known indigenous people in different parts of the project areas.
Table 1: Areas of known indigenous people in LVEMP II project

<table>
<thead>
<tr>
<th>Province</th>
<th>District</th>
<th>Indigenous People</th>
<th>LVEMP II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rift Valley Province</td>
<td>Kericho</td>
<td>Ogiek</td>
<td>Forest rehabilitation</td>
</tr>
<tr>
<td></td>
<td>Bureti</td>
<td>Ogiek</td>
<td>Forest rehabilitation</td>
</tr>
<tr>
<td></td>
<td>Nandi North</td>
<td>Ogiek</td>
<td>Forest rehabilitation</td>
</tr>
<tr>
<td></td>
<td>Nandi South</td>
<td>Ogiek</td>
<td>Forest rehabilitation</td>
</tr>
</tbody>
</table>

3.2 The Ogiek

The Ogiek (Ogiot - sing.) ethnic group consists of 20-30 groups of former hunters and gatherers, mostly living in forested highlands in western Kenya, particularly, the Mau and Nandi forests. Local groups have more specific names, e.g., Kaplelach, Kapchepkendi etc. Okiek, a Kalenjin language of the Southern Nilotic group, is the mother tongue of most Ogiek people, but several groups now speak Maasai and Kalenjin as their first languages. In the discussions held in Tinderet and Kerisoi forests, it was made clear and supported by historical evidences that traditionally the Ogiek had occupied most of the forests in the extreme west and south of Western Kenya, but today their main area of living is in and around the Tinderet (Nandi) and Mau forests, which are part of the operational areas. Some Ogiek groups are found in the Upper Yala catchment in Cerengoni in nandi South and Cengalo and Kipkurere forests in Uasin Gishu district. Most publications (Ogiek.org etc.) and most NGOs assume that the hunter-gatherers of Mt. Elgon belong to the Ogiek and that they are not as they claim, an independent hunter-gatherer group.

Precise demographic figures on the Ogiek community are not available as the last national census did not count the Ogiek as an independent group. The African Commission on Human and Peoples' Rights estimated their total population to be between 15,000 and 20,000 individuals (ACHPR 2005:15) which is in line with scientific data (Heine and Mohlig 1980:32), while the Ogiek themselves estimate their total number to be between 20,000 (Kobei, 2002:60) and 60,000 (Ogiek.org). Discussions with some members of the Ogiek (Ongugo and Langat), indicated the figure of between 20,000 and 30,000 as the best estimate.

History

Knowledge of Ogiek history before 1900 is limited. Oral history traces their origin back to the Kiplombe hills near Siswek. It is said that all Ogiek have lived there before a famine forced some of them to migrate to the Mau and Tinderet forests. Before the advent of the colonialists, they were already involved in the local and regional trading network, bartering honey and meat for agricultural products.

Colonial administration affected Ogiek groups in different ways. Between the 1920s and 1940s, many Ogieks were displaced from their lands by European farmers, while others, especially those who lived deeper in the forests, received at least full usufructuary rights for their lands, which were transformed into forest reserves. Initially they had limited direct government interaction, but felt colonial policies through the ever increasing encroachment of their neighbours, who were forced into the forests by the government to create space for the farms in the plains.
Livelihood

Due to the reduction of land and increasing hunting pressure, the Ogiek gradually diversified their economy, adding agriculture and/or herding to the traditional hunter-gatherer lifestyle. Bee-hives and/or processing the honey for regional markets are continually becoming an important livelihood of the Ogieks and without honey and condition of getting it; their life would be entirely different. This explains why the Ogiek live in the forest. Traditionally, the Ogiek divided land into lineage-owned tracts stretching along the Mau escarpment. Tracts transected four or five ecological zones, giving families access to honey and game during each season of the year.

Unlike many other hunter-gatherers, beside the honey, Ogiek collect hardly any plants, fruits or non-timber-forest-products from the forest. Honey is eaten, stored for future use, brewed into beer and traded. It is said to have been the main product for the barter with their agricultural and/or pastoralist neighbours. Traditionally the Ogiek hunt with dogs, bows and arrows, spears, clubs and poison and they used to go for buffalos, elephants, duikers, hyraxes, bongos, and giant forest hogs. Now that hunting is illegal, they only hunt with small traps around their garden farms resulting in some meat from monkeys and other smaller game.

Starting in the 1920’s the Ogiek started to cultivate small millet and maize gardens due to reduced production from the forest. This led to a more sedentary lifestyle in mid altitude forest and - in turn - a further increase of agriculture and/or pastoralism. Today, agriculture is the main source of subsistence and income, which is supported through some livestock rearing, hunting (which is illegal) and bee-keeping. Honey gathering is still a key activity and is carried out the traditional way, with few Ogieks using modern techniques of honey production.

The economic activities are organised by gender groups. Men traditionally make beehives; collect honey, hunt and these days herd cattle and/or clear land to plant maize and beans. Women’s work traditionally included building the houses under thick canopies (Sanet) and the making of leather bags, straps and clothing. Today they concentrate on planting and harvesting of crops, processing and cooking of food, collection of firewood and water supplies and childcare. Their access to land varies from village to village. Before independence most Ogiek lived on communal or trust land (i.e. in the forests) with all usufructuary rights, but supported by no letters of allotment. Following independence, land reform and general land demarcation in 1969 their usufructuary rights were ruled out and legal access to land is now channelled through individual land titles and in the Maasai-dominated districts, through group ranches.

Group ranch demarcation began in the 1970s, crossing lineage land boundaries, incorporating non-Ogiek into some groups, and registering significant parts of Ogiek land to non-Ogieks. During the same time, the Ogieks were evicted from the forest reserves without being giving alternative land to settle on. As they were not provided with any land or compensation most had to go back and live illegally in the forests until the next eviction-team would show up. In some cases as was noted in Tinderet forest, members of the Ogiek families were forced to seek for accommodation in the nearby tea estate or even to live with non relatives as a way of securing temporary shelter. Regular evictions, arrests and loss of property, crops and even lives further increased poverty among the Ogiek, underlined their social discrimination and cemented their marginalisation.

Those Ogieks that managed to obtain group ranch titles started in the 1980s and 1990s to divide the land into individual plots following the example of their neighbours and supported by governmental services. Settlement patterns shifted again as people moved to live on their own land, but it also attracted many Ogieks to lease or sell their lands to other ethnic groups.
Many of these land sales were technically illegal as they were made before group ranches were legally divided and many sales were undertaken before Ogiek learned about the market value of their land and at ridiculously low prices. Today the majority of the Ogiek have still no legal access to land or any source of livelihood and live a life at the mercy of their non-Ogiek neighbours. If one takes the two sites visited inside the LVEMP II operational areas, one even gets a better understanding of the marginalisation and social discrimination of Ogiek communities and their vulnerability to all interventions.

In the Tinderet forest, the indigenous forests are protected as forest reserve, thus not allowing any habitation. The lowlands were in the early 1970s transformed by non-Ogiek into cultivated land, including tea estates, thus leaving little land and sources of income for the Ogiek who mostly settled at the forest fringes and established small gardens, living on honey gathering and subsistence agriculture. In the context of the ethnic clashes in the early 1990s, most non-Ogiek were driven out and did not return as the Shamba system, which regulated farming in forest areas, was banned during that period.

Social organisation

The Ogiek live in local groups dispersed throughout the highlands, typically near one or more other Ogiek groups and adjacent to more populous ethnic groups. In quite a good number of cases Ogiek speak their neighbours' language better than their own. Ogiek groups thus have distinctive histories of interaction with one another, with their neighbours, and with local government administration. Modes of social organization vary among Ogiek groups, but in general one can say that patrilinages are central in land holding and residence, legal matters, inheritance, and marriage arrangement, while matrilineal and affine relations are important for ceremonial occasions, in some residential and work groups, and in emotional terms. Further units are the age-sets, which create relationships among members; crossing relations defined by lineage and clan. Women have no separate age-sets, but become associated with male age-sets through relatives. Political and legal matters are discussed in meetings of men.

