



# Local Communities and Indigenous Peoples Platform

– potential governance arrangements  
under the Paris Agreement



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*Arne Riedel and Ralph Bodle*

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# Foreword

Climate change hits local communities and indigenous peoples. These stakeholders also possess and must further develop capacity to respond both to adaptation and mitigation – sometimes through the same measures. Local communities and indigenous peoples have been recognized as important stakeholders in the climate process for some time, with roots going back to the Rio process in the early 1990s. The "FijiBonn" Conference of the Parties in November 2017 saw a significant step forward in their involvement. This happened through making operational the LCIP Platform decided in Paris in 2015. The rights and participation of indigenous peoples is institutionalized in the Nordic countries, and representatives from Nordic indigenous groups take part both in the global and more local efforts to address climate change.

The overall aim of the *LCIP Platform* is to strengthen the knowledge and capacity of local communities and indigenous peoples, and to facilitate the exchange of experience and sharing of best practices, all in a climate change context and actively promoting the UNFCCC process. However, the practical implementation of the LCIP Platform, including its structure and working methods, still needs to be further clarified and agreed on.

The draft report *Local Communities and Indigenous Peoples Platform – potential governance arrangements under the Paris Agreement* was presented and discussed at an international meeting held in Helsinki in February 2018 (highlights of the meeting are attached as Annex 1) organised by the Nordic Council of Ministers. The informal meeting gathered representatives of indigenous peoples from all over the world contributing to the process of making the LCIP Platform working in practice.

Ecologic Institute, Berlin, carried out this study for NOAK, a working group under the Nordic Council of Ministers. The aim of NOAK is to contribute to an ambitious and effective implementation of the UNFCCC and its Paris Agreement, with a Nordic perspective. To this end, the group prepares studies and reports, conducts meetings, and organizes conferences supporting Nordic and international negotiators in the climate negotiations.

April 2018, Oslo

*Peer Stiansen*

Chair of the Nordic Working Group  
for Global Climate Negotiations (NOAK)



# Executive Summary

The *Local Communities and Indigenous Peoples Platform (LCIP Platform)* was established in 2015, but its operationalization is still ongoing. It could provide an important next step towards a nuanced inclusion of specific non-Party stakeholders in the UNFCCC process.

In the upcoming negotiations, Parties to the Convention, local communities and indigenous peoples *need further exchange on key questions on the platform*, including its governance structure and a timeline for the process.

A decision of COP23 in 2017 clarifies the LCIP Platform's purpose and *functions*, which include:

- Exchange of *knowledge*.
- *Capacity building for engagement*, including the capacities of local communities and indigenous peoples (LCIPs) in the UNFCCC process as well as the capacities of Parties and other relevant stakeholders to engage with the platform and LCIPs.
- Integration of knowledge systems, practices and innovations in *climate change policies and actions*, on the international as well as on the national level.

The *governance structure* of the LCIP Platform can utilize various elements to continue the operationalization of the platform and fulfill these functions. This *toolkit of elements* includes *inter alia* a website (with a range of functions), workshops on international and national levels and a governing body. Parties, local communities and indigenous peoples can use this toolkit to discuss the implementation of the functions more specifically. Overall, a combination of several governance elements is more likely to fulfill the platform's functions sufficiently.

Currently, the COP23 decision only gives a first indication of potential elements including a "*facilitative working group*." Should the Parties decide to establish such a group for the LCIP Platform, its setup and role within the platform could be designed in several ways. One possible option would put together an *expert group* on the international level to advise the UNFCCC process. Another option would set the group up as a *steering committee* for the platform's work to be conducted in international and regional workshops. Also, options *without a group structure* could still be debated, including a *dialogue platform* with co-chairs on the international level.

Important aspects of the operationalization that still need to be decided are the *timeline*, including the question if all governance elements need to be set up at the same time, and a potential *review* of the platform.



# 1. Introduction and background on the LCIP Platform

*Local Communities and Indigenous Peoples (LCIPs)*<sup>1</sup> have been involved in the processes under the United Nations Framework Convention on Climate Change (UNFCCC) since its inception in 1992 in Rio de Janeiro. Already in the UN General Assembly's "Rio Declaration on Environment and Development," LCIPs are specifically highlighted in principle 22 due to their "vital role in environmental management and development because of their knowledge and traditional practices," while states are called upon to enable LCIPs' "effective participation in the achievement of sustainable development."<sup>2</sup>

25 years later, the inclusion of LCIPs in international environmental processes is still a work in progress. The adoption of the Paris Agreement and the Paris Decision<sup>3</sup> in December 2015 has introduced a new element to the international level: a *LCIP Platform*. Since its establishment, it has taken two years to bring the exchange between LCIPs and Parties to a level that allows for a decision on how the platform governance could be set up to perform its necessary functions.

To support the ongoing exchange of LCIPs' representatives with Parties, this *scoping paper* first summarizes developments that led to the current status in the exchange on the platform structure (section 1). Second, the paper elaborates on the regulatory framework for the participation of LCIPs in the climate regime and other regimes (section 2). Third, it describes the "goal posts" for the LCIP Platform: its functions as well as principles for participation by indigenous peoples (section 3). Fourth, it explores what type of governance arrangements are available and which potential options would be consistent with the legal framework while achieving these goals and priorities of LCIPs (section 4).

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<sup>1</sup> In this paper, "LCIPs" is used in various contexts. The abbreviation is meant to include local communities and indigenous peoples as separate groups. It does not imply that they are a single constituency or that there are organizations that represent both groups' interests. If only one of the groups is addressed, the corresponding term is used, e.g. for the principles by indigenous peoples organizations (section 3.2).

<sup>2</sup> UN General Assembly, Report of the United Nations Conference on Environment and Development, Annex I (Rio Declaration on Environment and Development), 12 August 1992, A/CONF.151/26 (Vol. I), online at <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>

<sup>3</sup> Decision 1/CP.21, contained in the Report of COP21, FCCC/CP/2015/10/Add. 1, pp. 2ff., and the Paris Agreement, included in the Annex to the Decision, pp. 21ff., are online at: <https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf>

## 1.1 LCIPs in the Paris Agreement and Paris Decision

The *legal and institutional framework* in which LCIPs operate at the international level depends on the respective regime. Different treaties and institutions have different rules and procedures for how they conduct their work, including participation. The UNFCCC distinguishes only between “Parties” and “observer organization.” While it privileges certain agencies in the admission process, it does not foresee any further differentiation among the different observers’ participation (see for more detail section 2 below).<sup>4</sup> It does not have rules in place on the involvement of any specific group of observer organizations, including LCIPs.

Compared to the UNFCCC, the Paris Agreement and the Paris Decision address the role of non-Party stakeholders and LCIPs more directly in a few provisions.<sup>5</sup> Parties to the *Paris Agreement* acknowledge that climate change is a common concern of humankind. With this in mind, the Parties to the Agreement should – when they are taking action to address climate change – respect, promote and consider their respective obligations *inter alia* on the rights of indigenous peoples and local communities (para. 11 of the Agreement’s Preamble).<sup>6</sup>

The *Paris Decision* elaborates further on non-Party stakeholders. With special regard to LCIPs, the Decision’s preamble includes the agreement to uphold and promote regional and international cooperation in order to mobilize stronger and more ambitious climate action by all Parties and non-Party stakeholders, including *inter alia* local communities and indigenous peoples (para. 15 of the Preamble in the Paris Decision). Throughout the decision text, non-Party stakeholders are mentioned several times, e.g. with roles in the Parties’ efforts to strengthen mitigation and adaptation action (para. 118 of the Paris Decision); with regard to their engagement in the technical examination processes on mitigation and adaptation (para. 119 of the Paris Decision); or with the engagement of high-level champions for initiatives of the Lima-Paris Action Agenda (para. 121 (b) of the Paris Decision).

The Paris Decision also dedicates a specific section V to non-Party stakeholders, naming specifically civil society, the private sector, financial institutions, cities and other subnational authorities. It welcomes and invites the efforts of all non-Party stakeholders in paras. 133 and 134. In addition, the Paris Decision specifically addresses LCIPs in para. 135.

In the first part of the paragraph, the Conference of Parties (COP to the UNFCCC) “*recognizes the need to strengthen knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change.*” This could be read as a set of goals that need to be achieved for and with the LCIPs. This first part alone does not, however, suggest in which way these

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<sup>4</sup> See Art. 7.6 UNFCCC, online at:

[http://unfccc.int/files/essential\\_background/background\\_publications\\_htmlpdf/application/pdf/conveng.pdf](http://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf)

<sup>5</sup> The Paris Agreement as well as the Paris Decision use the terms “local communities and indigenous peoples” always in combination. This paper follows this approach.

