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**Dialogues: thematic dialogue on the financing of Indigenous Peoples' work and participation across the multilateral and regional system**

### **The rights of Indigenous Peoples in the context of critical minerals to ensure a just transition**

#### **Note by the Secretariat**

The Secretariat has the honour to transmit to the Permanent Forum on Indigenous Issues the study by members of the Permanent Forum, Hindou Oumarou Ibrahim and Hannah McGlade, on the rights of Indigenous Peoples in the context of critical minerals to ensure a just transition.

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\* [E/C.19/2025/1](#).



## **Study on the rights of Indigenous Peoples in the context of critical minerals to ensure a just transition**

### *Summary*

The present study was written by Hindou Oumarou Ibrahim, lead author, and Hannah McGlade, contributor, both members of the Permanent Forum on Indigenous Issues. They explore the intersection of critical minerals and Indigenous Peoples' rights and highlight the essential role of such minerals in the global energy transition, emphasizing their importance in developing sustainable energy solutions. They also explore the relationship between Indigenous Peoples and critical minerals, acknowledging the unique challenges faced by Indigenous Peoples, in particular those in voluntary isolation or initial contact. They outline various initiatives to foster constructive and respectful critical mineral projects within Indigenous Peoples' territories. Lastly, they provide actionable recommendations for key stakeholders to ensure that the development of critical mineral resources is conducted in a manner that respects Indigenous Peoples' rights and promotes sustainable development.

## I. Introduction

1. The urgent need to phase out the fossil fuel-based economy to meet the climate goals set out in the United Nations Framework Convention on Climate Change and the Paris Agreement was confirmed by the Conference of the Parties to the Convention at its twenty-eighth session.<sup>1</sup> In the transition away from fossil fuels, renewable energy and the digitalization and electrification of various processes will increase the need for critical energy transition minerals,<sup>2</sup> which play an important role in numerous solutions that provide an alternative to the fossil fuel-based economy.

2. Critical minerals are natural resources, and their mining and processing can have significant environmental and social impacts. Sustainable extractive processes, including recycling, should meet the highest environmental, social and human rights standards and are critical to ensure that extractive activities do not harm biodiversity. As recalled in the Kunming-Montreal Global Biodiversity Framework:

Biodiversity is fundamental to human well-being, a healthy planet, and economic prosperity for all people, including for living well in balance and in harmony with Mother Earth. We depend on it for food, medicine, energy, clean air and water, security from natural disasters as well as recreation and cultural inspiration, and it supports all systems of life on Earth.

3. The recognized urgent need to phase out the current fossil fuel-based economy by promoting an energy transition is one of the cornerstones of meeting the climate goals set out in the Paris Agreement. The Permanent Forum on Indigenous Issues, as well as Indigenous Peoples from the seven Indigenous sociocultural regions, welcome the development of “clean” energy alternatives as a way to mitigate climate change. However, the negative impacts of mining critical energy transition minerals and their value chains on the lives and livelihoods of Indigenous Peoples, including those in voluntary isolation and initial contact, are building, growing into a systematic violation of Indigenous Peoples’ rights, including free, prior and informed consent, self-governance over their lands and resources and living in voluntary isolation. This is a matter of great alarm for Indigenous Peoples around the world, and it should be recognized, halted and avoided by all stakeholders involved in the mining of critical minerals and across their value chains.

4. Indigenous Peoples all over the world share the concerns raised by scientists and environmentalists regarding the environmental impacts that the increased use of critical minerals will have on the planet due to water abstraction and land use change, biodiversity loss, ecosystem degradation, greenhouse gas emissions and persistent pollutants in soil and water. Human migration, population displacement and negative cultural impacts are additional results of such negative environmental impacts. These and other indirect and cumulative adverse impacts leave room to consider that the use of critical minerals as the basis for an energy transition constitutes a false solution to achieving climate goals as it may aggravate the multiple environmental crises that

<sup>1</sup> See <https://unfccc.int/cop28/5-key-takeaways>.

<sup>2</sup> United Nations Secretary-General’s Panel on Critical Energy Transition Minerals, “Resourcing the energy transition: principles to guide critical energy transition minerals towards equity and justice”, 11 September 2024. The Panel defines critical energy transition minerals as the minerals necessary to construct, produce, distribute and store renewable energy. They can be used to build, among other things, batteries, electric vehicles, solar panels and wind and hydropower infrastructure. According to current analyses, there are at least 30 energy transition minerals and metals that form the material base for the energy transition, including aluminium, cadmium, chromium, cobalt, copper, graphite, iron, lithium, manganese, nickel, rare earth elements, selenium, silicon, tellurium and zinc. See also John R. Owen and others, “Energy transition minerals and their intersection with land-connected peoples”, *Nature Sustainability*, vol. 6 (2023).

humanity already faces, exacerbate climate vulnerability and biodiversity loss, hamper local resilience and delay the full implementation of the Sustainable Development Goals.

5. At its twenty-third session, the Permanent Forum decided to conduct a study entitled “The rights of Indigenous Peoples in the context of critical minerals to ensure a just transition”, to be presented at its twenty-fourth session (see [E/2024/43-E/C.19/2024/8](#), para. 148). The study is a contribution to tackling new challenges to the rights of Indigenous Peoples in a context in which critical minerals are the focus of the transition away from a fossil fuel-based to a “clean” energy model, and to guaranteeing a fair and just transition for all.

6. In the present study, the authors reaffirm the relevance of several recommendations of the Permanent Forum in the context of critical minerals and provide actionable recommendations for stakeholders, including Member States, the renewable energy and digital economy sectors, international mining organizations and other extractive industry actors, Indigenous Peoples and United Nations entities, to move away from an “extractivist” model and to avoid repeating the same mistakes that were made in the past when oil was discovered.