Depending on the issue, gatherings involve men from one lineage, several lineages, or a large neighbourhood. All adult men have the right to attend and speak at meetings, though older men often speak more extensively. This changes of course in meetings with officials as most elders don't speak Swahili or English. Women were traditionally excluded from formal councils, but this traditional setting is no longer ruling as government officials and external visitors demand and invite the presence of all gender groups. While in their majority the Ogiek are still organised in the traditional way, most are grateful for the effort of some educated Ogiek, who have established an armada of Community Based Organisation and NGOs. These efforts are spearheaded by Charles Sena (the first Ogiek lawyer) and Joseph Towett from the Ogiek Peoples National Assembly (they also represent the Ogiek Rural Integral Projects and the Ogiek Welfare Council), Daniel Kobei from the Ogiek Peoples’ Development Program and Sarone ole Sene, who holds a PhD in anthropology from McGill and runs the research department of World Vision Kenya.

3.3 Summary of the living condition of indigenous people in the programme operation area

From the formal legal point of view, the indigenous people such as the Ogiek are citizens equal to all other Kenyans. However, they do not have the same access to land and other resources, protection against cattle rustlers, social and political influence, legal status and or organization, technical or economic capabilities as other citizens of Kenya. The Ogiek who formally ranged over broad areas of uninterrupted forests as full time foragers, have
increasingly been restricted to areas with home bases involving agriculture and livestock rearing and outlying areas where some honey gathering is still practiced. The continued expropriation of land and steadily intensifying restrictions on access to natural resources, especially forests, have further increased their sedentarisation, marginalization, social discrimination and impoverishment. The Ogiek who depend more directly on the forests than other groups living adjacent to the forests were often in contravention of their legal utilization rights, forced out of forests with little or no compensation, and with little or no land to go to or resource to live on.

The Ogieks' increasing dependence on farming and livestock rearing and aspiration to access social services and decision making institutions are not sufficient to give opportunities to indigenous people equal to those of other Kenyans. Most indigenous households are landless, and lack legal access to natural resources or other assets for income generation. Indigenous people are ill equipped to defend even the informal, de facto access that they retain to the remnants of their homelands from encroachment or restrictions by outside authorities and interests. They have limited institutional capacity or degree of empowerment that will enable to benefit from the reform process in the forestry, water, and lands sectors which are intended to give more say to communities in the management of natural resources and are central to this project.

The aspiration of the indigenous people in the project area are simply to (i) live in peace with their neighbours, (ii) have access to sufficient land to practice agriculture and graze their livestock, (iii) have access to forests to gather honey for consumption and sale, to practice their culture, (iv) have equitable access to social infrastructure and technical services, and (v) to be fairly represented in the institutions which make decisions affecting their lives at local, regional and national levels. The indigenous people are not looking for special treatment, only for the rights and opportunities enjoyed by other citizens of Kenya. To achieve this, a good number of key issues have to be addressed:

**Equal access to land and forests:** To have equal opportunities for a self determined development, the indigenous people need land to settle, farm, graze their small herds on and to collect honey from.

**Equal access to security:** To have equal opportunities, the indigenous people need the support of the security forces to protect their properties and lives.

**Equal access to traditional sources of livelihoods:** To have equal opportunities, indigenous people need legal access to forests, and forest products as these two are their traditional sources of livelihoods.

**Equal access to decision making process:** To participate fully in the development process, to voice their concerns and needs, and to be able to guarantee that the rights, livelihoods and culture of the indigenous people are not negatively affected, they need to be represented in all relevant decision making bodies, both governmental and non governmental.
4. POTENTIAL EFFECTS OF THE PROJECT ON THE INDIGENOUS PEOPLE

In what follows, impacts on the Ogiek and other indigenous people which might result from the LVEMP II project will be discussed to develop a planning framework, which ensures that negative impacts of this project is mitigated and positive impacts as much as possible enhanced based on the free, prior and informed consultations with the affected indigenous people. Not all the proposed components & subcomponents (see chapter 1 for a detailed description), will have social impacts and not all those components which have social effects will be carried out in areas, where they impact on indigenous people. Only if a component and subcomponent has social impacts (whether positive or negative) and is carried out in an area, where it might impact on indigenous people, it has to comply with the full array of guidelines and implement comprehensive mitigation strategies. Due to that, this IPPF places much emphasis on a detailed and comprehensive screening process to identify how and where the projects impact on indigenous people's rights, economies and cultures occur.
Table 2: The potential impacts of LVEMP II project on indigenous people's activities

<table>
<thead>
<tr>
<th>Project activities as outlined in the PAD</th>
<th>Possible Impacts on Indigenous Peoples ((\sigma &gt; 0) - (\sigma = 0) - (\sigma &lt; 0))^5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Component 1: Building the information base for governance and growth</strong></td>
<td></td>
</tr>
<tr>
<td>1.1 Continuation of research to generate relevant environmental, social and economic related findings and outcomes to guide Lake Basin management decisions.</td>
<td>There are no indigenous people in the operational area proposed for activities under this sub-component.</td>
</tr>
<tr>
<td>1.2 Development of the scientific and socio-economic data gathering protocols, monitoring and evaluation frameworks, and data sharing mechanisms.</td>
<td>There are no indigenous people in the operational area proposed for activities under this sub-component.</td>
</tr>
<tr>
<td><strong>Component 2: Strengthening governance of trans-boundary natural resources</strong></td>
<td></td>
</tr>
<tr>
<td>2.1 Harmonization of national policies, laws and regulations governing sustainable utilization of land, fisheries, forest and water resources</td>
<td>⚫⚫⚫ Harmonization of national policies, laws and regulations, could provide the ground for better protection of indigenous people's rights, economies and might lead to their inclusion into the development process and the establishment of equal opportunities. ⚫⚫⚫ As the IP are marginalized in the decision making process, their needs and interests are not reflected to the same extent as others in the planning and implementation of the policies; their needs might not be reflected and the IP not be able to benefit from this.</td>
</tr>
<tr>
<td>2.2 Strengthening the capacity of Lake Victoria Basin Commission, the national water, fisheries and environmental management institutions and local government authorities to improve and</td>
<td>⚫⚫⚫ This might also cover areas which could lead to a better relation between governmental structures and the IPs and the development investments might provide benefits to the IPs (jobs, poverty alleviation, good governance, recognition of rights, land restitution etc) ⚫ As the IP are marginalized, there is a high risk that they are not invited to participate in the capacity building and/or in the planning process and due to that not able to include their needs</td>
</tr>
</tbody>
</table>

^5**Key for the potential impacts on the indigenous populations:** ⚫⚫⚫ = significant positive impact; ⚫⚫ = limited positive impact; ⚫ = no impact; ⚫⚫⚫ = limited negative impact; ⚫⚫⚫ = significant negative impact.
sustain the management and utilization of shared Lake Victoria Basin resources. and interest into the reform and development agenda.

②③ As the IP are marginalized in the decision making process and their rights not protected, there is a high risk that they are displaced and or lose their access to resources through investments on IP’s land and/or using IP’s resources and/or not considering other adverse impacts on IPs.

2.3 Support capacity building programmes of regional, national and local institutions responsible for undertaking applied research, management of the Lake Basin resources and enforcement of environmental standards.

②③ The capacity building might enable the IP to search and find ways to participate more actively in the decision making process and the inclusion of IPs in the group of beneficiaries of the project.

②③ As the IP are marginalized, there is a high risk that they are not invited to participate in the capacity building.

<table>
<thead>
<tr>
<th>Component 3: Enhancing sustainable growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 Identification of high priority areas and hotspots for direct interventions while catalysing resources to control point source pollution.</td>
</tr>
</tbody>
</table>

②③ CDD investments in management of natural resources can be a very useful instrument to empower indigenous communities, contribute to poverty reduction, better protection of indigenous rights and culture, and enhanced relations between all people living in a given area and sharing natural resources such as water, forests etc.

②③ As the capacities of the IP are very low, there is a high risk that they are unable to elaborate project proposals, which fulfil the technical requirements of the CDD screening process and due to that not receive funding; thus that they not benefit from the sub-component on community driven investments in management of natural resources.

②③ As the IP are marginalized in the decision making process and their specific needs unknown to decision makers, there is a high risk that projects proposed by them do not receive funding.

②③ As the income of indigenous peoples is lower than of other rural populations, they might not be able to contribute the required community contribution to all activities financed by the sub-component.

②③ As the IP are marginalized in the decision making process and their rights not protected,
there is a high risk that they are displaced and or lose their access to resources through projects proposed by other communities on IP' land.