<sup>6</sup> The role of indigenous peoples and local knowledge systems is further mentioned in the Agreement’s text regarding the country-driven approach to adaptation measures (Art. 7.5 PA).

goals could be pursued and if the “strengthening” needs to take place within the UNFCCC governance framework. The “strengthening” could also take place at the local or regional level.

The second part of the paragraph “*establishes* a platform for the exchange of experiences and sharing of best practices on mitigation and adaptation in a holistic and integrated manner.” This is the only place that the platform is mentioned in the texts that were agreed in Paris. It ensures the existence of the platform but does not specify what this platform entails or how the goals of “exchange” and “sharing” are to be achieved. The text also does not address the link between both parts of the paragraph, i.e. the role of the platform in the “strengthening” of LCIPs’ “knowledge, technologies, practices and efforts.”

While the Paris Agreement and the Paris Decision mention LCIPs several times, they still leave a lot of room with regard to the important questions of how to include LCIPs better in the international climate regime: How to transfer LCIPs’ expertise to the international level? How to enhance LCIPs’ capabilities to build their expertise at the respective national level?

## 1.2 Discussions at COP22 and in preparation of COP23

At COP22, the first COP after Paris, two Parties requested the Moroccan Presidency to conduct informal consultations on the platform.<sup>7</sup> In these informal consultations, indigenous peoples’ representatives – some being part of their respective national delegations – were involved in the discussions. The result of the informal consultations was a proposal by the COP President that was read out at the COP’s final meeting at COP22 on 18 November 2016.<sup>8</sup> Following this proposal, the COP *inter alia* agreed to adopt an “incremental approach” to developing the LCIP Platform “with a view to ensuring its effective operationalization” (para. 167).

With the aim to follow this incremental approach and to answer some of the questions left open by para. 135 of the Paris Decision, the COP requested the chair of the Subsidiary Body for Scientific and Technological Advice (SBSTA) to initiate the process, which included an *open multi-stakeholder dialogue at SBSTA 46* in May 2017.<sup>9</sup> The dialogue was co-moderated by the SBSTA chair himself and by a representative of indigenous peoples organizations.<sup>10</sup> Ten organizations representing indigenous peoples and local communities took part alongside a wide range of other organizations

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<sup>7</sup> Report of COP22, FCCC/CP/2016/10, 31. January 2017, para. 165, online at: <http://unfccc.int/resource/docs/2016/cop22/eng/10.pdf>

<sup>8</sup> See for the full content of the proposal: Report of COP22, FCCC/CP/2016/10, 31. January 2017, para. 167.

<sup>9</sup> This “Multi-stakeholder dialogue on the operationalization of the local communities and indigenous peoples platform” took place on 16 and 17 May 2017 in Bonn. Its agenda, submissions by Parties and observer organizations as well as videos of the presentations given at the Dialogue are online at: [http://unfccc.int/meetings/unfccc\\_calendar/items/10151.php](http://unfccc.int/meetings/unfccc_calendar/items/10151.php).

<sup>10</sup> The co-moderators were Mr. Carlos Fuller, Belize, and Ms. Grace Balawag, International Indigenous Peoples Forum on Climate Change, IIPFCC.

and a total of 29 Parties. The discussions evolved around the functions and the content of the LCIP Platform as well as on its nature and potential structure.

Three *main interlinked functions of the platform* were identified in the submissions and in the exchange at the dialogue: 1) knowledge, in particular providing a space for documenting and sharing experiences; 2) climate change policies and actions to facilitate the integration of knowledge systems as well as the LCIPs' engagement in relevant climate change related decisions in countries at multiple governance levels; and 3) capacity for engagement, i.e. building LCIPs' capacities to enable their engagement in the UNFCCC process, including the implementation of the Paris Agreement, and other climate change related processes.

The UNFCCC Secretariat prepared a *report on the outcomes of the dialogue and the submissions* by Parties and observers,<sup>11</sup> which was considered under a new agenda item for the LCIP Platform at the SBSTA 47 session in November 2017. Based on the mandate given by the COP at COP22, SBSTA needed to conclude this item at the same session "by forwarding recommendations for operationalization of the platform to COP23."

### 1.3 Negotiations at COP23 and the LCIP Decision

The discussions on the LCIP Platform continued at *COP23* in Bonn in November 2017. Under the new SBSTA agenda item 13, Parties negotiated on the content of a decision that would allow the platform to begin its work and give more detailed information on how the platform should operate. The Parties exchanged in informal consultations and – at the request of the Parties – representatives of indigenous peoples' organizations (IPOs) were present in every meeting, including even "informal informals" among Parties without the co-facilitators or the UNFCCC Secretariat.

During the discussions, a number of key actors described their vision for the operationalization and/or the structure of the LCIP Platform. *Three major proposals by Parties or groups of Parties* included the following key aspects:

- Setting up an open-ended Ad-hoc Working Group under the UNFCCC to steer the process of operationalization of the LCIP Platform with the widest participation of LCIPs possible.
- Inviting LCIPs and Parties for additional annual meetings or multi-stakeholder dialogues to be co-moderated by a LCIPs representative (similarly to the multi-stakeholder dialogue of May 2017).
- A platform structure with several elements, including a small steering group (or chairs) to lead the platform's work, annual meetings to allow for a wider input by stakeholders, and regular reporting back to the UNFCCC process.

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<sup>11</sup> UNFCCC Secretariat, Local Communities and Indigenous People Platform, FCCC/SBSTA/2017/6, online at: <http://unfccc.int/resource/docs/2017/sbsta/eng/o6.pdf>



In the second week of the negotiations, Parties were able to agree on compromise language for the *LCIP decision*.<sup>12</sup> This decision, adopted by COP23, incorporated discussion results from the multi-stakeholder dialogue and adds to the language of the Paris Decision *inter alia* the following details:

- It links the purposes set out by para. 135 and adds “to enhance the engagement” of LCIP in the UNFCCC process” (para. 5).
- It elaborates on the functions that the LCIP Platform aims to deliver: knowledge, capacity for engagement and climate change policies and actions (para. 6 (a)-(c); to be explained below).
- It recommends that processes under the platform “take into account the interests and views of local communities and indigenous peoples as well as the principles” proposed by IPOs, para. 8).
- It decides that a multi-stakeholder workshop on implementing the functions should be the first activity of the platform (para. 9).
- It requests SBSTA to continue its work on the further operationalization of the platform, which would also need to include in its considerations the establishment of a “facilitative working group, which would not be a negotiating body under the Convention, and the modalities for the development of a work plan” (para. 10).

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<sup>12</sup> See for the full content: Decision 2/CP.23, contained in the Report of the Conference of the Parties of COP23, FCCC/CP/2017/11/Add.1, online at: <http://unfccc.int/resource/docs/2017/cop23/eng/11a01.pdf#page=11>



## 2. Current participation of non-Party stakeholders, in particular LCIPs

Stakeholders can participate in various ways in the UNFCCC process and other international regimes. This section aims to give a brief overview on *existing practices within and outside of the UNFCCC* and uses examples linked to the involvement of LCIPs. This lays the foundation for developing a range of options for involving LCIPs in the platform structure and its processes, which the paper explores in the context of the governance elements (see section 4).

In the following, this paper applies a *broad concept of "participation"* that includes a range of possibilities. It focuses on examples where (at least) the opinion of stakeholder groups is invited and considered in a process or in which these groups are able to take part in the actual decision-making process. It does not cover arrangements where groups are informed after a decision has been already taken.

### 2.1 Participation in the UNFCCC process

For the climate regime under the UNFCCC, the *Conference of the Parties (COP)* has the power to regulate the way it works and conducts its business, including its proceedings and thus also the question of who can participate in which way. While the Paris Decision uses the term "non-Party stakeholders" as described above, it is not used by either the UNFCCC text or the Paris Agreement. Both the UNFCCC and the Paris Agreement refer to participants other than the Parties as "observers". This term can include also intergovernmental bodies and states.

In the UNFCCC text, only Art. 7.6 refers to the *participation of stakeholders other than Parties*.<sup>33</sup> Its first sentence allows in a simple form of an institutional link *inter alia* observers to the UN, its specialized agencies and the International Atomic Energy Agency, that are not Party to the Convention, to be represented at COP sessions. The second sentence of Art. 7.6 opens the participation for observers based on their qualifications: anybody, including international or national non-governmental bodies, can be admitted as an observer to a COP if it is "qualified in matters covered by the

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<sup>33</sup> Art. 7.6 UNFCCC reads: "The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not Party to the Convention, may be represented at sessions of the Conference of the Parties as observers. Anybody or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties." See also Art. 16.8 of the Paris Agreement with a parallel wording.

Convention” and meets the formal requirements. These requirements include an expression of the body’s wish to be represented to the UNFCCC secretariat as well as an admittance without an objection by a third of the Parties present.