7. The study contributes to the framework of United Nations initiatives that call for the full respect of all Indigenous Peoples’ rights as stated in the United Nations Declaration on the Rights of Indigenous Peoples and the protection of such rights in the context of the global energy transition. These initiatives include the United Nations Secretary-General’s Panel on Critical Energy Transition Minerals and its report entitled “Resourcing the energy transition: principles to guide critical energy transition minerals towards equity and justice”,<sup>3</sup> as well as the outcomes of: the Just Transition: Indigenous Peoples’ Perspectives, Knowledge, and Lived Experiences summit<sup>4</sup> organized by representatives of Indigenous Peoples from the seven Indigenous sociocultural regions; the Department of Economic and Social Affairs international expert group meeting on the rights of Indigenous Peoples, including those in voluntary isolation and initial contact, in the context of the extraction of critical minerals;<sup>5</sup> and the International Labour Organization (ILO) dialogue with Indigenous and tribal peoples on a just transition.<sup>6</sup>

8. These initiatives are welcome and appreciated. They support Indigenous Peoples’ perspectives, including respect for and protection of their rights in extractive activities all over the world. The authors support the implementation of the outcomes of these initiatives to ensure that the global energy transition ensures human rights and environmental and social justice, and guards against an increase in inequalities due to the exploitation of Indigenous Peoples’ vulnerabilities, enabling them, moreover, to continue to provide valuable contributions as stewards of the planet.

9. More broadly, implementing the recommendations can also ensure that multilateral environmental agreements that contain several references to the rights of Indigenous Peoples and the importance of their knowledge, experiences and practices – such as the Paris Agreement, the Convention on Biological Diversity, the Kunming-Montreal Global Biodiversity Framework and the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa – are fully implemented.

<sup>3</sup> See [www.un.org/en/climatechange/critical-minerals](http://www.un.org/en/climatechange/critical-minerals).

<sup>4</sup> See [www.indigenoussummit.org/summit-outcome](http://www.indigenoussummit.org/summit-outcome).

<sup>5</sup> See <https://social.desa.un.org/issues/indigenous-peoples/events/egm-2024>.

<sup>6</sup> See [www.ilo.org/meetings-and-events/ilo-dialogue-just-transition-indigenous-and-tribal-peoples](http://www.ilo.org/meetings-and-events/ilo-dialogue-just-transition-indigenous-and-tribal-peoples).

## II. Role of critical minerals in energy transition

10. At the twenty-eighth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, States acknowledged the need to transition away from fossil fuels to renewable energy and to prioritize sustainable energy sources to reduce greenhouse gas emissions. In the outcome of the first global stocktake,<sup>7</sup> the parties were called on to take action to achieve, at a global scale, a tripling of renewable energy capacity and a doubling of energy efficiency improvements by 2030. Furthermore, the parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to a “clean”, healthy and sustainable environment, the right to health and the rights of Indigenous Peoples.

11. Transitioning away from a fossil fuel-based economy has opened significant opportunities to develop the renewable energy sector, which currently relies on the use of some minerals that have been identified as critical to building energy transition infrastructure, energy transmission and energy storage capacity. This encompasses renewable energy technologies (such as solar panels and wind turbines), energy transmission networks, energy storage systems and the electrification of transportation, mobility and various industrial processes.

12. Meeting the objectives set out to support the renewable energy sector has boosted demand for critical energy transition minerals. The International Energy Agency estimates that to achieve net zero globally by 2050 six times as many critical minerals will be required in 2040 than today.<sup>8</sup>

13. The rapid digitalization of the world’s economy also increases the need for critical minerals. In the *Digital Economy Report 2024: Shaping an Environmentally Sustainable and Inclusive Digital Future*, the United Nations Conference on Trade and Development underlined the importance of consuming critical minerals for various digital technologies and emphasized the need to shift to a fully circular digital economy. It also recalled that developing countries were pivotal in the global supply chain for transition minerals and metals, which are highly concentrated in a few regions. The vast mineral deposits in Africa, which are essential for the global shift to low-carbon and digital technologies, include cobalt, copper and lithium, which are crucial for a sustainable energy future. The continent holds significant reserves: 55 per cent of the world’s cobalt, 47.65 per cent of its manganese, 21.6 per cent of natural graphite, 5.9 per cent of copper, 5.6 per cent of nickel and 1 per cent of lithium.

14. The environmental impacts of this increasing demand will affect the whole world, but the social impacts are already having a severe impact on Indigenous Peoples, whose lives and livelihoods depend on the ecosystems in which mining for critical minerals occurs. A few major sites account for most of the resource extraction volumes. For example, over 65 per cent of iron ore and bauxite is found in Australia, Brazil, China and Guinea, 75 per cent of cobalt resources in the Democratic Republic of Congo, 90 per cent of platinum group metals in South Africa and Zimbabwe, 45 per cent of lithium in Australia and 70 per cent of rare earth elements in China.<sup>9</sup>

15. From an economic point of view, the critical minerals market has also shown some important imbalances. According to the International Energy Agency report *Critical Minerals Market Review 2023*, the market size of key energy transition minerals has doubled since 2019, reaching \$320 billion in 2022, due to rising demand

<sup>7</sup> Conference of the Parties, decision 1/CMA.5.

<sup>8</sup> International Energy Agency, *Global Critical Minerals Outlook 2024* (2024).

<sup>9</sup> World Economic Forum, *Nature Positive: Role of the Mining and Metals Sector* (Geneva, 2025), presented at the World Economic Forum in Davos, Switzerland, in January 2025.

and high prices. This has been felt in the Australian mining sector, the world's largest producer of lithium ore with 52 per cent of the global total in 2024 and the second-largest reserves of this critical mineral in the world, after Chile. Policies in Chile, as well as in Argentina and the Plurinational State of Bolivia, further support lithium mining.<sup>10</sup>

16. Indigenous Peoples inhabit or live near many of these extraction locations, and many of their natural resources, lands and territories are already being affected by, and will further experience the direct or indirect impacts of, activities related to the whole value chain for critical minerals and the development of the renewable energy sector.