3.3 Promotion of economic growth by supporting actions that reduce cost of doing business.

<table>
<thead>
<tr>
<th>Component 4: Raising public awareness through education and communication</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1. Supporting public education programmes and communication on the need to engage in sustainable natural resources management activities.</td>
</tr>
<tr>
<td>☒ ☒ Public education programmes could lead to a better understanding between the government and the IP. It could also lead to protection of IP' rights and economies in the operation area and might also lead to their inclusion in sustainable management of natural resources.</td>
</tr>
<tr>
<td>☒ As the IP are marginalized, there is a high risk that they are not invited to participate in the capacity building and/or in the planning process and due to that not able to include their needs and interest in sustainable management of natural resources.</td>
</tr>
</tbody>
</table>
In the following section, these detailed impacts are clustered to derive the overall and cumulative risks and obstacles of the projects, which are then used to elaborate mitigation measures, which will stand at the centre of the Indigenous Peoples Planning Framework.

In the positive scenario, the project will foster the full respect for the dignity, livelihoods, human rights, and culture of the indigenous people, protect the indigenous people from suffering adverse effects from the implemented measures, and guarantee that the indigenous people receive social and economic benefits that are culturally appropriate and inclusive of gender and inter-generation. It is not likely that the project will achieve all this without a specific set of action. If one deconstructs sustainable natural resource (water, forest, land etc.) management to the key principles, it becomes obvious that the concept is to invest time, money, and energy and not to exploit all possible short term benefits in view of future and/or downstream individual and collective gains. It is logical that nobody invests or accepts reduced short term benefits as long as he/she is not sure that he/she will benefit from the long term benefits and as long as it is uncertain that these long term benefits are higher for the individual than the short term costs. The secured ownership of land and access to resources for all stakeholders is a key requirement for sustainable land and natural resource management.

The project addresses the questions of short-term costs and long-term benefits and the question of balancing individual/local costs with collective/international benefits through cost-benefit studies, the payment for environmental services and a full set of activities but the detailed assessment documents that the LVEMP II project embody in a scenario without any specific framework, there are several major risks for the indigenous people which have to be mitigated to insure that the indigenous people do not:-

(a) face further physical and economic displacements from land and forests traditionally utilized by them as source of livelihood and basis for their cultural and social system,

(b) loose all legal access to natural resources, which are an important source of livelihood and basis for their cultural and social system,

(c) become even more marginalized in the society and disintegrate from the nation,

(d) receive less assistance from governmental services,

(e) have less capacity to defend their legal rights,

(f) become or remain as dependent of other ethnic groups, and

(g) lose their cultural and social identity.

To mitigate these risks is a direct contribution to allow the LVEMP II project to achieve its objective of enhanced sustainable management of Tran boundary natural resources in the Lake Victoria Basin and a key requirement that the project is able to reach its expected outcome of a prosperous population living in an healthy environment providing equitable opportunities and benefits to the riparian communities. In the following section, the key obstacles to achieve the project objectives and to comply with international standards (OP 4.10) are outlined and mitigation measures elaborated. These elements will then be used to establish the specific measures of the Indigenous Peoples Planning Framework.

### 4.1 Key Obstacles

(a) Neither the indigenous people nor the Governmental institutions or service providers are fully conversant on the process of incorporating the usufructual and traditional rights of the indigenous people in the modern legal system.
(b) Most indigenous people do not have letters of allotment or any other legal ownership of land for settlements, farms, forests, and grazing areas. Their settlements are illegal in view of the law and they are hardly able to interact freely with governmental institutions.

(c) The draft Forest Policy does not provide for human settlement in gazetted forests and does not recognise traditional usufructural rights. The draft policy provides for management of forests through Community forest associations but does not offer any special provision for indigenous people or those people presently living in the forest or those whose livelihood is dependent on forest resources. There is a high risk that those indigenous people, who still live in forests, are evicted from these forests in the context of enhanced law enforcement foreseen within component 3 of the LVEMP II project.

**Mitigation measures**

(a) The basis for all improvements in the interaction between the Government and the indigenous people is the recognition of the existence of the other and the willingness to learn from each other. Training on the best practices and techniques of working with indigenous people (OP 4.10) for relevant Government staff, NGO, and indigenous people's organisations will improve the mutual understanding that the respect of the rights, culture and dignity of the indigenous people is a necessity for the nation building process in Kenya and a sign of good governance.

(b) Legal access to land is a prerequisite of sustainable resource management. The Government recognizes through the projects and in line with the draft Land Policy, the draft Forest Policy and international standards (OP 4.10) all traditional user rights of indigenous people's communities on land, whether or not, they are certified in any form, accepted by their neighbours and the land boards. This is well justified and underlines the role of this project in harmonising the ongoing reform processes in the various sectors. The Government had made it clear in the draft Land Policy that land issues requiring special intervention, such as historical injustices, land rights of minority communities (such as hunter-gatherers, forest-dwellers and pastoralists) and vulnerable groups will be addressed. The rights of these groups will be recognized and protected. The reason is that minority communities are culturally dependant on specific geographical habitats.

Over the years, indigenous people have lost access to land and land-based resources that are important to their livelihoods. This follows the gazettement of these habitats as forests or national reserves or their excision and allocation to individuals, who subsequently obtain titles to the land. These communities are now recognized internationally as minority groups deserving special protection by the State with regard to their land rights and ability to manage their natural resources in a sustainable manner. The communities have not been represented adequately in governmental decision making at all levels since they are relatively few in number. Their political and economic marginalization has also been attributed to the fact that colonial policies assimilated them into neighbouring communities. In addition, the colonial Government alienated their lands through forest preservation policies, which effectively rendered them landless as they were denied the right to live in the forests. Colonial capitalism also led to the marginalization of hunter-gatherer communities at the expense of agricultural expansion. To protect and sustain the land rights of the minorities, the Government shall (i) undertake an inventory of the existing minority communities with a view to obtaining a clear assessment of their status and land rights; and (ii) facilitate the practice of their land tenure and resource management systems by providing a suitable legal framework.
The Government will, through the LVEMP II project:-

(i) hasten that the indigenous people in the operational areas obtain titled (letter of allotment, group ranches etc.) for the land they are presently occupying and using and will support all necessary steps (land survey and demarcation, registration and documentation) to provide all indigenous people in the project area with letters of allotment and group ranch titles;

(ii) hasten that the indigenous people in the operational areas get full access to the pending settlement schemes; and;

(iii) not support any activities/subprojects in locations with ongoing/pending disputes and/or any unsettled claims with regards to land ownership of the indigenous people as long as the affected indigenous people in their broad majority don’t agree in prior, free and informed consultations that these activities are carried out.

(c) Legal access to forests and to natural resources is an important element of sustainable natural resource management. Indigenous people are closely tied to land, forests, water, wildlife, and other natural resources and the Government acknowledges that the physical relocation of indigenous people as well as a reduced access to resources is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods. To address the above, the Government will:-

(i) assist all indigenous people’s communities in the operational area to create CBOs and/or strengthen existing CBOs and through these CBOs to receive legal access to forests (community forests, etc.) and other natural resources;

(ii) assist the indigenous people’s communities in the production, transformation and marketing of honey, other non-timber-forest products and dead-wood as well as in the domain of agro-forestry;

(iii) not support any activities/subprojects in forests with ongoing/pending disputes and/or any unsettled claims with regards to indigenous land ownership as long as the affected indigenous people in their broad majority don’t agree in prior, free and informed consultations that these activities are carried out;

(iv) not engage/support in any form evictions of indigenous people from forests and explore in line with international standards (OP 4.10) all options to avoid the physical relocation of indigenous people, because physical relocation of indigenous people is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods. In exceptional circumstances, when it is not feasible to avoid relocation, the Government will not carry out such relocation without obtaining broad support for it from the affected indigenous people’s communities as part of the free, prior, and informed consultation process. If this need arises in the context of the LVEMP II project, a resettlement action plan will be prepared in accordance with the requirements of the World Bank’s Operational Policy on Involuntary Resettlement (OP 4.12), an indigenous people plan in accordance with the OP 4.10 and ensure that the entire process is compatible with the indigenous people’s cultural preferences, and includes a land based resettlement strategy. Where possible, the resettlement action plan should allow the affected indigenous people to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist;
(v) exploit to the extent possible the feasibility of re-establishing the indigenous people on their lands and in their forests. If this is not possible the project will commission a resettlement action plan for each forest in accordance with international standards (World Bank OP 4.12 Involuntary Resettlement) to elaborate a land-based resettlement strategy, which is compatible with the indigenous people’s cultural preferences;