Both the procedures for observers under the UNFCCC as well as under the Paris Agreement<sup>14</sup> follow a certain set of rules that also provide the basis for the participation by any sub-set of observers, including all non-Party stakeholders and thus also LCIPs. Art. 7.3 of the Convention provides that parties shall develop and adopt their *rules of procedure (RoP)*. However, although the parties did develop such rules, one provision (on majority voting) remained controversial and the COP has never adopted the complete set of the rules of procedure. As a consequence, and in order to be able to work, at every negotiating session since 1995 the COP and its subsidiary bodies have decided to apply the draft rules of procedure (draft RoP)<sup>15</sup> with the exception of the controversial rule.<sup>16</sup> Hence, the draft RoP provide the starting point for considerations on procedural aspects, including the participation of non-Party stakeholders.

Draft Rules 6 and 7 RoP give *limited additional guidance on the level of participation of observers* and mainly exclude the right to vote in sessions of the COP (or *mutatis mutandis* of one of its subsidiary bodies). In addition, those observers qualified in matters of the Convention (linking to the second sentence of Art. 7.6 UNFCCC) may only participate in matters of “direct concern to the body or agency they represent” (draft rule 7.2 RoP).

### 2.1.1 Admission to the process

The UNFCCC Secretariat has developed the *procedures for the implementation of the admission requirements*.<sup>17</sup> For the admission, organizations need to provide a statement of competence in Convention matters, a confirmation of independent juridical personality and a confirmation of non-profit and/or tax-exempt status, for instance in a state member of the United Nations. A list with the organizations that comply with the requirements is then recommended for admission via the Bureau to the COP. Organizations that cannot provide evidence of their independence from government are not considered eligible for admission but can participate as a part of their respective government’s delegation. Once an organization is admitted, it is also invited by the Secretariat for future sessions unless an objection is raised to a particular organization in accordance with the Convention and the draft RoP.<sup>18</sup>

*Admitted observer organizations* to the UNFCCC have formed themselves into loose groups that are acknowledged under the Convention and have their own focal point.

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<sup>14</sup> Art. 16.5 of the Paris Agreement provides that the UNFCCC rules of procedure shall be applied “*mutatis mutandis*”; exceptions may be otherwise decided by consensus by the CMA.

<sup>15</sup> See Conference of the Parties, Report on COP1, FCCC/CP/1995/7, para. 10, online at <http://unfccc.int/resource/docs/cop1/07.pdf>

<sup>16</sup> Draft Rules of Procedure, FCCC/CP/1996/2, online at: <http://unfccc.int/resource/docs/cop2/02.pdf>

<sup>17</sup> See Note by the Secretariat, Promoting effective participation in the Convention process, FCCC/SBI/2004/5, paras. 7ff., online at: <http://unfccc.int/resource/docs/2004/sbi/05.pdf>

<sup>18</sup> Note by the Secretariat, Admission of observers: organizations applying for admission as observers, FCCC/CP/2016/3, para. 2, online at: <http://unfccc.int/resource/docs/2016/cop22/eng/03.pdf>

Currently, a total of 57 organizations are listed under the constituency “indigenous peoples.”<sup>19</sup> The label of this category does not indicate, however, that an organization is necessarily under the leadership of indigenous groups. Consequently, not only indigenous organizations but also some foundations are listed under this category.<sup>20</sup>

It needs to be noted that the regional predominant topics of the *different indigenous groups* lead to different priorities in their respective international agenda. The *International Indigenous Peoples Forum on Climate Change (IIPFCC)* is an association that enables the exchange of indigenous peoples who are attending the UNFCCC negotiation process and serves as a caucus for their interests.<sup>21</sup> The caucus aims to unify the voice of indigenous peoples when engaging in the negotiations. The IIPFCC itself, however, is not an admitted observer organization under the UNFCCC.

With regard to *local communities*, only one consuetudinary territorial management body in a Spanish local community participated in the discussion on the LCIP Platform until the negotiations at COP23. It contributed a submission to the multi-stakeholder dialogue in May 2017, being itself a non-admitted organization.<sup>22</sup> In this context, it is important to keep in mind that the constituency of “local government and municipal authorities” (LGMA) constitutes a network of local and subnational governments. It does not represent “local communities” in the sense of the LCIP Platform.

### 2.1.2 Participation in the process

The participation of an admitted organization in the process is bound to the rules described above. The *draft RoP are being followed in the COP meetings and the meetings of its subsidiary bodies*. These rules do not, however, include the full spectrum of procedural aspects but have been interpreted and complemented by practical consensus. Two examples are the meeting formats during the negotiations and the openness of such meetings.

While the official guidance on participatory elements is limited, the Parties to the Convention have come up with a number of possibilities in practice to engage non-Party stakeholders in the processes. For instance, Parties have created new governance formats of meetings in the past, such as in-session workshops or roundtables that allow for a topical discussion and invite input from Parties and other stakeholders without working on a text (decision or conclusion) for the respective agenda item.

In addition, the *modes of participation for non-Party stakeholders* have increased in numbers through the ongoing practice, including plenary interventions by non-Party stakeholders, side events, briefings with presiding officers and the Executive Secretary as well as the ability to submit views on the UNFCCC website. These possibilities have

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<sup>19</sup> UNFCCC website, Admitted NGO, online at: [http://unfccc.int/parties\\_and\\_observers/ngo/items/9411.php](http://unfccc.int/parties_and_observers/ngo/items/9411.php) (accessed on 29.01.2018).

<sup>20</sup> The UNFCCC list with Admitted NGOs includes *inter alia* also the Ford Foundation and the Fondation Danielle Mitterrand (FL).

<sup>21</sup> See the IIPFCC website, online at: <http://www.iipfcc.org>.

<sup>22</sup> Comunidade do monte veciñal en man común de froxán, Submission of 17.01.2017, online at: [http://unfccc.int/files/parties\\_observers/submissions\\_from\\_observers/application/pdf/790.pdf](http://unfccc.int/files/parties_observers/submissions_from_observers/application/pdf/790.pdf)

been – and are – open to organizations representing local communities or indigenous peoples as well.

With regard to the *participation of IPOs*, the Subsidiary Body for Implementation (SBI) invited Parties in 2004 to consider drawing on the IPOs' expertise "when discussing matters of concern to them" and acknowledged the importance of their "enhanced participation."<sup>23</sup>

Based on a *COP decision on the "attendance of intergovernmental and non-governmental organizations at contact groups,"* the presiding officers of Convention bodies may invite representatives of *inter alia* non-governmental organizations to attend as observers any open-ended contact group established under the Convention.<sup>24</sup> Also, in the context of contact groups, a third of the Parties present at the respective session can object and the presiding officers may close at any time the proceedings to these organizations.

In practice, *informal consultations* have also been open to observers when Parties did not object. The LCIP Platform negotiations at COP23 are a recent example of this practice. Parties asked the Co-facilitators at the first informal consultations to include representatives of IPOs in the room in all meetings. At COP23, Parties invited IPO representatives to participate even in the "informal informal" meetings of Parties, which take place without the Co-facilitators or the UNFCCC Secretariat present. In both cases, IPO participation included the invitation to speak on the floor.

### **2.1.3 Examples of participation of non-Party stakeholders in the UNFCCC process**

All these practices already allow organizations that represent local communities or indigenous peoples and are admitted observers to participate in existing proceedings and agenda items *without the right to vote*. The purpose and functions of the LCIP Platform as well as the implementation of the IPOs' principles, however, might require new modes of participation in the process that go beyond the current possibilities. In the interest of consistency of the UNFCCC regime, new governance models could use or be built upon existing governance structures if they serve similar functions and have been successfully applied in practice.

It is important to note that the *names of formats* trigger certain expectations within the negotiation process. This can include for instance the use of a name for a certain format that is already in use in a different meaning in the context of another international treaty regime. For instance, the term "Ad hoc open-ended Working Group" (inspired by the working group on Art. 8j of the CBD) was understood by some representatives at COP23 to provide a continuous forum to conduct the platform's work (and "be" the platform). However, the group of Parties that suggested this term only

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<sup>23</sup> SBI, Report of SBI20, FCCC/SBI/2004/10, paras. 107 and 108, online at: <http://unfccc.int/resource/docs/2004/sbi/10.pdf>

<sup>24</sup> Decision 18/CP.4, Attendance of intergovernmental and non-governmental organizations at contact groups, FCCC/CP/1998/16/Add. 1, para. 1, online at: <http://unfccc.int/resource/docs/cop4/16a01.pdf>

aimed to task this working group with setting up the process of the platform's operationalization and not to perform its functions.