17. Another major concern in this context is rooted in the absence or weakness of legal frameworks that protect the particular rights of Indigenous Peoples in the context of a global energy transition. According to the International Energy Agency, nearly 200 policies and regulations now affect critical mineral supplies, half of them enacted in the past few years. Sound environmental and social indicators are now reported as issues increasingly needed to attract investment. However, there are no data on the extent to which such legislation is responsive to countries' obligations towards Indigenous Peoples' rights, with only a few positive examples available, including the Canadian Critical Minerals Indigenous Engagement Strategy<sup>11</sup> and the Australian Critical Minerals Strategy,<sup>12</sup> which identify consultation with Indigenous Peoples as a key issue.

### III. Indigenous Peoples and critical mineral resources

18. Indigenous Peoples contribute to the protection of unique ecosystems worldwide. Scientific and Indigenous Peoples' knowledge, research and studies have provided evidence of the prominent role that such peoples play in climate mitigation and adaptation, biodiversity conservation and land restoration. Extractive activities occurring in and near Indigenous Peoples' land and territories can significantly, and sometimes irreversibly, harm the biodiversity protection activities of Indigenous Peoples and reduce their positive impact on the global environment. On a global scale, the exploration and extraction of critical minerals must be carried out with respect for the Declaration on the Rights of Indigenous Peoples and all multilateral environmental agreements. In particular, no explorative or extractive activities, including those related to critical minerals, should occur in any biodiversity hotspot, including on the seabed. These activities could have irreversible consequences for the lives and livelihoods of Indigenous Peoples and should be fully compatible with the Kunming-Montreal Global Biodiversity Framework, in particular section C and target 3 mandating parties to ensure and enable that by 2030 at least 30 per cent of terrestrial and inland water areas, and of marine and coastal areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed through ecologically representative, well-connected and equitably governed systems of protected areas and other effective area-based conservation measures, recognizing Indigenous and traditional territories, where applicable, and integrated into wider landscapes, seascapes and the ocean, while ensuring that any sustainable use, where appropriate in such areas, is fully

<sup>10</sup> See [www.iea.org/reports/critical-minerals-market-review-2023](https://www.iea.org/reports/critical-minerals-market-review-2023).

<sup>11</sup> Canada, Ministry of Natural Resources, *The Canadian Critical Minerals Strategy: From Exploration to Recycling – Powering the Green and Digital Economy for Canada and the World* (2022).

<sup>12</sup> Australia, Department of Industry, Science and Resources, *Critical Minerals Strategy 2023–2030* (2023).

consistent with conservation outcomes, and recognizing and respecting the rights of Indigenous Peoples and local communities, including over their traditional territories.

19. Indigenous Peoples are among those most affected by activities related to energy production. The mining sector in particular is already implicated in the highest number of socioenvironmental conflicts affecting Indigenous Peoples. Mining projects often bring social disruption, inequalities and division within communities and have caused around 25 per cent of environmental conflicts involving Indigenous Peoples.<sup>13</sup> The impacts of a global energy transition based on exponential demand for critical minerals will likely translate into increasing and accumulative effects on the rights of Indigenous Peoples and their social, environmental and cultural contexts.

20. The environmental impacts of mining activities, including water abstraction, land use change, biodiversity loss, ecosystem degradation, greenhouse gas emissions and persistent pollutants in soil and water, have a devastating impact on Indigenous Peoples' livelihoods, lands and resources. In addition to causing increased tension among Indigenous Peoples and with other communities, they lead to health issues, cultural disruption of sacred sites and the loss of Indigenous languages and traditional knowledge.

21. The promotion of a just energy transition should take into consideration these impacts as an important element of how activities in the renewable energy sector and related extractive activities aggravate the environmental and climate injustice in which most Indigenous Peoples live. In addition, the promotion of environmental and climate justice should also take into consideration the fact that the energy generated by the exploitation of critical minerals and the associated value chains are very rarely used by Indigenous Peoples or even translate into fair employment, infrastructure development or facilitated access to the products and benefits generated by the renewable energy sector.

22. Indigenous Peoples have been advocating for policies, plans and programmes that promote a holistic approach that does not dissociate the environmental, social, cultural and spiritual aspects that any activity on their lands entails and that takes into account the fact that, although extractive activities are located in specific places, all humanity will be affected by the damage caused to ecosystems by mining critical minerals.

23. The authors reiterate the importance of embedding this holistic approach into any extractive activities, including those involving proposals for the "co-management", "co-jurisdiction", "joint management" or "cross-jurisdiction" of mining and all extractive activities plans and projects. These models sometimes work as methods to protect lands and ecosystems, limit damage, ensure participation in project development and benefit-sharing and respect Indigenous Peoples' practices and occupations. However, in many places, they are used to undermine Indigenous Peoples' rights. The effectiveness of such models depends on how they are applied and whether they genuinely respect and uphold Indigenous Peoples' rights.

#### **IV. Critical minerals and Indigenous Peoples in voluntary isolation and initial contact**

24. Indigenous Peoples in voluntary isolation and initial contact are considerably more vulnerable to mining projects undertaken in or near their lands and territories, and the impact that mining activities can have on such groups is proportionally higher

<sup>13</sup> Arnim Scheidel and others, "Global impacts of extractive and industrial development projects on indigenous peoples' lifeways, lands, and rights", *Science Advances*, vol. 9, No. 23 (2023).

than the impacts addressed in the previous sections of the study. Contact with such peoples often results in irreversible harm to their lands, culture, health and survival.

25. Found in most of the Indigenous sociocultural regions of the world, Indigenous Peoples in voluntary isolation and initial contact depend more heavily on their traditional lands and ecosystems for survival. The decision to isolate is an exercise of self-determination. Their livelihood choices, which include avoiding contact with mainstream society as a strategy to preserve their livelihood and identity, should be respected by the State and any other stakeholders involved in the mining sector, in particular in the mining of critical minerals for the renewable energy sector.

26. For Indigenous Peoples in voluntary isolation and initial contact, extractive activities pose a severe threat to their integrity, rights and well-being. Devastating harm can occur due to displacement from ancestral lands and territories and contact with mining workers or settlers, as this increases the risk of conflict, exploitation, forced assimilation or disease transmission to isolated communities, which often lack immunity to common illnesses, leading to catastrophic health crises.