(vi) Establish a suitable legal and administrative framework to investigate the historical injustices and recommend mechanisms for their resolution;

(vii) Review all laws and policies adopted by post independence Governments that exacerbate the historical injustices, including the constitutional provisions on the right to private property and compensation on compulsory acquisition regardless of how the property was acquired; and,

(viii) Establish suitable mechanisms for restitution, reparation and compensation of historical injustices/claims,

(d) avoid the involuntary restrictions on indigenous people's access to legally designated protected areas, in particular access to their sacred sites and forests. In exceptional circumstances, where it is not feasible to avoid restricting access, the Government prepares, with the free, prior, and informed consultation of the affected Indigenous people's communities, a resettlement process framework in accordance with international standards (OP 4.12). The resettlement policy framework provides guidelines for preparation, during project implementation, of an individual protected areas' management plan, and ensures that the indigenous people participate in the design, implementation, monitoring, and evaluation of the management plan, and share equitably in the benefits of the protected areas. In this context downstream benefits should be shared through PES schemes. The management plan should give priority to collaborative arrangements that enable the indigenous people, as the custodians of the resources, to continue to use them in an ecologically sustainable manner.

The documented failure of the various structures to represent the indigenous people in the past, equally documents that governmental institutions, donor organisations and NGOs cannot address the specific needs of indigenous people through the same channels as their farming and pastoralist neighbours. Based on a sensitive analysis of the differences in social organisation, the project needs to elaborate jointly with those concerned adapted strategies for strengthening the effective representation of indigenous people in relevant committees. Besides this conceptual problem, a full array of technical, financial and organizational hindrances to date prohibits the establishment of an equal representation of indigenous people in decision making bodies related to sustainable natural resource management.

4.2 Technical Obstacles

(a) To date, the majority of indigenous people do not have the technical skills to participate actively in technical discussions and activities and/or to anticipate the long term impacts of laws, regulations, contracts etc. They are as a result, not able to defend their rights, needs, and interests when invited to participate in decision making bodies.

(b) As 'Indigenous People Planning Frameworks' are a relatively new instrument in Kenya, the skills of civil servants and other stakeholders need to be enhanced to allow them to interact successfully with indigenous people. Due to that, the majority of the indigenous people are not treated with the necessary respect for their dignity, rights and culture.
**Mitigation Measures**

(a) The projects will elaborate together with other relevant national research/training structures, governmental extension services and the indigenous people's organisations, based on the documented best practices, training curricula for the indigenous people on key topics related to sustainable resource management. Apart from the technical aspects of these training opportunities, special emphasis will be on the facilitation of mutual understandings of indigenous people and neighbouring communities. This might open the road to a new, more beneficial relationship.

(b) The LVEMP II project will enhance the capacities of relevant project staff and extension workers in operational areas with indigenous people to enable them to respect the rights, livelihoods, culture and needs of indigenous people and interact successfully and in a culturally appropriate manner with the indigenous people.

4.3 Organisational Obstacles

(a) Indigenous people are not equally represented in decision making bodies. The rights, needs and interests of the indigenous people can thus not be equally considered in the decision making process.

(b) Presently, the M&E framework of the project has not been finalised. Due to that, it is uncertain whether indigenous people and their interests will equally be represented in the internal monitoring and evaluation system of the projects and might be completely excluded from the dynamic of the M&E process.

**Mitigation Measures**

(a) The project will technically, financially and organisationally support the indigenous people in the operational area to be equally represented in all meetings, workshops, hearings, decision making bodies etc. (according to their share in the affected population).

(b) The project will include and independent stream within the projected M&E system for interventions in the operational areas inhabited by indigenous people.

(c) The best mitigation system, which offers indigenous people equal access and equal benefits, has serious impacts on their culture and their belief systems. The decision on how to preserve indigenous culture in the development process is an ongoing discussion among the indigenous people, their organisations and in social sciences, which has not yet and might never result in a final solution. It is considered as best practice to sensitize indigenous people on the risks of the development process, assist indigenous people's organisations in capacity building to preserve traditional knowledge, culture and livelihood patterns and to promote the inter-ethnic communication and exchange of experiences. The project provides mechanisms through which indigenous people can voice in free, prior, and informed consultations their concerns. These activities will offer the indigenous people the opportunity to understand the risks and find their own solutions on how to adapt their culture to the modern mode of interaction.
5. THE INDIGENOUS PEOPLE PLANNING FRAMEWORK

The Indigenous people Planning Framework develops measures to ensure that all indigenous people, who are affected by the projects, receive social and economic benefits that are culturally appropriate, including measures to enhance the capacity of all stakeholders to achieve this. It also addresses the risks for indigenous people identified in chapter 3 and develops on the basis of the mitigation strategies outlined there, actions to avoid, minimize, mitigate, and/or compensate these adverse effects.

The main actors of this IPPF are the Ministry of Environment and Natural Resources (MENR), the Ministry of Lands (ML), the Kenya Forest Service (KFS), the Kenya National Commission for Human Rights (KNCHR), the indigenous people's organisations and the indigenous people.

During a first phase, the main focus will be to carry out the screenings, social assessments and option assessment, establish the institutional framework, and to sensitize all stakeholders in general and the affected indigenous populations in particular. As this will involve all indigenous people's communities in the operational areas, the IPPF should be further discussed in detail and - in case the need arises - amendments suggested to the steering committee.

5.1 The IPPF for the LVEMP II project

This second phase of the Lake Victoria Environmental Management Project will fund a two-level screening process to identify possible adverse effects on IPs. In primary screening, all groups which are in a structural subordinate position to the dominating groups and the state (and thus indigenous according to the definition quoted above), will be identified in all operational areas. The secondary screening will consist of a detailed social assessment undertaken for each of these indigenous communities. This modus operandi will simultaneously assist the indigenous people in the project area to establish claims within the parallel national land restitution process proposed under the draft land policy, and fulfil the operational requirements of OP 4.10. To implement this strategy, the project will (a) assist the indigenous people to create an elected Indigenous people’s Screening Structure (IPSS) in all districts where indigenous people use or claim land and/or resources (activity 4), and (b) empower these IPSS to document, in free, prior and informed consultations, the indigenous people’s position on all funding requests, which might impinge upon land or resources, which have been identified in the social assessment and in line with the land policy (see above) as rightly theirs. For subprojects which do not in the first instance gain broad support from the affected indigenous people, the DPCC (which decides on the funding of subprojects) and the IPSS will search for mutually acceptable solutions.

Indigenous people's Plans (IPP) can be prepared to assist and reflect transparent decision-making in the case of controversial subprojects, and will also be elaborated for large scale infrastructures (dams etc.), if the screening suggests that rights, livelihoods, and culture of the indigenous people might be affected. Taken together, the measures described above would ensure that negative impacts are avoided.

The project will apply five mechanisms to ensure that indigenous people receive cultural appropriate benefits: (a) support and capacity building will be provided to IP communities through the IPSS to assist community planning and applications for resources for priority sub-projects; (b) IP communities will be given preferential treatment for subproject identification and funding; (c) IP communities will be allowed the option of making the required community sub-project contribution in kind (i.e. through labour or the supply of local materials); (d) IP representatives will be invited to sit in the DPCC and decision-making
bodies at catchment level; and (e) appropriate participatory tools will be used to support IP capacity needs.

As the objective of LVEMP II project is to empower local communities of men and women to engage in wealth creating activities, lower the incidence of poverty and reduce their vulnerability, the progress will be measured in view of the relevant indicators of the Millennium Development Goals numbers 1 (reduced poverty), 2 (reduced food insecurity), 3 (better access to school due to better incomes) and 8 (reduced prevalence of Malaria due to anti-malaria CDD activities), which are an integral part of the project M&E survey. As the indigenous people are the most vulnerable and poor populations in the operational areas of the project, this indicator has been taken up in the result framework and is one of the indicators to measure project performance. The impacts of the activities outlined here and the project at large on the indigenous people will be documented with the help of a participatory impact monitoring. It is believed that these activities are able to ensure full compliance of project with international standards such as the OP 4.10.