Regarding the *involvement of IPOs in the UNFCCC process*, the SBI already noted in 2004 that "the secretariat has an office responsible for liaising with observer organizations, including the indigenous peoples organizations....The SBI encouraged the indigenous peoples organizations to make full use of the *existing bodies and the opportunities* currently afforded to them under the Convention."<sup>25</sup>

The UNFCCC process has created a number of *groups and committees* that have already been engaging with non-Party stakeholders, some even including IPOs, in different formats:

- The *Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention (CGE)* supports developing country Parties in meeting their reporting obligations. It includes 24 experts, with 15 members from the three regions of non-Annex I Parties (five each), six members selected from Annex I Parties, and three members from international organizations (UNDP, UNEP and IPCC).<sup>26</sup> In this setup, all experts, including the ones from international organizations, have equal voting rights. The CGE provides technical assistance and support to Parties and provides recommendations "to be considered"<sup>27</sup> in a future revision of guidelines (for the preparation of national communications and biennial update reports from non-Annex I Parties. I also submits an annual progress report to the SBI at its sessions held in conjunction with the COP sessions.
- The *Advisory Board of the Climate Technology Centre and Network (CTCN)* includes – apart from Parties' and other bodies' representatives – three representatives from observer organization constituencies (BINGOs, ENGOs and RINGOs),<sup>28</sup> taking into account balanced regional representation.<sup>29</sup> These non-Party stakeholder representatives, however, do not participate in the meetings of the advisory board with the same powers as Parties' representatives. They are elected for a maximum term of office of one year, are not eligible to be Chair or Vice-Chair, do not count towards the quorum of the Board's decisions and are not counted towards the required consensus.<sup>30</sup> Apart from the members of the Advisory Board, expert observers can be invited by the Advisory Board to attend meetings based on specific agenda needs. The board reserves the right to "decide

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<sup>25</sup> SBI, Report of SBI20, FCCC/SBI/2004/10, para. 106, online at: <http://unfccc.int/resource/docs/2004/sbi/10.pdf>

<sup>26</sup> Referring to the United Nations Development Programme, the United Nations Environment Programme and the Intergovernmental Panel on Climate Change. See UNFCCC, Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention (CGE), Rules of Procedure, 19 October 2016, online at: [https://www.unfccc.int/files/national\\_reports/application/pdf/cge\\_rules\\_of\\_procedure\\_2016.pdf](https://www.unfccc.int/files/national_reports/application/pdf/cge_rules_of_procedure_2016.pdf)

<sup>27</sup> Terms of Reference for the CGE, contained in the Annex to Decision 19/CP.19, FCCC/CP/2013/10/Add.2, online at: <http://unfccc.int/resource/docs/2013/cop19/eng/10a02.pdf#page=8>

<sup>28</sup> Referring to Business and Industry NGOs, Environmental NGOs and Research and independent NGOs.

<sup>29</sup> COP, Report of COP18, FCCC/CP/2012/8/Add.2, Decision 14/CP.18, Annex II para. 1 (g), online at: <http://unfccc.int/resource/docs/2012/cop18/eng/08a02.pdf>

<sup>30</sup> COP, Report of COP19, FCCC/CP/2013/10/Add.3, Decision 25/CP.19, Annex II, paras. 9, 12, 31 und 41, online at: <http://unfccc.int/resource/docs/2013/cop19/eng/10a03.pdf>

on additional procedures for the participation of observer organizations other than those accredited to the UNFCCC.”<sup>31</sup>

- Under the *Warsaw International Mechanism for Loss and Damage, an Executive Committee* was set up “to guide the implementation” of the mechanisms functions. The Executive Committee’s work plan mandated the Committee to establish a technical expert panel or group to help execute the Committee’s work in an advisory role with technical support and guidance. The terms of references of the *Technical Expert Group*<sup>32</sup> allow a maximum of four Party members and up to ten technical experts. These experts are drawn *inter alia* from representatives of UNFCCC constituency groups, which include IPOs. The Technical Expert Group’s mandate is limited to support as it reports back to the Executive Committee.
- The *Technology Executive Committee (TEC)* has set up internal task forces for the support of the implementation of its work plan. These task forces include non-Party stakeholder representatives from BINGOs, ENGOs, and RINGO as well as from Intergovernmental Organizations (e.g. UNEP or the International Renewable Energy Agency, IRENA). The technology mechanism also includes a designated website that includes information on projects, policy recommendations and the negotiation process.<sup>33</sup>
- As a predecessor to the TEC, the *Expert Group on Technology Transfer (EGTT)* included a dialogue with the business community as a regular item on its own agenda<sup>34</sup> and – with a view to building capacities on the local level – prepared a guidebook on the preparation and presentation of proposals under the mechanism.<sup>35</sup>

These examples show that bodies in the UNFCCC process have decided to include non-Party stakeholders in their proceedings *inter alia* as representatives of observer organizations or as individual experts, in advisory as well as in technical functions. In the selected examples, non-Party stakeholders’ participation ranges from equal voting rights and informing the decision-making processes to sharing their experiences and building capacities.

In addition to these examples of groups and committees, there are also *processes under the Convention* that allow non-Party stakeholders to engage in an exchange with Parties without a designated body or committee. Examples are the *Lima work*

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<sup>31</sup> COP, Report of COP19, FCCC/CP/2013/10/Add.3, Decision 25/CP.19, Annex II, paras. 55.

<sup>32</sup> Terms of Reference of a Technical Expert Group, online at:

[http://unfccc.int/files/adaptation/groups\\_committees/loss\\_and\\_damage\\_executive\\_committee/application/pdf/tor\\_technical\\_expert\\_group.pdf](http://unfccc.int/files/adaptation/groups_committees/loss_and_damage_executive_committee/application/pdf/tor_technical_expert_group.pdf)

<sup>33</sup> UNFCCC web-platform for information related to climate technology “TT:CLEAR”, online at:

<http://unfccc.int/ttclear/about>

<sup>34</sup> Note by the Secretariat, Synthesis report on ways to enhance the engagement of observer organizations,

FCCC/SBI/2010/16, para. 41, online at: <http://unfccc.int/resource/docs/2010/sbi/eng/16.pdf>

<sup>35</sup> UNFCCC, Preparing and presenting proposals – A guidebook on preparing technology transfer projects for financing, 2006, online at:

[http://unfccc.int/ttclear/misc/\\_StaticFiles/gnwoerk\\_static/IMS\\_TRM/d13787f49309403eae83523069550ee4/4427da1e8d6b45cb8fc4fc4e097fcc95.pdf](http://unfccc.int/ttclear/misc/_StaticFiles/gnwoerk_static/IMS_TRM/d13787f49309403eae83523069550ee4/4427da1e8d6b45cb8fc4fc4e097fcc95.pdf)



*programme on Gender* that began as a two-year programme and was extended by another three years in 2016,<sup>36</sup> and the *Nairobi Work Programme* on advancing adaptation action through knowledge. These work programmes rely on the existing subsidiary bodies, contact groups and on the UNFCCC Secretariat to develop activities and organize meetings. Non-Party stakeholders are engaged in meetings such as in-session workshops or regional workshops and are invited to submit their views. Under the Nairobi Work Programme, the *Lima Adaptation Knowledge Initiative* (LAKI) is an example for a multi-partner collaboration that also includes subregional coordination entities with multi-stakeholder groups as “core experts” to identify knowledge gaps and response actions to address these gaps.<sup>37</sup> For this, the multi-stakeholder groups also utilize regional workshops.

These examples show that a set of specific tasks can be covered by existing UNFCCC structures and that non-Party stakeholders can be included to share their experiences, even on the regional level. The agenda setting power on the international level remains with the COP and its subsidiary bodies and thus in the confinements of the Party-driven process that follows the draft RoP.

## 2.2 Participation outside the UNFCCC process

Participation of non-Party stakeholders and LCIPs outside of the UNFCCC is subject to the respective regime’s institutional setup and its rules of procedure. However, the LCIP Platform governance could be informed by some of the institutional arrangements, their mandates, their mode of work or their composition.

### 2.2.1 United Nations Permanent Forum on Indigenous Issues (UNPFII)

The *United Nations Permanent Forum on Indigenous Issues (UNPFII)* serves since 2000 as an advisory body to the Economic and Social Council (ECOSOC). It provides expertise and recommendations to UN funds, programmes and agencies via ECOSOC, and aims to raise awareness and promote integration and coordination related to indigenous issues within the UN system.

The Forum consists of 16 members, half of which are nominated by Member governments, with the other half being nominated by IPOs. The President of the Council appoints the members after consultation with the Bureau and the regional group coordinators.