27. Mining operations in the lands and territories inhabited by Indigenous Peoples in voluntary isolation and initial contact often force them to abandon their ancestral lands, and loss of access to sacred sites, hunting grounds and other resources disrupts their cultural and spiritual connections to the land. In addition, major risks are involved when States build roads that cross the territories inhabited by such peoples and destroy biodiversity hotspots.

28. In Central and South America and the Caribbean region, the International Working Group of Indigenous Peoples in Isolation and Initial Contact has identified extractive activities such as mining as one of the eight main threats affecting such peoples.<sup>14</sup> The major threats faced by Indigenous Peoples in voluntary isolation and initial contact can partly be explained by their lack of legal recognition as well as a lack of policies that ensure the protection of their lives and livelihoods.

29. Since Indigenous Peoples in isolation and initial contact cannot give free, prior and informed consent to undertake mining activities on their territories, the no-contact principle is to be respected, and approaching them in relation to potential mining is not recommended.<sup>15</sup>

## **V. International guidance initiatives for constructive critical mineral projects in Indigenous Peoples' lands and territories**

30. Due to the major challenges involved in critical minerals mining and extractive activities, some guidance initiatives have been undertaken for a constructive approach to mineral projects in and near Indigenous Peoples' lands and territories. Some intergovernmental and international bodies have developed guidance relevant to the field of renewable energies,<sup>16</sup> looking at how different stakeholders should undertake initiatives related to critical minerals in a responsible and sustainable way that fully respects the rights and aspirations of Indigenous Peoples and addresses their concerns.

<sup>14</sup> Land is Life, "GTI PIACI launches its new Digital Knowledge Centre for the Protection of Indigenous Peoples Living in Voluntary Isolation in eight countries of South America", 1 October 2021.

<sup>15</sup> Earth Insight, "Threat assessment: oil and gas expansion endangers isolated indigenous peoples in Peru", August 2024.

<sup>16</sup> See for instance, International Renewable Energy Agency, *International Standardization in the Field of Renewable Energy* (Abu Dhabi, 2013); and United Nations Industrial Development Organization, "UNIDO and renewable energy: greening the industrial agenda", 2009.

31. Key initiatives that promote full respect for the rights of Indigenous Peoples and the pursuit of a minimal environmental impact include the Just Transition: Indigenous Peoples' Perspectives, Knowledge, and Lived Experiences summit, the report entitled "Resourcing the energy transition: principles to guide critical energy transition minerals towards equity and justice" and the standard for responsible mining developed by the Initiative for Responsible Mining Assurance<sup>17</sup> that recognizes the rights of Indigenous Peoples. Another contribution to the guidance has been produced based on the report of the international expert group meeting on the rights of Indigenous Peoples, including those in voluntary isolation and initial contact, in the context of the extraction of critical minerals,<sup>18</sup> and the ILO dialogue with Indigenous Peoples on a just transition, both held in December 2024.

32. In October 2024, representatives from the Indigenous sociocultural regions gathered in Geneva at the Just Transition: Indigenous Peoples' Perspectives, Knowledge, and Lived Experiences summit. As a result of the summit, they issued a document entitled "Indigenous Peoples principles and protocols for just transition",<sup>19</sup> in which they asserted that development projects labelled as "green/clean energy" often violated Indigenous Peoples' rights and caused displacement and damage to their lands, territories and resources, and that States often failed to ensure, and corporations failed to respect, Mother Earth and the rights of Indigenous Peoples, including by lacking free, prior and informed consent. In so doing, such projects perpetuate neoliberalism and inequality and constitute ecocide and genocide.

33. For Indigenous Peoples, a just transition means exercising their own customary institution and governance systems and restoring what is sacred. Participants at the summit developed principles to guide the world towards healing from the multiple environmental crises it is facing and living in harmony with the natural world, including: the right to life; the right of Indigenous Peoples to self-determination and sovereignty; decolonization; full restoration of lands, territories, waters and biodiversity; respect for Indigenous Peoples' ways of life; transparency and accountability; historical reparations; full protection of Indigenous Peoples; recognition of Indigenous Peoples' roles and responsibilities; limiting the global temperature increase to 1.5°C above pre-industrial levels; and a rights-based approach to supply chains. They also included commitments for action and implementation, including the commitment that Indigenous Peoples should define development on their terms, oppose harmful "green energy" projects, advocate for free, prior and informed consent and seek reparations for historical damages. They should also leverage international human rights mechanisms, demand comprehensive impact assessments for projects affecting their lands and continue to engage in global solidarity by emphasizing knowledge-sharing and advocacy to support Indigenous-led solutions, aiming for environmental restoration and equitable development.

34. In 2024, the Panel on Critical Energy Transition Minerals published a report entitled "Resourcing the energy transition: principles to guide critical energy transition minerals towards equity and justice". The Panel had the objective of developing guidance to enable stakeholders to better seize the opportunities and tackle the challenges involved in the global energy transition. The report provides a framework of principles that can act as safeguards during the energy transition. By offering guidance for a wide range of stakeholders, in particular Indigenous Peoples, it recognizes that numerous critical minerals are located on or near the lands and territories that Indigenous Peoples inhabit, which puts them at increased risk of displacement, environmental damage and cultural erosion. In the report, the Panel

<sup>17</sup> See <https://responsiblemining.net/resources>.

<sup>18</sup> The final report and recommendations of the expert group meeting will be submitted to the Permanent Forum on Indigenous Issues at its twenty-fourth session, in April 2025.

<sup>19</sup> See [www.indigenoussummit.org/summit-outcome](http://www.indigenoussummit.org/summit-outcome).

highlights that any initiative involving critical minerals must fully respect Indigenous Peoples' rights, including their right to self-determination, and free, prior and informed consent, which is a core element of the Declaration on the Rights of Indigenous Peoples.