In the following pages, a detailed action plan is provided:
### Table 3: Indigenous People Planning Framework for LVEMP II

<table>
<thead>
<tr>
<th>Issue</th>
<th>Activity</th>
<th>Responsibility</th>
<th>Time frame</th>
<th>Cost in US$</th>
<th>Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Training and sensitization of key actors</td>
<td>• Training of staff from the relevant governmental structures and IP Organizations (IPO)</td>
<td>Social Safeguard backstopping mission (SSBM)</td>
<td>July 2008</td>
<td>10,000</td>
<td>• The beneficiaries of this training are able to implement the IPPF</td>
</tr>
<tr>
<td>2. Screening</td>
<td>• Carry out an inventory of IP communities in the operation areas</td>
<td>IPO</td>
<td>September 2008</td>
<td>20,000</td>
<td>• The inventory is available and accurate</td>
</tr>
<tr>
<td></td>
<td>• Carry out training and provide backstopping</td>
<td>SSBM</td>
<td>September 2008</td>
<td>5,000</td>
<td></td>
</tr>
<tr>
<td>3. Social assessment</td>
<td>• Carry out social assessment for each identified IP group including a detailed land-use mapping</td>
<td>IPO</td>
<td>October 2008</td>
<td>20,000</td>
<td>• The report &amp; the maps are approved by all stakeholders</td>
</tr>
<tr>
<td></td>
<td>• Carry out training and provide backstopping</td>
<td>SSBM</td>
<td>October 2008</td>
<td>5,000</td>
<td></td>
</tr>
<tr>
<td>4. Establish and operate an indigenous people screening mechanism</td>
<td>• Carry out sensitization campaign in all IP settlements in the operational area (OA) and facilitate the election of representatives for the indigenous People screening structure (IPSS)</td>
<td>IPO</td>
<td>March 2009</td>
<td>20,000</td>
<td>• All funded subprojects which used land or land based resources which have been identified in line with the draft land policy rightly as those of the IP, gained the broad support from the affected IP</td>
</tr>
<tr>
<td></td>
<td>• Operational cost of the IPSS</td>
<td>LVEMP II SSBM</td>
<td>July 2009 ongoing</td>
<td>125,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Training and backstopping</td>
<td></td>
<td></td>
<td>35,000</td>
<td></td>
</tr>
<tr>
<td>5. Carry out IPP (s), if the need arises</td>
<td>• If the inventory document that the proposed dams might impact on the indigenous peoples; carry out IPPs</td>
<td>IPO</td>
<td>Together with the RAP</td>
<td>Sub-component 3.2</td>
<td>• The indigenous Peoples Plans are accepted by the GoK, the World Bank and the IP</td>
</tr>
<tr>
<td></td>
<td>• Carry out training and provide backstopping</td>
<td>SSBM</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Enable the IP communities to benefit from the</td>
<td>• Sensitize IP in OA</td>
<td>See 4 SSBM</td>
<td>See 4 September 2009</td>
<td>See 4 16,000</td>
<td>• The living condition of the IP in the OA is significantly increasing in</td>
</tr>
<tr>
<td></td>
<td>• Sensitize and train project personnel, service providers and other structures</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

6 The social assessments will cost USD 20,000

7 Assuming 5 districts with IP (5 IPSSs) with a financial need of USD 5,000 per year for per diem transport, material etc. = USD 25,000 per year for 5 years.

8 It is assumed that the needed input is reducing over the years: For year 1 & 2 = 10,000 for year 3,4,5 = 5,000
<table>
<thead>
<tr>
<th>Issue</th>
<th>Activity</th>
<th>Responsibility</th>
<th>Time frame</th>
<th>Cost in US$</th>
<th>Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community driven investments in management of natural resources.</td>
<td>• Target IP’ communities for PRAs to identify needs and solutions and include IP into PRA groups</td>
<td>DPCC</td>
<td>On going</td>
<td>0</td>
<td>view of the household survey</td>
</tr>
<tr>
<td></td>
<td>• Assist IP’ communities in the OA in applying for funds and implementing the projects</td>
<td>IPSS</td>
<td>See 4</td>
<td>See 4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Allow the IP to pay their contribution to subprojects in kind</td>
<td>DPCC</td>
<td>On going</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Assist the IP’ communities in the OA to receive titles for their land, access to resettlement schemes etc</td>
<td>IPSS</td>
<td>See 4</td>
<td>See 4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide training and backstopping</td>
<td>SSBM</td>
<td>See 4</td>
<td>See 4</td>
<td></td>
</tr>
<tr>
<td>7. Establish for the IP an equal access to the decision making process</td>
<td>• Sensitization of all stakeholders</td>
<td>See 4 &amp; 6</td>
<td>See 4 &amp; 6</td>
<td>See 4 &amp; 6</td>
<td>• The PIM documents that the IP are satisfied with the IPPF implementation and the project</td>
</tr>
<tr>
<td></td>
<td>• Election of representatives at all relevant levels</td>
<td>IPSS</td>
<td>See 4</td>
<td>See 4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide places for IP in all relevant committees etc. at national, water catchment and district levels especially DPCCs</td>
<td>IPSS</td>
<td>September 2009</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Encourage IP to participate actively</td>
<td>KNCHR</td>
<td>Ongoing</td>
<td>See 4 &amp; 6</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide the IP the possibility to address grievances</td>
<td></td>
<td>Ongoing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Establish a participatory impact monitoring</td>
<td>• Sensitization of the IP</td>
<td>SSBM</td>
<td>See 4</td>
<td>See 4</td>
<td>• Regular, credible reports are produced on key indicators and milestones of the IPPF</td>
</tr>
<tr>
<td></td>
<td>• Training on the methodology &amp; qualitative research</td>
<td>IPO</td>
<td>December 2010</td>
<td>10,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Carry out an annual participatory impact monitoring starting from 1/2011 in all IP’ communities in the OA</td>
<td>SSBM</td>
<td>Ongoing</td>
<td>Component 3</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Carry out an external evaluation of IPPF implementation and the PIM</td>
<td></td>
<td>2011</td>
<td>10,000</td>
<td></td>
</tr>
</tbody>
</table>

9 As the grievance process will use existing infrastructure, the annual contribution to provide for communication etc. can be limited to 5,000 per year.

10 The projects will commission this in the context of the general social safeguard supervision. It is expected that the mission will cost around USD 10,000.
6. COMMUNICATION FRAMEWORK

This communication framework elaborates principles, strategies and structures on how the project and the affected indigenous people should interact at each stage of project preparation and implementation to satisfy the criteria of free, prior and informed consultations. Before the different levels of the communication framework are outlined, it might be useful remember some basic principles of intercultural communication in general and the work with indigenous people in particular. All actors should:-

(a) Aim to share control and responsibility, even if those, one should share control with, are perceived as not qualified, inexperienced and driven by different objectives. This will enhance their capacities and encourage them to participate actively to speed up processes.

(b) Monitor and evaluate the social safeguard instruments all the time. Social safeguard instruments such as this IPPF are new tools in Kenya and the work with indigenous people a new task for the governmental services, so it is necessary for all actors to assist the implementing structures to achieve the common goal of equal opportunities, poverty reduction and biodiversity conservation. It is not only the responsibility of the implementing structures of the project to ask the indigenous people in all processes for their opinion and invite them to participate in the decision making processes, but also the responsibility of the indigenous people to contribute as much as possible to the implementation of the IPPF and the LVEMP project.

(c) Keep people informed and listen to what they say. Since sustainable land and resource management affects everybody and is based on the contribution of everybody, every community member needs to be informed in order to fully participate in all activities.

(d) Be prepared to learn new ways of doing things. Since sustainable natural resource management is based on the cooperative management of all people in the project area, everybody has a say and is able to contribute something. To observe how other people handle issues is always an advantage, because by learning new ways of doing things, one is better prepared to address new challenges in the future and to understand the actions of others.

(e) Be totally professional and committed at all times.

(f) Not allow people to use the projects for selfish reasons. There is always the risk that certain people take over a project to personalise the benefits related to it. These problems mostly occur when people are not fully involved in what is going on, do not come to meetings, don't listen to talks and sign documents without reading them. As long as one rests silent or passive, those in charge might do what they want. So it is everybody's responsibility to take part in the decision making process.

(g) Be patient, but demand commitment and effort. The communication between different groups especially in rural areas is not an easy task. Due to the limited number of people working on the subject and in the area, one might have had bad experiences in the past. One should leave bad memories behind and presume that the others have learned as one has also increased its capacity.