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<sup>36</sup> COP, Report of COP20, FCCC/CP/2015/10/Add.3, Decision 18/CP.20, Lima work programme on gender, online at <http://unfccc.int/resource/docs/2014/cop20/eng/10a03.pdf#page=35>. See for the decision on the continuation and enhancement of the work programme (including the request for SBI to develop a Gender Action Plan) Decision 21/CP.22, Gender and climate change, para. 6, online at:

[http://unfccc.int/files/gender\\_and\\_climate\\_change/application/pdf/pages\\_17-20\\_from\\_10a02.pdf](http://unfccc.int/files/gender_and_climate_change/application/pdf/pages_17-20_from_10a02.pdf)

<sup>37</sup> Closing Knowledge Gaps to Scale Up Adaptation, The Lima Adaptation Knowledge Initiative, Report on the outcomes of Phase 1, pp. 2f. online at:

[http://www4.unfccc.int/sites/NWP/Documents/LAKI%20brochure\\_first%20phase%20outcomes.pdf](http://www4.unfccc.int/sites/NWP/Documents/LAKI%20brochure_first%20phase%20outcomes.pdf)

The UNPFII holds *annual sessions* and works on *six topical areas* – economic and social development, culture, the environment, education, health and human rights – as well as cross cutting topics, such as gender and indigenous women or children and youth. In its first years, the Forum focused on a specific theme but changed its approach later to a bi-annual theme – setting and discussing the theme in the first year and reviewing its implementation in the second year. The annual meetings include a *series of Dialogues*, including with indigenous peoples, Member States, with funds, programmes and specialized UN agencies, as well as thematic discussions. Participation in UNPFII sessions is open to IPOs, NGOs that have a consultative status with ECOSOC as well as to academic institutions. Registered participants may be allowed to make oral presentations and submit reports.

The 17th session in April 2018 consists of open plenary meetings in the first week and bilateral as well as closed meetings of the Forum members in the second week. In the closed meetings, Forum members also meet with indigenous peoples.

The design of the LCIP Platform structure could consider the UNPFII's approach to the agenda setting of its annual meetings. Two consecutive annual meetings could allow to designate and work on a specific thematic area and to follow up on its implementation in the year afterwards.

### **2.2.2 Ad Hoc Open-ended Working Group on Art. 8j of the Convention on Biological Diversity**

The Convention on Biological Diversity (*CBD*) provides a similar institutional setup compared to the UNFCCC but also takes a different approach in some of its procedures, including the participation of non-Party stakeholders.

Its main governing body is the Conference of the Parties (*CBD COP*), which meets every two years and is assisted by two subsidiary bodies – the Subsidiary Body on Scientific, Technical and Technological Advice (*CBD SBSTTA*) and the Subsidiary Body on Implementation (*CBD SBI*). The *CBD* also makes use of ad hoc open-ended Working Groups (*AWGs*) to deal with specific issues. Their mandate is limited in scope and time and they are open to all Parties as well as to observer participation.

The *CBD* has also created an *AWG* on the implementation of Article 8j and related provisions. The provisions in Article 8j require each contracting Party to “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles” that are relevant for the *CBD* purposes, as well as to “promote their wider application with the approval and involvement” of their holders and to “encourage the equitable sharing of the benefits” from their use.

The *AWG* on Art. 8j was set up “to provide advice as a priority on the application and the development of legal and other appropriate forms of protection for *LCIP* knowledge, innovations and practices.”<sup>38</sup> The working group also developed its work programme and provides *inter alia* advice to the *CBD COP* regarding the

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<sup>38</sup> Decision COP IV/9, online at: <https://www.cbd.int/decision/cop/default.shtml?id=7132>

implementation of this Article (and related provisions) and regarding measures to strengthen cooperation at the international level among LCIPs. Its task is also to make proposals “for the strengthening of mechanisms that support such cooperation.” The AWG can report directly to the CBD COP.

The AWG itself distinguishes between Parties and observers. It recognizes the role of LCIPs and calls for their representation in the meetings and the “participation to the widest possible extent in its deliberations in accordance with the rules of procedure.” This does not lead, however, to specific voting rights of LCIPs in the AWG on Art. 8j. Following the CBD RoP,<sup>39</sup> the participation in working groups, and thus also in the AWG, is covered by the section on “subsidiary bodies.” Therefore, decisions are taken by Parties (Rule 26, para. 5 (c)). Observers have the right to participate “without the right to vote in the proceedings” (Rule 6 para. 2).

### 2.2.3 *Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES)*

The *Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES)* is an example of a process that includes LCIPs in a prominent role and has been set up only recently. The platform was established in 2012 and began its work in 2014. It also established a stakeholder engagement strategy in 2015.<sup>40</sup> The first work programme spans five years (2014-2018) and aims to establish the platform’s working modalities and deliverables. This brief overview aims to show the platform’s basic objectives and governance elements with particular relevance for the LCIP Platform.

The IPBES approach and ongoing implementation could inform the LCIP Platform under the UNFCCC e.g. on how a stepwise approach is taken to develop the institutional structure, how multiple components serve the purpose to include local and indigenous knowledge and how a review procedure is put in place that also covers aspects of LCIPs’ participation.

IPBES has several objectives that relate to the exchange of knowledge and capacity building on several levels. Its *objectives* are to:

- Strengthen the capacity and knowledge foundations of the science-policy interface.
- Provide subregional, regional and global assessments for the CBD (similarly to the role of the IPCC in the UNFCCC process).
- Mobilize knowledge.
- Communicate and evaluate the platform’s activities, deliverables and findings.

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<sup>39</sup> Rules of Procedure for Meetings of the Conference of the Parties to the Convention on Biological Diversity, Annex I to CBD Decisions I/1 and V/20, online at: <https://www.cbd.int/doc/legal/cbd-rules-procedure.pdf>

<sup>40</sup> Annex II to Decision IPBES-3/4, Stakeholder engagement strategy (deliverable 4(d)), online at: [https://www.ipbes.net/sites/default/files/downloads/Decision\\_IPBES\\_3\\_4\\_EN\\_o.pdf](https://www.ipbes.net/sites/default/files/downloads/Decision_IPBES_3_4_EN_o.pdf)

The IPBES *structure* includes the Plenary, a Bureau, a multidisciplinary expert panel and a Secretariat. It also uses expert groups and task forces for specific development of products. For instance, the “task force on indigenous and local knowledge” developed “procedures for working with indigenous and local knowledge systems.”<sup>41</sup>

The *task force’s composition* includes two Bureau members, three members of the Multidisciplinary Expert Panel (together covering the five UN regions) and “up to” 20 additional experts on indigenous and local knowledge systems. The selection of experts takes place according to the rules of procedure. Two members of the multidisciplinary expert panel chair the task force; the multidisciplinary expert panel also reviews products of the platform in consultation with the Bureau and forwards them to the Plenary for consideration.

Part of the *task force’s mandate* is to facilitate the input of indigenous and local knowledge into IPBES’ other deliverables, to advise on the establishment of a network of experts and support the establishment of a *participatory mechanism for indigenous and local knowledge systems*. Its activities should draw on existing experience and complement and build upon existing initiatives. Regarding *institutional arrangements* for the participatory mechanism, the task force proposed for instance for 2016 an ad-hoc exchange with the CBD, an information-sharing workshop, information-sharing and awareness-raising activities in key subregions or localities and an on-line consultation of local communities’ and indigenous peoples’ organizations and networks, in conjunction with dialogue workshops.<sup>42</sup>

The general *approach that the task force suggested for IPBES “to recognizing and working with indigenous and local knowledge”* was approved by the Plenary in 2017.<sup>43</sup> It foresees:

- Providing a web-based platform for the engagement of existing networks of LCIPs and relevant experts, also allowing, “new, perhaps self-organizing, networks to develop.”
- A dialogue through consultations.
- Discussion forums.
- Building strategic partnerships.