35. Mining projects should protect the lands, territories, resources and cultures of Indigenous Peoples and should ensure that the economic benefits generated by such activities are shared equitably. Development led by Indigenous Peoples should also be supported so that they can exercise their rights and lead decision-making processes about how their lands and resources are used. In its report, the Panel on Critical Energy Transition Minerals also calls for tackling environmental justice by minimizing ecological damage and ensuring reparations or remediation for any adverse impacts on Indigenous Peoples' lands, territories and resources, as well as challenging historical injustices by recognizing the legacy of colonialism and resource exploitation. It also highlights the need for reparative justice for Indigenous Peoples, including rectifying past wrongs and guaranteeing equitable treatment in future projects.

36. In 2024, the Global Battery Alliance issued the Indigenous Peoples' Rights Rulebook,<sup>20</sup> a document designed as part of the Battery Passport initiative to guide battery value chain stakeholders in addressing Indigenous Peoples' rights within the value chain to foster a sustainable, responsible and circular battery value chain to meet environmental and social goals, such as those outlined in the Paris Agreement. In the Rulebook, the Alliance acknowledges the critical role of Indigenous Peoples in conserving biodiversity and protecting land, as well as the significant risks they face due to mining and other battery-related activities. It builds on sound recognition and guidance on the rights of Indigenous Peoples, based on the Declaration on the Rights of Indigenous Peoples and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and promotes due diligence processes aligned with international best practices, such as the Guiding Principles on Business and Human Rights. The framework outlines four key performance indicators: (a) identification of impacts on Indigenous Peoples; (b) advancement of meaningful consultation and consent to the process, building relationships, trust and obtaining free, prior and informed consent; (c) mitigation of negative impacts; and (d) acknowledging the positive impact on the implementation of Indigenous Peoples' rights and their access to remedy. The Rulebook also contains proposals for indicators for private sector governance that foster respect for Indigenous Peoples and highlights the importance of data collection and reporting mechanisms to ensure transparency and accountability.

37. In 2024, the International Council on Mining and Metals developed a position statement on Indigenous Peoples and mining,<sup>21</sup> reflecting its members' commitment to respect the rights of Indigenous Peoples indicated in international frameworks. In the position statement, the Council set out nine commitments in addition to the existing commitments under its Mining Principles:<sup>22</sup> (a) principle 1: to respect Indigenous Peoples' rights by embedding measures across governance and management processes to avoid infringing on those rights, and to adequately address potential adverse impacts on their rights from mining and mining-related projects; (b) principle 2: to carry out due diligence to identify, prevent, mitigate and account

<sup>20</sup> See [www.globalbattery.org/media/publications/mvp/70-indigenous-peoples-rights-mvp-ready.pdf](https://www.globalbattery.org/media/publications/mvp/70-indigenous-peoples-rights-mvp-ready.pdf).

<sup>21</sup> See [www.icmm.com/en-gb/our-principles/position-statements/indigenous-peoples](https://www.icmm.com/en-gb/our-principles/position-statements/indigenous-peoples).

<sup>22</sup> The Mining Principles of the International Council on Mining and Metals respond to the evolving societal expectations of the mining and metals industry. They define the good practice environmental, social and governance requirements of company members through a comprehensive set of 39 performance expectations and nine related position statements on a number of critical industry challenges. For details, see [www.icmm.com/en-gb/our-principles](https://www.icmm.com/en-gb/our-principles).

for possible adverse impacts on Indigenous Peoples' rights; (c) principle 3: to agree on appropriate engagement processes with potentially affected Indigenous Peoples and relevant State authorities as early as possible in project planning; (d) principle 4: to obtain agreement with affected Indigenous Peoples, demonstrating their consent for anticipated impacts on their land or other rights, and setting out the terms by which impacts may occur and be managed; (e) principle 5: to address differences of opinion that arise and work to resolve disagreements; (f) principle 6: to enable benefit-sharing that reflects and is aligned with Indigenous Peoples' aspirations for social and economic development; (g) principle 7: to respect and incorporate Indigenous knowledge in collaboration with Indigenous Peoples through the design and implementation of due diligence and methods of engagement, in agreements for benefit-sharing, sustainable environmental and social investment programmes and closure planning and execution; (h) principle 8: to respect and celebrate cultural heritage, both tangible and intangible, and the historical and ongoing spiritual connections of Indigenous Peoples to such heritage, in particular by prioritizing the avoidance of impacts on cultural heritage that is critical to Indigenous Peoples' cultures or spiritual life; and (i) principle 9: to provide or cooperate in remediation when a company's activities are found to have caused or contributed to the infringement of Indigenous Peoples' rights. The adoption of the position statement, however, reflects a regression compared with previous guidance standards developed by the Council in relation to Indigenous Peoples. For example, principle 4 refers to "obtaining agreement", which constitutes a substantive difference from the right of Indigenous Peoples to free, prior and informed consent. In addition, the Council recognizes in the position statement that there may be circumstances in which agreement is not obtained and that, in such cases, companies are free to pursue their activities. The scope of the position statement therefore falls short in ensuring that Indigenous Peoples' rights are protected. In addition, several Indigenous Peoples' organizations have reported the lack of a wide-ranging consultation process with Indigenous Peoples in developing the document.

38. In 2023, the Initiative for Responsible Mining Assurance developed a standard for responsible mining that recognizes the rights of Indigenous Peoples, emphasizing, in the context of industrial-scale mining: the relevance of the right to self-determination; the right to property, culture, religion and non-discrimination; the right to health and physical well-being; the right to set and pursue their own priorities for development; and the right to make authoritative decisions about external projects or investments. The Initiative highlights that Governments and corporations should respect Indigenous Peoples' rights by obtaining their free, prior and informed consent when making decisions affecting them. In addition to having developed a standard that fully aligns with Indigenous Peoples' rights, the strength of the standard relies on the governance of mining industries, which is shared equally by civil society, communities and organized labour alongside the private sector.