(h) Respect beliefs and customs. Sustainable land and natural resource management and the IPPF are focusing on participatory management of natural resources and the sustainable utilisation of cultural and biological diversity for the greater good of all. A first step to sustain diversity is the respect for the different beliefs and customs.

At district level the IPPS and IPR will link up the project, the indigenous people and the district administration. They should meet once a month and work as focal point for all
IPPF related issues at district level. They should be informed about all kinds of activities of the projects and communicate relevant information to the indigenous people's communities. They should also gather information and feedbacks from the indigenous people's communities to channel them to the relevant governmental structures, the national steering committee or the implementation units of the project.

The elected representatives from the community will be in charge of facilitating the communication between the indigenous people's communities in their area and the IPSS and IPR. They should be elected during the pilot phase of the IPPF after a further introduction and general discussion on the IPPF, the communication channels to ensure that the elected representatives have broad community support and are elected on the base of free, prior and informed consultations.

To harmonise IPPF work between the different levels, the indigenous people representatives in each of the districts in the operational areas should elect among them coordinators to represent the indigenous people at national level and to coordinate communication and work. Following the general guidelines for a successful communication outlined above, the representatives should remember that they are representatives of the people by whom they are elected and due to that feedback all information they receive and consult their communities as often as possible and prior to any major decisions. The IPPF creates a level playing field and the indigenous people have to decide themselves how they use this communication framework to voice their needs and interests.

6.1 Grievance processes

As the communication is mostly channelled through the projects and government structures, a situation might arise in which certain information are not communicated or not adequately addressed. In that line, the provision of accessible procedures to address grievances by the affected indigenous people's communities arising from the implementation of the projects is an important element to enhance and sustain the quality of the services and communication. In selecting a grievance structure, the indigenous people should take into account their customary dispute settlement mechanisms, the availability of judicial recourse and the fact that it should be a structure considered by all stakeholders as an independent and qualified actor. As it should be a single organisation for all indigenous people's communities affected by the project, the Kenya National Commission on Human Rights is an appropriate grievance structure as it is present in all districts and well known by most people.
7. MONITORING AND EVALUATION MECHANISMS

The monitoring and evaluation of the IPPF implementation as well as the implementation of the project in the operational areas inhabited by indigenous people is an important management tool, which should include arrangements for the free, prior, and informed consultations with the affected indigenous people's communities. The implementation of the participatory impact monitoring (PIM) at district level will be an important element to assist the various structures to fine-tune their intervention in view to maximise culturally appropriate benefits and provide space for the indigenous people's communities to voice their concerns. The PIM will be based on the data gathered by the screening process/social assessments, the organisations of the indigenous people, the IPSSs and the relevant governmental structures (lands, forests, development and social) at district level. It is assumed that at least during the first year of the PIM, the indigenous people's organisations will play a key role as facilitator of the PIM process before the IPSSs are able to take over this task. As this is a participatory process, the selection of the facilitator is of course the decision of the communities, but it is advisable to choose people who are able to elaborate on the basis of the PIM reports, which reflect the situation on the ground in a transparent and plausible way.

The PIM reports at district level should be produced before 30th June every year and returned to all indigenous people's communities for feedback before being handed over to the DPCC before 30th August. In September of each year, all IPSS will meet to discuss among other issues the PIM reports, elaborate an overall evaluation and prepare recommendations on how to fine-tune the IPPF further. The district PIM reports, the IPPF evaluation and the recommendation should be communicated to all stakeholders before 30th October through the project webpage and also communicated to the World Bank task team and the interested public. The IPPF implementation in view of the performance indicators outlined in the IPPF and the outcomes of this process will be further crosschecked in 2009 and 2011 by an external IPPF evaluation in view to enhance the quality further and to guarantee that the indigenous people's dignity, human rights, economies, and cultures are respected by the projects, that all decisions which affect any of these are based on the free, prior, and informed consultation with the indigenous people, that the indigenous people receive social and economic benefits that are culturally appropriate including gender and inter-generations, that adverse effects on the indigenous people's communities are as much as possible avoided and if this was according to the IPSSs not feasible, minimize, mitigate, or compensate in a culturally appropriate manner based on broad support by the indigenous people's communities.
ANNEXES

Annex 1: Bibliography

http://www.members.lycos.fr/Sengwer
http://www.ogiek.org/memo-seng-1.htm#1_0.htm.
Indigenous people Planning Framework for the WKCDD/FRM & NRM - Draft (10/01/2007) 52


Matter, Scott, 2004. 'We have this land as our right': ethnicity, politics, and land rights at Enosupukia, Kenya' MA Thesis, McGill University


Indigenous people Planning Framework for the WKDIFM & NRM - Draft (10/1/2007) 53


Swallow, Brent & Bromley, Daniel (1992): Institutions, governance and incentives in common property regimes for African rangelands.


Tokida, Kunihiro (2002): Rural Development Planning with Community Involved-Verification Projects:

Japan International Cooperation Agency (JICA), Tokyo, Japan.


Annex 2: Peoples and organizations consulted

Ogiek
1. Charles Sena; Ogiek Peoples National Assembly; (info@orip.or.ke)
2. Joseph Towett; Ogiek Peoples National Assembly & Ogiek Welfare Council (ogieknet@cratornet.com).
3. Sarone ole Sena (sarone_ole_sena@wvi.org).
4. Daniel Kobei; Ogiek Peoples Development Programme (dkobei@yahoo.com; opdp2001@yahoo.com).

Indigenous People Met on 15th November, 2007 at Tinderet forest
James sigei, Solomon Malakwen, Yegon Kimalel, Alice Langat, John Rono, Lucy Yegon, Samuel Kipngetch Kebenet, James Kipngetch Murgor, Joseph Meli, Christine Malakwen, Josphat Keter, Geoffrey Tutui, Anne Sigei, Sharon Tutui, Robert Ngetich, Esther Murgor, Margaret Maritim, Jane Cherop, David Kemei, John Kosgei

People met on 16th November, 2007 at Ndoinet forest (Kipchororo block)
1. Ngaya Ndaya, District Officer, Kuresoi division
2. John Mutai, Assistant Chief, Chematich sub-location
3. David Sitienei, Village Elder - Ogiek
4. Joseph Tuwei, David Zotari (security officers)

Government Officials interviewed on 15th November, 2007 at Tinderet forest
1. Zacharia Busienei; Assistant Chief, Chebangang Sub location, Chemamul location, Miteitei division
2. Keneth Kaduli, Divisional Agribusiness Officer, Miteitei division;
3. Esther Lontudo, Gender and Home Management officer, Miteitei division;
4. Christine Sitienei, Crops development officer, Miteitei division,
5. John Maina, Component Coordinator, LVEMP, Kericho;
6. John Chirchir, Task Coordinator, LVEMP Kericho

Indigenous people Organisations
1. Naomi Kipuri, African Union Sub-commission on Indigenous People; (kipuri3000@yahoo.com)
2. Fisherpeoples Network: Mr. Mhuswala (0733-423706)
3. Indigenous Information Network: Lucy Mullenke (020-2723958; 722914614; 733894080; iin@iin.co.ke).
4. Centre for Minority Rights Development: Korrir Singoei (Korir.singoei@cemiride.info; 722-776994)

Experts
1. Scott Matter; McGill University (scott.matter@mail.mcgill.ca)
2. Julian Bauer; EcoTerra (0733-633000; pjeb@ecoterra.net)
3. Indigenous people Planning Framework for the WKCD/FM & NRM
Annex 3: Comments and Feedbacks from IPPF Workshop

The indigenous people were generally pleased with the document. Comments focused on:

(a) The need to enhance and validate demographic figures in the draft document, which were considered as very high (this is the reason they have been taken out in the final version);

(b) The need to enhance the recognition of and support for certified forest products;

(c) The need for a clear map of project areas gazetted and protected forests;

(d) The negative impact on water catchments caused by multinational logging companies;

(e) The need to mainstream the policy enhancement proposed in the IPPF to areas where the projects don’t work and/or where donors intervene, which do not sign up to the IPPF;

(f) The need for an inter-ministerial coordinating body for all projects and issues related to indigenous people;

(g) The need to enhance the existing screening mechanisms as they are not participatory so the proposed screening processes of the IPPF is most welcome; and

(h) The need to establish an effective communication mechanism following the principle of ‘prior and informed consent’ so that IPs get information that helps them participate and make decisions in a meaningful way.
Annex 4: Draft Terms of Reference for the first screening process

1. Background and Rationale:

The Lake Victoria Environmental Management Project (LVEMP II) seeks to improve social welfare, enhance living standards and promote the sustainable use of natural resources through supporting of small-scale initiatives (community-driven development as well as subprojects related to natural resources, forests and water management), rehabilitation of sewerage systems and harmonize policies and legislative frameworks governing natural resources in the Basin and institutional development. The project will be implemented in about 30 districts in the Basin with ecosystem approach being the guiding principle. Mau Forest is hence marked as one of the areas in which sub-projects will be implemented.