With a view towards the timeline for the development of the governance elements, IPBES decided to include a process that *reviews*<sup>44</sup> the implementation of the platform’s

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<sup>41</sup> Annex II to Decision IPBES-4/3, Procedures for working with indigenous and local knowledge systems, online at: [https://www.ipbes.net/sites/default/files/downloads/pdf/Decision\\_IPBES\\_4\\_3\\_EN.pdf](https://www.ipbes.net/sites/default/files/downloads/pdf/Decision_IPBES_4_3_EN.pdf)

<sup>42</sup> Note by the Secretariat, Work on indigenous and local knowledge systems (deliverable 1(c)), IPBES/4/7, Section IV, online at: [https://www.ipbes.net/sites/default/files/downloads/IPBES-4-7\\_EN.pdf](https://www.ipbes.net/sites/default/files/downloads/IPBES-4-7_EN.pdf)

<sup>43</sup> Decision IPBES-5/1: Implementation of the first work programme of the Platform, Section III. para. 1 (approval) on p. 1 and Annex II (approach) on pp. 11ff., online at: [https://www.ipbes.net/system/tdf/decision\\_ipbes\\_5\\_1\\_en.pdf?file=1&type=node&id=16016](https://www.ipbes.net/system/tdf/decision_ipbes_5_1_en.pdf?file=1&type=node&id=16016)

<sup>44</sup> Decision IPBES-5/2: Review of the Platform and its Annex: Terms of reference for the review of the Platform at the end of its first work programme, p. 48ff. in: Report on IPBES 5, online at: [https://www.ipbes.net/system/tdf/ipbes-5-15\\_en.pdf?file=1&type=node&id=15537](https://www.ipbes.net/system/tdf/ipbes-5-15_en.pdf?file=1&type=node&id=15537)

functions, the application of its operating principles, as well as the effectiveness of *inter alia* its procedures, its institutional arrangements, and the processes for stakeholder engagement and communication. A preparatory report of an internal review team for the IPBES Plenary in March 2018 reflects that aspects of the work related to recognizing, respecting and adequately addressing indigenous and local knowledge were considered by questionnaire respondents overall as “good” or between “fair” and “good”.<sup>45</sup>

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<sup>45</sup> Review of the Platform: report of the internal review team, IPBES/6/INF/32, 20.12.2017, para. 45, online at: <https://www.ipbes.net/system/tdf/ipbes-6-inf-32.pdf?file=1&type=node&id=16577>



## 3. Key considerations on the LCIP Platform

For this scoping paper, the main aspects to consider for the operationalization and thus also for the LCIP Platform's governance are the functions that the LCIP Decision has specified (para. 6 LCIP Decision). Other important aspects are the principles put forward by the indigenous representatives. The COP recommends that the processes under the platform, including its operationalization take them into account (para. 8 LCIP Decision). Additional considerations include potential further implications of a decision on the LCIP Platform's governance.

### 3.1 Functions of the LCIP Platform

The functions of the LCIP Platform link back to the platform's overall purpose that is set out in para. 5 of the LCIP Decision and have been developed in an incremental approach. The wording in para. 6 of the LCIP Decision is a result of the discussions in particular at the multi-stakeholder dialogue at SB46. Three main interlinked functions were identified in the submissions and in the exchange at the dialogue. The LCIP Decision text builds on the secretariat's report on the dialogue and reflects additions and adjustments that took place in the negotiations. Each of the functions includes a sub-set of aspects that might need different approaches:

- With regard to *knowledge*, the platform should in particular provide a space for the exchange of experiences and best practices. Following the "name" of the function, a focus for these experiences and best practices is put on traditional knowledge, knowledge of indigenous peoples and local knowledge systems. The practices should be "aiming at applying, strengthening, protecting and preserving" this knowledge.  
Beyond this focus, however, the sub-paragraph also includes a thematic link to "technologies, practices and efforts of LCIPs related to addressing and responding to climate change. The aiming at "applying, strengthening, protecting and preserving" also applies here. The text specifies that the platform should take into account the "free, prior and informed consent" of the holders of such knowledge, innovations and practices. This principle is also highlighted (and further elaborated on) in the indigenous caucus' principles below.

- The function of building *capacity for engagement* also includes two sides. The first aims at building LCIPs' capacities to enable their engagement in the UNFCCC process and thus focuses on the international level. As a second aim, the platform should also build capacities of Parties and other relevant stakeholders to engage with the platform and LCIPs. It adds "in the context of the implementation of the Paris Agreement, and other climate change related processes" which could also relate to the capacities on the national or even local level.
- The third function links the platform's potential for the gathering of knowledge to the practical implementation via *climate change policies and actions*. It also shows a twofold approach, including policies and actions on the international as well as the national level. In relation to both levels, the platform should facilitate the integration of knowledge systems, practices and innovations in designing and implementing international and national actions, programmes and policies. This aspect should be supported "in a manner that respects and promotes" the rights and interests of LCIPs. In second sentence, the sub-paragraph adds another aspect that aims at the national level: The platform should facilitate "stronger and more ambitious" *climate action by LCIPs* that could contribute to the achievement of their respective Parties' Nationally Determined Contributions (NDCs).

The descriptions of the functions of the LCIP Platform provide the frame in which activities of the platform can be developed and to which these activities need to be linked back. The description of each function remains rather broad and allows for a range of activities.

Some Parties suggest that the LCIP Platform could use the exchange also to develop "products" with the exchanged and readily available information, e.g. manuals on the use of traditional knowledge, how free, prior and informed consent can be implemented at the UNFCCC level, etc.

As a consequence of the broad wording of the LCIP decision, different aspects of the functions could already be served by existing processes under the Convention and by other institutions. As a principle, the duplication of work should be avoided or minimized to the extent possible. This should not restrain the LCIP Platform in fulfilling its mandate but lead to the consideration of existing processes that work towards the platform's functions and how they could be linked. It is yet to be decided, to which extent the LCIP Platform will focus on providing a hub that links existing resources to the UNFCCC process and to which extent it will provide additional activities:

- The function to *exchange knowledge* and *integrate knowledge systems* has the aim to improve decision-making on climate issues by using co-produced knowledge, which includes knowledge of LCIPs as well as scientific knowledge.<sup>46</sup> In this

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<sup>46</sup> Presentation by Douglas Nakashima, Director a.i., Science Policy and Capacity Building Division, UNESCO, at COP23 side event "Reinforcing the contributions of indigenous and traditional knowledge to the Paris Agreement", starting at Minute 4:37 of the video, online at: <https://www.youtube.com/watch?v=jNGucg-1FkA>



regard, UNESCO's programme on Local and Indigenous Knowledge Systems<sup>47</sup> has conducted work on the questions how to bring together these "knowledges", including organizing conferences,<sup>48</sup> reviewing indigenous knowledge in scientific and grey literature and organizing dialogue workshops that brought together IPCC authors, indigenous knowledge holders and indigenous experts.

- With a link to the *exchange of knowledge* and to the *facilitation of LCIPs' engagement* on the regional level, UNESCO has also piloted community-based observatories in sub-Saharan Africa and the circumpolar Arctic that supported research on the ground as well as the building of networks, including a website with good practice examples and dialogue fora.<sup>49</sup>
- Similarly to the function of *climate change policies and actions*, the Committee for Capacity building, established by para. 71 of the Paris Decision, aims *inter alia* to address gaps and needs, both current and emerging, in implementing capacity-building in developing country Parties. Its work plan includes the identification and collection of good practices, challenges, experiences and lessons learned from work on capacity-building by bodies established under the Convention, and identification of opportunities to strengthen capacity at the national, regional and subnational level. Also, the web-based capacity-building portal that exists since 2012 provides knowledge and links to other data portals and resources.<sup>50</sup>

### 3.2 Principles and suggestions by indigenous peoples organizations

Although brought together in the title of the platform, local communities and indigenous peoples represent a *large variety of interests* and are not a single homogenous group. The LCIP Platform discussions since COP22 have focused on the role of indigenous peoples. This can be attributed to the fact that IPOs were represented in the meetings whereas no designated local communities' representatives took part in the exchanges (with the exception of a local community's submission, see above section 2.1.2).

However, following the LCIP Decision and the discussions on further inclusion in the process, it is to be expected that local communities and their representatives could increasingly engage in the discussions and voice their priorities as well. The discussions on the governance structure of the LCIP Platform would need to accommodate the

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<sup>47</sup> UNESCO, Local and Indigenous Knowledge Systems (LINKS), online at <http://www.unesco.org/new/en/natural-sciences/priority-areas/links/>

<sup>48</sup> E.g. the Conference on "Indigenous knowledge and climate change", 2-3 November 2016, in Marrakesh, <http://www.indigenous2016.org/>; see for previous events: <http://www.unesco.org/new/en/natural-sciences/priority-areas/links/climate-change/events/>

<sup>49</sup> Project "Climate Frontlines", online at: <http://climatefrontlines.org/>; project "Bridging Indigenous and Scientific Knowledge about global change in the Arctic" (BRISK), online at <http://www.arcticbrisk.org/>

<sup>50</sup> UNFCCC website, Capacity-building Portal, online at: [http://unfccc.int/cooperation\\_and\\_support/capacity\\_building/items/7204.php](http://unfccc.int/cooperation_and_support/capacity_building/items/7204.php)

different views of local communities and indigenous peoples. Apart from potentially different priorities on the agenda, the role of local communities could also have an impact on very practical questions, for instance the number of available seats in a group that would need to represent not only the seven indigenous regions but also local communities, or the number of co-moderators in a workshop setting.

### 3.2.1 IIPFCC principles for the participation in the LCIP Platform

The IIPFCC put forward its *principles for the participation of indigenous peoples in the platform* already in previous exchanges and further clarified the wording in the “informal informal” exchange at COP23.

The indigenous caucus calls for:

- Full and effective participation of indigenous peoples.
- Equal status of indigenous peoples and Parties, incl. in leadership roles.
- Self-selection of indigenous peoples representatives in accordance with indigenous peoples’ own procedures.
- Adequate funding from the secretariat and voluntary contributions to enable the functions of the LCIP Platform.