39. In 2023, the International Energy Agency published *Sustainable and Responsible Critical Mineral Supply Chains: Guidance for Policy Makers*,<sup>23</sup> in which it emphasized the significance of engaging with Indigenous Peoples in the context of sustainable and responsible critical mineral supply chains, since mining activities often occur on or near their lands, directly affecting their livelihoods, cultures and traditional territories. The Agency also acknowledged different measures that companies along the critical minerals value chain can adopt to mitigate the impacts of mining on Indigenous Peoples while providing for potential local value addition. It recognized the key role of transparency and accountability, highlighted the application of free, prior and informed consent by Indigenous Peoples as a best

<sup>23</sup> See <https://iea.blob.core.windows.net/assets/7771525c-856f-45ef-911d-43137025aac3/SustainableandResponsibleCriticalMineralSupplyChains.pdf>.

practice and encouraged Governments and companies to conduct meaningful and continuous engagement with such peoples. However, a major concern is that the guidance does not consider it mandatory to secure free, prior and informed consent as a condition for starting activities on Indigenous Peoples' lands and territories. The Agency urged Governments to enforce robust legal protection and regulatory frameworks as necessary safeguards for Indigenous Peoples' rights and to equitably share with them the socioeconomic benefits of mining.

40. In 2017, the Organisation for Economic Co-operation and Development (OECD) produced the *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*,<sup>24</sup> stressing the importance of involving Indigenous Peoples in the extractive sector, especially in risk mitigation, safeguarding human rights and fostering inclusive stakeholder engagement. Key points regarding Indigenous Peoples include recognition of their rights under international frameworks, such as the Declaration on the Rights of Indigenous Peoples, including self-determination, free, prior and informed consent and collective rights over land and resources. In the report, OECD stressed that businesses should adopt a customized approach to engagement, ensuring alignment with human rights and environmental impact evaluations. It recognized the right of Indigenous Peoples to consultation and highlighted that such processes should be transparent, ongoing, designed to address the specific needs of the communities involved, including Indigenous Peoples, respectful of their customs, traditions and governance systems, and inclusive. It also recommended early and meaningful engagement to identify and mitigate risks while fostering mutual trust. In the guidance, OECD also promoted collaboration with Indigenous Peoples and fostering mutual benefits, such as employment, skills development and infrastructure enhancement, while reducing negative impacts. It underscored that, in cases in which operations negatively affect Indigenous Peoples, companies should provide accessible grievance mechanisms and remedies consistent with their legal and ethical obligations. Furthermore, OECD highlighted the importance of understanding local contexts, respecting Indigenous perspectives and embedding such practices into corporate policies and operational frameworks for responsible stakeholder engagement.

41. In 2012, the International Finance Corporation adopted Performance Standards on Environmental and Social Sustainability.<sup>25</sup> Performance standard 7 is entirely dedicated to Indigenous Peoples, emphasizing the importance of respecting their rights, culture and livelihoods when undertaking development projects. It recognizes international frameworks on their rights, including the Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169. The Corporation recognizes that projects affecting Indigenous Peoples must involve a process of informed consultation and participation and that free, prior and informed consent from Indigenous Peoples should be secured. Such projects are carried out where there may be: a significant impact on lands and natural resources subject to traditional ownership or under customary use; relocation from lands and natural resources subject to traditional ownership or under customary use; a significant impact on critical cultural heritage that is essential to the identity and/or cultural, ceremonial or spiritual aspects of places where Indigenous Peoples live, including natural areas with cultural and/or spiritual value such as sacred groves, sacred bodies of water and waterways, sacred trees and sacred rocks; or the use of cultural heritage, including the knowledge, innovations or practices of Indigenous Peoples for commercial purposes. Performance standard 7 also includes guidance on adopting a mitigation hierarchy so that negative impacts on Indigenous Peoples are avoided where possible

<sup>24</sup> See [www.oecd.org/en/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector\\_9789264252462-en.html](http://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector_9789264252462-en.html).

<sup>25</sup> See [www.ifc.org/en/insights-reports/2012/ifc-performance-standards](http://www.ifc.org/en/insights-reports/2012/ifc-performance-standards).

and, when unavoidable, measures must be implemented to minimize, mitigate and compensate for such impacts. Finally, it is indicated in the standard that projects should create opportunities for culturally appropriate benefit-sharing and grievance mechanisms to address and resolve complaints raised by Indigenous Peoples related to project activities.

42. These initiatives have unfortunately fallen short of providing guidance that fully respects the rights of Indigenous Peoples, as they are often elaborated without meaningful, wide-ranging consultations with them. Therefore, Indigenous Peoples' principles and protocols for just transition should be used by all stakeholders, including Governments, local authorities and businesses, in particular in the extractive sector. All those involved in the critical mineral value chain should consider integrating the principles into their initiatives to ensure the highest level of compliance with human rights and Indigenous Peoples' rights, as well as the highest social and environmental standards, to ensure a just transition.

## **VI. Actionable recommendations for key stakeholders**

43. There is an urgent need for an energy transition to ensure a sustainable global energy supply and support the digital economy in the global race to combat climate change. Renewable energy resources can help to address the "clean" energy transition, but also increase the need for critical minerals and extractive activities. Indigenous Peoples welcome and support the actions that various stakeholders involved in energy issues are taking to phase out the fossil fuel-based economy as quickly as possible. All these solutions must be human rights-based and respect all social and environmental rights, including the rights of Indigenous Peoples, in particular their right to self-determination and full respect and implementation of the Declaration on the Rights of Indigenous Peoples.

44. The use of critical minerals is currently considered the main response to the transition from an oil-based to a "clean" energy model. Growing needs for critical minerals lead to the rapid development of extractive activities, including in the lands and territories of Indigenous Peoples. The exploitation of these minerals entails an increasing amount of mining involving considerable human, social and environmental impacts. If these impacts are not addressed, the transition that is being shaped will very likely not be just and fair for Indigenous Peoples. Furthermore, the transition is a false solution for people and for the planet, as non-sustainable extractive activities can lead to significant biodiversity loss while also having an adverse impact on Indigenous Peoples' traditional knowledge, despite the well-established fact that both well-functioning ecosystems and Indigenous Peoples' wisdom and knowledge are critical solutions to address the climate and biodiversity crisis. For the energy transition to be just and equitable and leave no one behind, joint and coordinated action by the key stakeholders described below is urgently needed.