During preparation it became clear that the projects might impact on indigenous people’s rights, lands, livelihoods, and culture. To comply with international standards such as the World Bank’s operational policy on indigenous people (OP 4.10) and to qualify for funding from the World Bank, the Government of Kenya has elaborated an Indigenous people Planning Framework (IPPF) to ensure that the development process fully respects the dignity, human rights, economies, and culture of indigenous people and that the projects are able to gain through free, prior, and informed consultations the broad community support from the affected indigenous people. When the IPPF was elaborated the operational areas of the project were not yet clearly defined and it was not possible to obtain comprehensive information on where indigenous people live. Due to that, the IPPF calls for a comprehensive screening of all operational areas of LVEMP II sub-projects to identify groups, which are in a "structural subordinate position to the dominating groups and the state, leading to marginalisation and discrimination" (the definition of "indigenous" used in line with the African Union in the IPPF).

2. Objectives of the assignment:

Screenings/social assessments are normally carried out for a set of activities/subprojects (OP 4.10) and not per geographic areas and/or per indigenous people’s community, but the design of the project make this adjustment necessary. The first screening process, which is subject of this assignment, should identify all existing indigenous people’s communities (following the definition used in the IPPF) in the districts covered by the projects (the 24 districts highlighted in the IPPF) and establish for the projects’ operational areas in line with the Draft Land Policy (§ 71).

3. Expected outcomes

The expected result of this assignment is a report, which provides a short introduction to all ethnic groups in the operational areas of the two projects, which consider themselves or considered by other as "indigenous", "minority", “hunter/gatherer” etc. and discusses their living conditions in view of the criteria set up in the IPPF in general and verify in particular, if they can be considered as "distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:

a) Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;

b) Collective attachment to geographically distinct habitats or ancestral territories in the operational area and to the natural resources in these habitats and territories;

c) Customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
d) an indigenous language, often different from the official language of the country or region."

For those groups, which are considered to fulfil these criteria, the report will provide a more detailed introduction to their history and establish a detailed list of all villages/sub-locations in which members of these groups are presently living. This includes the provision of contact details of representative/elder etc. with detailed contact addresses. The report will also provide evidences that all these information have been established in a participatory process with the indigenous people in free, prior and informed consultations.

4.4. Disclosure

The report will be published and made available to all indigenous people communities in the operational areas of the projects as hard copy and through the general public through the project' web-page.

4.5. Consultant qualifications:

This assignment should be carried out by a network of NGOs, which include organizations of those indigenous people already identified (Sengwer Development Project & Ogiek Peoples Development Programme) as well as three organizations, which work at national level (Indigenous Information Network & Centre for Minority Rights Development) and regional level (African Union Sub-commission on Indigenous people). An initial training and backstopping will be provided by the social safeguard backstopping.
Annex 5: Draft Terms of Reference for the second screening/social assessment

1. Objectives of the assignment:

In a second round of screening a social assessment will be carried out for all those groups identified above. This group-wide social assessment will respond through its mapping section to the call of the Draft Land Policy to provide detailed and well-documented claims for land restitution. This is equally important for the projects as international standards (OP 4.10) make clear that even 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. The OP 4.10 makes clear that these rights go back an entire generation ("within the concerned group members' lifetime"), while the Draft Land Policy goes even further and defines the year 1895 as cut off date. In this context of this framework the national cut off date will be used. Through this detailed assessment, well ahead of the national land restitution process, the projects provide clear and significant benefits to the indigenous people, while serving operation purposes.

2. Expected outcomes

The expected result of this assignment is twofold:

(a) A social assessment for each of the group of indigenous people identified during the first screening. The social assessment will provide comprehensive information to the following elements:

- A review of the legal and institutional framework applicable to the group of indigenous people.
- Baseline information on the demographic, social, cultural, and political characteristics of the indigenous people's communities, and the natural resources on which they depend on.

The social assessment will provide evidence that all these information have been established in a participatory process with the indigenous people in free, prior and informed consultations.

(b) Detailed participatory land use maps, which show the land and territories that are presently used by each of these indigenous people's communities and which have been traditionally owned or customarily used or occupied. Special emphasis will be placed on the link of indigenous people to forests. The participatory land use mapping will specifically identify areas a) for which land titles have been produced, b) for which the process of land title establishment has been started, c) and for which other peoples have obtained titles in disregard of long standing claims of the indigenous people.

The maps will be based on the 1:50,000 topographic maps and provide evidence that all these information have been established in a participatory process with the indigenous people in free, prior and informed consultations.

4.3. Reporting requirements

The consultants will work in close collaboration with the social safeguard backstopping mission, the two projects, as well as local organizations with expertise in matters relating to indigenous people, and if necessary in consultation with the Ministry of Lands, the Ministry of Environment and Natural Resources, the Kenya Forest Service and the World Bank Project Task Team. The consultants will make themselves available to respond to reviews of the draft
reports by all these stakeholders and will present a final report, incorporating the comments made.

4.4. Disclosure

The reports and maps will be published and made available to all indigenous people communities in the operational areas of the project as hard copy and through the general public through the project's web-page.

4.5. Consultant qualifications:

This second level of geographic screening will be carried out as much as possible by the organisations of the indigenous people themselves. To enable them to comply with international standards a comprehensive capacity building in the domain of participatory land use mapping, quantitative socio-economic surveys and archival research will be provided as well as technical backstopping.
Annex 6: Draft terms of reference for consultations and the elaboration of indigenous people's plans within LVEMP II implementation

1. Background and Rationale:

The Lake Victoria Environmental Management Project Phase II seeks to improve social welfare, enhance living standards and promote the sustainable use of trans-boundary natural resources by supporting micro-projects which the greatest impact on the vulnerable communities and ecosystems.

During preparation it became clear that the projects might impact on indigenous people’s rights, lands, livelihoods, and culture. To comply with international standards such as the World Bank’s operational policy on indigenous people (OP 4.10) and to qualify for funding from the World Bank, the Government of Kenya has elaborated an Indigenous people Planning Framework (IPPF) to ensure that the development process fully respects the dignity, human rights, economies, and culture of indigenous people and that the projects are able to gain through free, prior, and informed consultations the broad community support from the affected indigenous people. When the IPPF was elaborated the operational areas of the project were not yet clearly defined and it was not possible to obtain comprehensive information on where indigenous people live. Due to that, the IPPF calls for a comprehensive screening of all operational areas of the LVEMP II project to identify groups, which are in a "structural subordinate position to the dominating groups and the state, leading to marginalization and discrimination” (the definition of "indigenous” used in line with the African Union in the IPPF).

For all large scale subprojects (dams, irrigation schemes etc), which are going to be implemented on land that has been identified during the screening processes to be used or claimed by indigenous people - thus which will have impacts on indigenous people -, the projects will in line with international standards engage in free, prior, and informed consultations with the indigenous people, before the individual large scale subproject is implemented. Most likely this will be the case with the preparation of two multi-purpose dams. In deciding whether to proceed with the individual subproject, the projects ascertain on the basis of the social assessment and additional free, prior and informed consultations, whether the affected indigenous people's communities provide their broad support to the subproject. Where there is no such support, the project will need to elaborate alternatives, which are found suitable by the affected indigenous people. Where there is such support, the project prepares a detailed Indigenous people Plan.

2. Objectives of the assignment:

On the basis of the social assessment and in consultation with the affected indigenous people's communities, the consultants will prepare an Indigenous people Plan that sets out the measures through which the LVEMP II will ensure that (a) indigenous people affected by the project receive culturally appropriate social and economic benefits; and (b) when potential adverse effects on indigenous people are identified, those adverse effects are avoided, minimized, mitigated, or compensated for.