These principles have been included in para. 8 of the LCIP-Decision with *three qualifiers* (emphasis added): In the decision, the COP recommends that the processes under the platform, including its operationalization, take into account, inter alia, these principles. This wording as well as the general outline of the included principles do not prescribe specific governance arrangements for the LCIP Platform.

Indigenous peoples enjoy internationally recognized rights, contained for instance in the *UN Declaration on the Rights of Indigenous Peoples (DRIPS)*,<sup>51</sup> or the *Indigenous and Tribal Peoples Convention* (International Labour Organization, ILO, Convention No. 169).<sup>52</sup> Some Parties to the UNFCCC, however, have abstained from the vote on the Declaration, or not yet ratified the Convention, respectively. Within the UNFCCC framework, the COP had previously “noted” that the UN General Assembly has adopted DRIPS<sup>53</sup> and now “recalls” it in the LCIP Decision. Regardless of the legal quality of the principles put forward by the IIPFCC, the active and meaningful engagement of indigenous peoples in the platform’s activities is key to ensure its usefulness. Thus, the consideration of the indigenous peoples’ principles in the

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<sup>51</sup> UN Declaration on the Rights of Indigenous Peoples, General Assembly resolution 61/295, 2007, online at: [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf). Not

<sup>52</sup> ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries, 1989, online at: [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312314:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312314:NO)

<sup>53</sup> The Cancun Agreements, Decision 1/CP.16, FCCC/CP/2010/7/Add.1, 15.03.2011, Appendix I, Guidance and safeguards for policy approached and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries (...); para. 2 (c), online at: <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

decision-making process on the platform's governance could have an impact on the choice and the design of the potential governance elements.

### First principle

The COP has previously recognized the first principle of *full and effective participation* as a safeguard for indigenous rights for mitigation actions in the forest sector.<sup>54</sup> In the exchange on the LCIP Platform, the principle has also been linked to several other concepts that are recognized in international declarations or treaties. This includes the concept of “free, prior, and informed consent” (*FPIC*) that is included in several DRIPS provisions. DRIPS mentions FPIC particularly in the context of national acts related to acts with impacts on indigenous lands and resources (Articles 10, 28.1, 29.2 and 32.2 DRIPS) as well as on cultural, intellectual, religious and spiritual property (Article 11.2 DRIPS). Generally, States shall also consult and cooperate with the indigenous peoples in order to obtain FPIC “before adopting and implementing legislative or administrative measures that may affect indigenous peoples” (Article 19 DRIPS). The concept is also reiterated in ILO Convention No. 169 (Article 16) with regard to indigenous peoples’ rights to their lands. The full and effective participation also draws a link to the *right of self-determination* for indigenous peoples (Article 3 DRIPS) that is affirmed for all people by the UN Charter (Article 1.2)<sup>55</sup> and by the International Covenant on Civil and Political Rights (ICCPR, Article 1.1).<sup>56</sup> In addition, it touches upon the indigenous peoples’ *right to participate in decision-making in matters affecting their rights* (contained in Article 18 DRIPS) and the *right to maintain, control, protect and develop their cultural heritage* (Article 31.1 DRIPS). A specific link to the UN system provides Article 41 sentence 2 that requires establishing “ways and means of ensuring participation of indigenous peoples on issues affecting them.”

### The second principle

The second principle aims to achieve an *equal status of indigenous representatives with state Parties*. It aims at increasing the effectiveness of indigenous participation in the decisions that affect their rights. Following this understanding, an effective participation would require at least equal standing of Parties and indigenous groups to avoid that decisions are taken out of the hands of indigenous people and that an agenda is set without them.

### The third principle

The third principle of *self-selection of indigenous peoples’ representatives* links to two main international documents. Article 18 DRIPS specifies that the right to participate in decision-making is exercised “through representatives chosen by themselves in accordance with their own procedures as well as to maintain and develop their own indigenous decision-making institutions.” In a similar fashion, Article 6.1 of ILO

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<sup>54</sup> The Cancun Agreements, Decision 1/CP.16, FCCC/CP/2010/7/Add.1, 15.03.2011, Appendix I, para. 2 (d), see above.

<sup>55</sup> United Nations Charter, 26.06.1945, online at: <http://www.un.org/en/sections/un-charter/un-charter-full-text/>.

<sup>56</sup> International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200 (XXI) of 16.12.1966, online at: <http://www.un-documents.net/iccpr.htm>

Convention 169 requires governments to consult with indigenous peoples through *institutions that are representative of indigenous peoples* and that they should control the process by which the representativeness is determined.

#### The fourth principle

The fourth principle of *adequate funding from the Secretariat and voluntary contributions* to fulfill the LCIP Platform's functions links to the implementation of functions: Art. 41, sentence 1 of DRIPS is aimed *inter alia* at UN organs, which shall contribute to the full realization of the UNDRIP provisions "through the mobilization, *inter alia*, of financial cooperation and technical assistance."

#### 3.2.2 Suggestions for the platform structure

The IPOs involved in the LCIP Platform discussions have also put forward their specific *ideas regarding the structure of the platform*. Due to different views and priorities, the organizations contributed with several suggestions in the discussion, of which two major proposals are highlighted.

The IIPFCC caucus submitted its views<sup>57</sup> before the multi-stakeholder dialogue in May 2017 and suggested:

- A permanent advisory/facilitative group, consisting of seven indigenous peoples representatives (from the seven regions), two to four Party representatives (half of which would represent developed countries, the other half developing countries), and the SBSTA chair. This group would *inter alia* develop the platform's work plan, meet twice a year (once during the COP and once intersessionally), provide advice and submit an annual report directly to the COP that would include recommendations to Parties.
- Expert meetings to be convened by the facilitative group to provide ties to the national level practitioners; these meetings would be held on a rotational basis in different regions and annually on the international level, and produce recommendations.
- A division of three people at the UNFCCC Secretariat (with adaptation, mitigation and technology/outreach expertise) to strengthen the capacity on the UNFCCC level and to provide assistance and support to the platform.
- An in-session dialogue at every COP, including a report with policy recommendations from the expert meetings.
- An annual high-level event or thematic day at each COP.

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<sup>57</sup> Submission of the International Indigenous Peoples' Forum on Climate Change (IIPFCC), online at [http://unfccc.int/files/parties\\_observers/submissions\\_from\\_observers/application/pdf/865.pdf](http://unfccc.int/files/parties_observers/submissions_from_observers/application/pdf/865.pdf)

The Indigenous regions of the Arctic, Latin America and the Caribbean and the Pacific described in their submission of March 2017<sup>58</sup> a somewhat different structure of the LCIP Platform with a number of key demands that went in several aspects beyond the IPFCC's demands:

- Indigenous peoples “would have to be bestowed with appropriate consultative and participatory status within UNFCCC.”
- An annual session:
  - made up of Parties and a regional balanced number of indigenous peoples through their own institutions
  - with full, effective, direct and meaningful participation in all activities and stages of implementation
  - providing recommendations, advice and information directly to the UNFCCC COP (through one of the seven indigenous regions)
  - when joint recommendations are needed.
- Indigenous peoples would have seven seats, representing the seven regions, “at the UNFCCC negotiation table amongst the Parties” to have their voice included “in the negotiations and consensus structure” – albeit not having a voting status. The indigenous regions would also have the opportunity to take the floor on the same conditions as State Parties of the UNFCCC.
- Establishing a Secretariat of the LCIP Platform that would support the work and promote awareness within the UNFCCC system, governments and the broader public.

The demands of the different indigenous groups have to be seen in the context of leading up to the first official exchange in the dialogue of May 2017. In the exchange at COP23, indigenous organizations and regions engaged in intense discussions among themselves and with Parties to further develop their positions. The examples provided above, however, express the continued urge to participate in the relevant discussions “at the table” of State Parties, including the ability to take the floor, and also the necessity for indigenous groups to see their representation of all seven regions reflected in the number of participants. At the same time, the demands acknowledge the role of observer organizations under the Draft RoPs having no voting rights in these meetings.

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<sup>58</sup> Joint submission by the Indigenous regions of the Arctic, Latin America and the Caribbean and the Pacific, supported by the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests, and by Coordinadora des las Organizaciones Indigenas de la Cuenca Amazónica (COICA), 30 March 2017, online at: [http://unfccc.int/files/parties\\_observers/submissions\\_from\\_observers/application/pdf/871.pdf](http://unfccc.int/files/parties_observers/submissions_from_observers/application/pdf/871.pdf)

### 3.3 Further considerations

The governance arrangements of the LCIP Platform touch upon a number of sensitive topics for all concerned.