### **A. Member States**

45. States must develop laws and regulations to recognize Indigenous Peoples' rights in accordance with the Declaration on the Rights of Indigenous Peoples in national and local legislation and to mainstream those rights into relevant legislation, including environmental, development and energy policies and programmes.

46. States must develop, in full consultation with Indigenous Peoples, specific legislation on critical minerals at all levels to protect Indigenous Peoples' rights. Such standards should ensure that the rights of Indigenous Peoples are respected, including the right to self-determination, consultation and free, prior and informed consent.

Legislation must guarantee that the free, prior and informed consent of Indigenous Peoples is respected as a condition for undertaking any mining project that affects their lands and territories.

47. States should also create frameworks that address loss and damage for Indigenous Peoples due to renewable energy ventures and should guarantee full and effective mechanisms for benefit-sharing to secure a fair and transparent redistribution of resources and income proceeding from any extractive activities on Indigenous Peoples' lands.

48. States should also implement domestic legislation to guarantee full and effective ecosystem restoration after the extraction of natural resources, in line with the Kunming-Montreal Global Biodiversity Framework. They must ensure that, whenever mining projects are undertaken, there is minimal impact on Indigenous Peoples' lands, territories, resources, livelihoods and cultures.

49. States should take specific measures to avoid any mining project that has an impact on territories inhabited by Indigenous Peoples in voluntary isolation and initial contact and prioritize projects that do not involve the relocation of Indigenous Peoples from their territories. It is recommended that rights-based legal protection, demarcation and formal recognition be extended to areas where such peoples live, including reserves and cross-border transhumance corridors. States should designate adequate funding to protect these initiatives through monitoring and vigilance, control posts, protection agents and the implementation of protection plans. Transhumance corridors should be protected through regional agreements to ensure free movement and protect traditional territories. National policies should adhere to the "no contact principle", prohibit resource concessions and terminate existing exploitation licences in the territories of Indigenous Peoples.<sup>26</sup>

50. States should take measures to foster partnerships with equitable negotiation power between Indigenous Peoples, the State and mining companies, which can promote an approach to avoid any harm to Indigenous Peoples' lands, territories, resources, livelihoods and cultures. Governments and the companies involved must consult Indigenous Peoples to obtain their free, prior and informed consent so that appropriate options can be found to minimize potential risks and compensate for and restore any damage caused.

51. Specific funding should be made available directly for Indigenous Peoples to participate in and take ownership of renewable energy projects and infrastructure. This would enable them to invest in and take ownership of critical mineral projects. State funding and support for critical energy projects should be conditioned on the company complying with the principle of free, prior and informed consent.

52. States and mining companies should ensure that, in addition to a "do no harm" approach, mining projects that have secured free, prior and informed consent also seek to benefit Indigenous Peoples affected by critical mineral projects. This includes a choice by Indigenous Peoples to opt for benefit-sharing from the projects undertaken on their land and territories or affecting their resources, livelihoods and culture.

53. States should develop legislation and take relevant measures to protect Indigenous human, environmental and land rights defenders and halt their criminalization, including those protecting their homelands against "green energy" projects and related infrastructure development.

54. States should ensure that information on the social, environmental and human rights impacts of mining transition minerals is fully accessible and transparent.

<sup>26</sup> Earth Insight, "Threat assessment".

Information on the existence of these minerals found on lands, territories and waters should be freely accessible. Data on conflict and land rights, as well as information addressing production, prices and life cycles, are also needed.

55. States should invest more in climate change action and research to find alternative energy sources that do not rely on mining. Research may involve science and Indigenous Peoples' knowledge and transdisciplinary methods, and the benefits and economic opportunities emerging from such research should be available to Indigenous Peoples.

## **B. Mining companies**

56. Mining companies are responsible for carrying out human rights due diligence and respecting human rights and Indigenous Peoples' rights when undertaking projects. They should take full responsibility and undertake follow-up action for damage, loss of cultural heritage and other adverse impacts of mining activities on Indigenous Peoples' lands, territories and resources.

57. Mining companies should conduct due diligence and apply the mitigation hierarchy for every potential mining project to avoid, minimize, restore and compensate for impacts. This includes conducting meaningful consultation and free, prior and informed consent processes throughout the project cycle and undertaking assessments together with Indigenous Peoples to understand and tackle the environmental, social and cultural impact that a project may have.

58. Obtaining free, prior and informed consent is the responsibility of the mining company, even in countries where Indigenous Peoples' rights have not yet been recognized in national legislation or regulation.

59. Mining companies should take the necessary measures to ensure that they engage only in responsible mining. This includes considering countries that do not have proper legislation as high-risk investment countries and should prioritize working in countries that give companies the security to respect Indigenous Peoples' rights and nature integrity.

60. Mining companies should make sure that their work and the benefits resulting from it actively contribute to the Sustainable Development Goals and biodiversity, climate, desertification and water conservation strategies, including by adopting just transition and long-term resilience approaches. They should transform their business models to prioritize the supply of critical minerals and circularity while transparently reporting and disclosing impact-related information. They should also consider including Indigenous Peoples' representatives in their high-level governance and decision-making processes.

61. Companies must be transparent and have open data on their mining activities to allow responsible business. An independent organization should produce accountability data and involve Indigenous Peoples affected by the project. Sound accountability and transparency will increase the appetite of investors interested in supporting responsible mining.

62. Relevant guidance should be drawn from the Guiding Principles on Business and Human Rights, which emphasize the responsibility of business enterprises to respect internationally recognized human rights. Non-State actors are also obliged to adhere to international human rights law, including the rights of Indigenous Peoples. This encompasses violations arising from activities such as mineral operations conducted without obtaining free, prior and informed consent.