3. Expected outcomes

The expected results of these assignments are Indigenous people Plans, which will outline for each of these large scale subprojects:

(a) The findings of the social assessment and the overlap of land use areas;

(b) A framework for ensuring free, prior, and informed consultation with the affected indigenous people's communities during project implementation;
(c) an action plan of measures to ensure that the indigenous people receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies;

(d) When potential adverse effects on indigenous people are identified, an appropriate action plan of measures to avoid minimizes, mitigate, or compensate for these adverse effects.

(e) The cost estimates and financing plan for the IPP;

(f) Accessible procedures appropriate to the project to address grievances by the affected indigenous people's communities arising from project implementation, and

(g) Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected indigenous people's communities.
Annex 7: Draft terms of reference for the option assessment on how to rehabilitate the livelihoods of evicted indigenous people

The LVEMP II Project will address key issues regarding indigenous people and other forest-dependent communities in Basin: It will harmonize the forest policy with the draft land policy, implement a participatory forest management, support the elaboration of a comprehensive resettlement policy and rehabilitate in the operational areas (Mau Forest Complex).

During preparation it became clear that the projects might impact on indigenous people’s rights, lands, livelihoods, and culture. To comply with international standards such as the World Bank’s operational policy on indigenous people (OP 4.10) and to qualify for funding from the World Bank, the Government of Kenya has elaborated a Draft Indigenous people Planning Framework (IPPF) to ensure that the development process fully respects the dignity, human rights, economies, and culture of indigenous people and that the projects are able to gain through free, prior, and informed consultations the broad community support from the affected indigenous people.

Based on the IPPF the LVEMP II project will ensure: (a) that present and past settlements, land use areas and cultural sites of indigenous people are comprehensively documented; (b) that the indigenous people are well represented in all forest and resettlement related decision-making bodies and processes (activity 3) and (c) that a comprehensive strategy to rehabilitate the livelihoods of evicted indigenous people is elaborated in an open-minded and fully participatory option assessment.

The Government of Kenya, recognizes that, given, their close association with land, forests, water, wildlife, and other natural resources, the physical relocation of indigenous people, or other measures which reduce their access to livelihood-related resources, has complex implications, and may entail significant adverse impacts on their identity, culture, and customary livelihoods. For these reasons, the option assessment will explore to the extent possible the feasibility of re-establishing access to land and land-based resources that are key to their livelihood.

2. Objectives of the assignment:

The objective of this assignment is to elaborate a comprehensive strategy on how the livelihoods of the indigenous people, which have been evicted from forest in the operational areas of the LVEMP II project, can be rehabilitated best.

3. Expected outcomes:

The expected outcome will be a case by case assessment of the various options on how to rehabilitate the livelihoods of the evicted indigenous forest dwellers. Among others, the options are: a) to re-establish access to land and land-based resources in the forests; b) to provide land in the buffer zone of the forest and engaged the indigenous people into participatory forest management; c) provide similar lands and assets in other areas; d) provide different lands and assets (for instance in the new irrigation schemes) etc. The high level team of experts will provide a state of the art assessment of the sustainability of the various options and their social (using the Impoverishment Risk and Reconstruction Model), cultural and environment impacts. They will discuss the various options with the relevant governmental structures (Kenya Forest Service, Ministry of the Environment and Natural Resources; Ministry of Lands; etc.) and the affected indigenous people to evaluate and document their preferences. The final outcome will be for each of the cases a detailed recommendation, which has been accepted by all stakeholders in free, prior, and informed consultations, on how to rehabilitate the livelihoods of the evicted indigenous people best in respect of the
dignity, human rights, economies, and culture of the indigenous people and the needs of forest and biodiversity conservation.

4.3. Reporting requirements

The consultants will work in close collaboration with the LVEMP II project, the Kenya Forest Service, as well as local organizations with expertise in matters relating to indigenous people, and if necessary in consultation with the Ministry of Lands and the World Bank Project Task Team. The consultants will make themselves available to respond to reviews of the draft reports by all stakeholders and will present a final report, incorporating the comments made.

4.4. Disclosure

The report will be published and made available to all affected indigenous people communities in the operational areas of the project as hard copy and through the general public through the project's web-page.
Annex 8: Terms of reference for the social safeguard backstopping mission for the LVEMP II project

Based on the IPPF, the LVEMP II will fund a two-level screening process to identify possible adverse effects on IPs: In primary screening, all groups which are in a structural subordinate position to the dominating groups and the state (and thus indigenous), will be identified in all operational areas. The secondary screening will consist of a detailed social assessment undertaken for each of these indigenous communities. To implement this strategy, the project will (a) assist the indigenous people to create an elected Indigenous people’s Screening Structure (IPSS) in all districts where indigenous people use land and/or land based resources, and (b) empower these IPSS to document, in free, prior and informed consultations, the indigenous people’s position on all funding requests, which might impinge upon land or resources, which have been identified in the social assessment and in line with the land policy as rightly theirs. For subprojects, which do not in the first instance gain broad support from the affected indigenous people, the District Project Coordination Committees and the IPSS will search for mutually acceptable solutions. Indigenous people Plans (IPP) can be prepared to assist and reflect transparent decision-making in the case of controversial subprojects, and will also be elaborated for large scale infrastructures (dams etc.), if the screening suggests that rights, livelihoods, and culture of the indigenous people might be affected. The project will further apply five mechanisms to ensure that indigenous people receive cultural appropriate benefits: (a) support and capacity building will be provided to IP communities through the IPSS to assist community planning and applications for resources for priority sub-projects; (b) IP communities will be given preferential treatment for subproject identification and funding; (c) IP communities will be allowed the option of making the required community sub-project contribution in kind; (d) IP representatives will be invited to sit in the DPCC and decision-making bodies at catchment level; and (e) the capacities of the indigenous people will be enhanced using appropriate participatory tools.

Based on the IPPF the LVEMP II project will ensure: (a) that present and past land use areas and cultural sites of indigenous people are comprehensively documented; (b) that the indigenous people are well represented in all forest and resettlement related decision making bodies and processes; (c) that a comprehensive strategy to rehabilitate the livelihoods of evicted indigenous people is elaborated in an open-minded and fully participatory option assessment; (d) that this strategy is implemented in a comprehensive and timely manner; and (e) that the indigenous people are enabled to benefit from participatory forest management and reforestation.

Most of these activities will be implemented by indigenous people’s organisations. The rapid training need assessment in the context of the IPPF documented, that the technical and organisational capacities are very low. A Social Safeguard Backstopping Mission will address these needs and supervise a timely and comprehensive implementation of the activities outlined in the IPPF action plans for the project.

2. Objectives of the assignment:

The objective of this assignment is a) to enhance the capacities of the indigenous people’s organisations and other stakeholders, b) to comment on and ‘clear all reports and studies established during IPPF implementation, c) to supervise the timely and comprehensive implementation of the IPPF activities, d) to establish evaluation reports and e) to ensure the implementation of the IPPF action plans in line with the OP 4.10.
3. Expected outcomes

a) Training
Several trainings will have been carried out (an initial training for all stakeholders, trainings for each of the teams carrying out the screenings, social assessments and Indigenous people Plans, trainings for teams carrying out the participatory impact monitoring and the reports on these training documents that the capacities of the participants have been enhanced and that they are able to carry out their assignments.

b) Backstopping
The indigenous people's organizations, the consultants for the various assignments and the projects are receiving in timely manner quality responses to their questions and comments on their products which they consider useful in carrying out their assignments etc. and which document an ongoing empowerment of indigenous people's organizations.

c) Provide annual progress reports and an evaluation report in 2011
Towards the end of each year a progress report is elaborated, approved by all stakeholders and published. In 2011 an in-depth evaluation of IPPF implementation and the impacts of the project on the living condition of the indigenous people is carried out, approved by all stakeholders and published.

4.3. Reporting requirements
The consultant will work in close collaboration with the project, as well as local organizations with expertise in matters relating to indigenous people, and if necessary in consultation with the Ministry of Environment and Natural Resources, Ministry of Lands, the Kenya Forest Service and the World Bank Project Task Team. The consultant will make himself/herself available to respond to reviews of the draft reports by all these stakeholders and will present a final report, incorporating the comments made.

4.4. Disclosure
The annual report will be published and made available to all indigenous people communities in the operational areas of the project as hard copy and through the general public through the project' web-page.