### **C. Renewable energy sector**

63. Private and public ventures and investors working in any sector involved along the value chain of renewable energies, including mining companies working in resource extraction and material processing, component manufacturing, system integration and installation, energy generation and transmission, energy storage, distribution and retail, end-of-life management and recycling, as well as the financing sector supporting mining, must adopt measures to ensure that Indigenous Peoples' rights are respected and that Indigenous Peoples actively participate in the decision-making process of the activities affecting them, as well as in the benefits emerging from those activities.

64. Private and public companies, as well as investors in any sector throughout the value chain of renewable energies, must find innovative ways to adapt their activities to the realities imposed by the multiple crises that humankind is facing. Conducting business as usual through a model focused exclusively on extractive and immediate economic profit is no longer sustainable from an environmental, social or economic point of view at the stage of ecosystem degradation that the planet has reached. The authors join the several calls made to business and finance to consider environmental and social sustainability in their procedures. Measures to be considered in this regard include providing adequate funding, implementing payments for ecosystem services, offering debt relief and redirecting subsidies away from extractive industries.

65. The authors invite those companies and investors to take innovative steps to adopt holistic approaches in all their activities by considering how they will affect the lives and environment of the seven generations to come. Indigenous Peoples' perspectives may be included in such initiatives by integrating the feedback emerging from consultations with Indigenous Peoples or by inviting them to join governing bodies.

### **D. International mining initiatives**

66. International initiatives aimed at guiding mining companies on their action relevant to Indigenous Peoples should actively promote full respect for the rights of Indigenous Peoples, including by incentivizing full respect for the Declaration on the Rights of Indigenous Peoples and relevant international and regional treaties and legislation. Such initiatives must promote companies' responsibility to permanently secure the free, prior and informed consent of Indigenous Peoples as a condition to implementing any prospecting or mining project on Indigenous Peoples' lands and territories. In countries where Indigenous Peoples' rights have not yet been recognized in national legislation or regulations, such initiatives should recall the companies' obligation to secure free, prior and informed consent as part of their due diligence process.

67. Those involved in designing international initiatives aimed at guiding mining companies on their action in relation to Indigenous Peoples such as the Initiative for Responsible Mining Assurance, including the International Council on Mining and Metals, the MAC Mining Group, The Copper Mark and the World Gold Council, must include wide-ranging consultation processes with Indigenous Peoples in all seven sociocultural regions, their representatives, official institutions, organizations and, if appropriate, the United Nations and other international bodies with a mandate related to Indigenous Peoples when developing guidance and making decisions relevant to such peoples.

68. International initiatives aimed at guiding mining companies on action related to Indigenous Peoples should actively integrate Indigenous Peoples' perspectives into

their decision-making bodies. These initiatives must include the organization of wide-ranging consultations with Indigenous Peoples in the seven Indigenous sociocultural regions, as well as the three United Nations mechanisms on Indigenous Peoples (the Permanent Forum, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the rights of Indigenous Peoples) and any relevant Indigenous Peoples caucuses. They should also consider inviting Indigenous Peoples leaders to join their governing bodies.

69. Initiatives involving the “co-management”, “co-jurisdiction”, “joint management” or “cross-jurisdiction” of mining initiatives should respect, be built on and be guided by the principle of free, prior and informed consent and should fully honour the rights of Indigenous Peoples and involve meaningful and ongoing engagement, participation and consultation. Companies should enable these models to demonstrate that Indigenous Peoples’ ownership of projects can create innovative ways of working with them and avoid greenwashing models.

## **E. Indigenous Peoples**

70. Indigenous Peoples in the seven sociocultural regions may follow the guidance provided by the global principles developed at the Indigenous Peoples summit to develop their own local principles and protocols on critical minerals and a just transition. They should develop plans and strategies for action and development based on their right to self-determination and self-development to address challenges related to the current context, contribute constructively to discussions, initiatives and negotiations at all levels and safeguard what they determine to be critical for their survival and well-being.

71. Indigenous Peoples should continue to support global coordination, solidarity and the sharing of knowledge and experiences to inform their collective advocacy for Indigenous Peoples’ solutions among the Indigenous sociocultural regions.

72. Indigenous Peoples’ organizations, allies and solidarity networks should continue to work to protect the rights of Indigenous Peoples in voluntary isolation and initial contact who face particularly dangerous situations in the context of extractive activities and a just transition economy.

73. Indigenous Peoples need to engage in the development of regulations, standards, laws, policies and action concerning the use and extraction of and prospecting for critical minerals at all levels so that their rights, including the right to free, prior and informed consent, are respected, even in cases in which they choose to share the benefits of a project involving the use of critical minerals.

74. Indigenous Peoples should continue to engage with international human rights bodies and national, international and regional mechanisms, including United Nations working groups, treaty bodies and special procedures, to submit urgent complaints to halt rights violations by States and companies’ actions.

## **F. United Nations agencies, convention bodies and other entities**

75. United Nations agencies and convention bodies involved in discussions on critical minerals, “clean” energy or the energy transition and United Nations bodies working closely with the private sector have the responsibility to respect and actively promote the Declaration on the Rights of Indigenous Peoples. They should encourage and guide the recognition of Indigenous Peoples’ rights in all their activities.

76. United Nations entities and treaty bodies should work on promoting compliance with Indigenous Peoples’ rights and the Sustainable Development Goals, in particular those of relevance in the context of an increase in critical mineral mining: Goal 6 on clean water and sanitation, Goal 7 on affordable and clean energy, Goal 8 on decent work and economic growth, Goal 10 on reduced inequalities, Goal 11 on sustainable cities and communities, Goal 12 on responsible consumption and production, Goal 13 on climate action and Goal 15 on life on land.

77. United Nations agencies should also support the production of disaggregated data based on science, Indigenous Peoples’ knowledge and transdisciplinary approaches that help to better understand the impacts that an energy production model based on transition minerals and other “clean” energy initiatives involving Indigenous Peoples’ lands, territories and resources may entail for biodiversity, climate, desertification, water, cultural diversity and human rights.

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