For indigenous peoples' representatives, the LCIP Platform is an overdue *step towards a more inclusive process* that allows their constituencies to contribute better and more effectively to the fight against climate change, and at the same time to improve knowledge exchange and capacity building on the local level to increase the adaptive capabilities of their communities.

For some Parties' representatives, the already complex negotiation process faces challenges with the scope of its agenda and the large number of corresponding interest groups. Previous exchanges on the engagement of observer organizations already took place under the Convention.<sup>59</sup> These Parties might be concerned that starting a new process with the increased level of participation of one special non-Party stakeholder group could "open the door" and set a *precedent for similar demands by other non-Party stakeholder groups*.

The international recognition of indigenous peoples' rights in instruments such as the UN Declaration on the Rights of Indigenous People (UNDRIP) and recalling it in the LCIP Decision could influence the interpretation of para. 135 of the Paris Decision. A possible interpretation could be that LCIPs require better inclusion and thus a preferred treatment compared to other observers in the UNFCCC process. While Parties have the power to create new governance arrangements or modify existing ones, para. 135 provides the basis for a procedural improvement for LCIPs' inclusion. This would not change their status as observers but give them additional possibilities to contribute to the process. It would not set a precedent for other observer organizations.

Other observers, on the other hand, might argue that this para. 135 of the Paris Decision sets an example and that other interest groups such as environmental, business, youth NGOs, and others would have to be recognized with their specific needs as well. However, some non-governmental organizations groups with observer status have already acknowledged the fact that indigenous peoples enjoy internationally recognized rights and that the establishment of the LCIP Platform and the indigenous peoples participation in the UNFCCC process take place "in a manner that is specific only to this constituency."<sup>60</sup> This indicates that these groups accept that the platform only serves the indigenous constituency. The statement could also imply that the platform does not create a precedent for other observer organizations. It does not, however, exclude the possibility to learn from its structure, its processes and its experiences (once in practice), also for the involvement of other stakeholder groups.

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<sup>59</sup> See, for instance, UNFCCC Secretariat, Synthesis report on ways to enhance the engagement of observer organizations, FCCC/SBI/2010/6, 19.10.2010, in particular paras. 40ff. for proposals for new platforms, mechanisms and financial support, online at: <http://unfccc.int/resource/docs/2010/sbi/eng/16.pdf>

<sup>60</sup> UNFCCC Constituencies Joint submission on the Local Communities and Indigenous Peoples Platform, representing Environmental NGOs (ENGOs), Farmers, Trade Unions (TUNGOs), the Women and Gender Constituency (WGC) and the Youth Constituency (YOUNGO), May 2017, p. 2, online at: [http://unfccc.int/files/parties\\_observers/submissions\\_from\\_observers/application/pdf/887.pdf](http://unfccc.int/files/parties_observers/submissions_from_observers/application/pdf/887.pdf)

The following discussion on governance elements of the LCIP Platform thus needs to consider these implications of a more prominent role of LCIPs. Parties might be cautious in order to avoid implications for the future participation of other stakeholders. However, the LCIP Platform process can also be seen as an opportunity for Parties to actively engage in the discussions on non-Party stakeholder involvement in the implementation of the Paris Agreement.

An additional aspect to consider in the setup of the LCIP Platform governance is avoiding *potential for bifurcation*. The Paris Agreement leaves the strict distinction of Parties of the UNFCCC into Annex I and non-Annex I parties behind and redefines differentiation. Although it sometimes distinguishes between developed and developing countries, it emphasizes the recognition of national circumstances that can provide distinct challenges.

The LCIP Platform is described in para. 135 of the Paris Decision to provide an exchange of experiences and sharing of best practices in a holistic and integrated manner. The platform's governance needs to allow this to take place with (potentially) all LCIPs. As an interface for 1) LCIPs among themselves, 2) LCIPs and Parties, as well as 3) Parties among themselves, a bifurcation on either side, LCIPs or Parties, is not helpful in fulfilling the platform's functions. All relevant experiences and best practices that can contribute to the mitigation of and the adaptation to climate change should be included via the platform.

An additional key consideration is – for Parties as well as for LCIPs – the *availability of funding for the work of the LCIP Platform*. This is a crucial element in the further exchange in the negotiations, as it could involve funding for representatives to attend a body's meeting, funding for the organization and the hosting of meetings (at a COP, for instance), as well as funding for the services provided by the UNFCCC Secretariat, and all other elements of the structure and a potential work plan.

However, as important as these considerations are, they are dependent on a prioritization by the Parties and LCIPs that this paper does not provide. With the aim to find a practical solution for the exchange before and in the negotiations on the LCIP Platform, it is suggested to hold the exchange on the availability and the sources of funding in connection with the design of specific governance elements. In the continuing exchange, certain elements could be prioritized with a view to enable the implementation of core functions and – in the course of the operationalization of the platform – make additional elements dependent on additional funding and potentially voluntary contributions.





## 4. Potential governance elements of an LCIP Platform

A set of several governance elements can be utilized to fulfill the functions of the LCIP Platform and to take into account the principles by the IIPFCC (table 1). These governance elements can include *structural arrangements*, such as a work programme or a body (in different variations), but also *modalities of exchange* that allow the work of these structures to be implemented and informed such as a website or meetings/workshops.

The following guiding questions and parameters apply to all potential governance elements for the platform and are useful in deciding on which elements to use:

- Who is exchanging? In the case of no physical meeting: Who is contributing?
- How often does the exchange take place?
- Who decides who is participating?
- Does the element have its own rules for participation?
- Does the element have a guiding element, e.g. a chair, facilitator or moderator?
- Does the element have a mandate for decision-making?
- What are the outcomes of the element? Regarding the outcome: Which role does the COP have in this context? Which role does the Secretariat have?

Parties have wide discretion in choosing, combining and setting up these elements in a wide range of feasible combinations. The benefits of some elements might complement the shortcomings of others.

The *following subsections look into more detail at the structural elements and modalities* in order to assess which elements might be suited to fulfill which functions or principles.

The *considerations take as a basis the LCIP Decision*. It already provides some guidance and provides for at least one a multi-stakeholder workshop as a first activity of the platform. It also requests SBSTA to consider the further operationalization of the platform, “including the establishment of a facilitative working group” (para. 9 LCIP Decision).

**Table 1: Possible elements and features of the LCIP Platform**

Element / Features	Website	Workshop	"Governing body" or "constituted body"	For comparison Negotiating body
Who?	Parties, Observers	Parties, Observers	Parties, Observers	Parties, Observers
How often?	Permanently, regularly or ad-hoc	Optional: Ad-hoc or regularly	Regularly	Regularly
Selection?	Parties and LCIP representatives	Parties and LCIP representatives	Parties and LCIP representatives	Parties and LCIP representatives
Own rules for participation?	Can be set within the mandate	Can be set within the mandate	Can be set within the mandate or self-developed	Optional, to be set by the COP
Guiding elements?	Optional: moderation	(Co-) Moderator(s)	(Co-)Chair(s)	(Co-)Chair(s)
Output (role of the COP/of the Secretariat)?	Database (of best practices); Dialogue Forum	Report to another body or a subsidiary body	Report	Report Consideration by COP
Mandate for forwarding draft decisions to the COP?	No	No	No	Yes

## 4.1 Structural elements

The LCIP Decision text only refers to the “consideration” of the operationalization and mentions the *facilitative working group* (FWG) as an example. Parties and LCIPs are still free to discuss other names or structural elements for making the platform operational. This section argues that the term “facilitative working group” is a good starting point that can include several structural ideas towards fulfilling the platform’s functions.

The term “facilitative working group” was a compromise between the proposal for an ad hoc open-ended working group – aiming to further lead the operationalization of the LCIP Platform – and the concept to create a “facilitative group” that should provide a sort of steering committee to organize and lead the work of the LCIP Platform.

The resulting language leaves room for both interpretations, so that the function of a potential FWG would need to be determined in further negotiations. The two interpretations are not mutually exclusive: The negotiations could set up a body that leads the work within a given mandate, implementing some of the platform’s functions, and also develop the “workplan” for the platform as a part of its further operationalization.

The decision text defines the FWG as “not a negotiating body.” This text was added at the request of a number of Parties in the negotiations. They wanted to clarify that although the term “working group” is part of the name “facilitative working group”, the group is not to be a body in which all Parties negotiate on a specific agenda.

As a potential option, the COP could give the FWG a more specific mandate on how to fulfill the platform’s functions and what kind of outcomes it should be aiming for.

Within this (more specific) mandate, the FWG could then, for instance, have the discretion to define and carry out its work and implement practical activities. It could also – within its mandate – further develop a work plan for the platform.

The design of such a FWG could take several forms, which would be considered a “body” under the UNFCCC:

As a “governing body”, the FWG could be composed by a smaller group of representatives under the Convention. It could include Parties as well as LCIPs, as it could have its own rules of procedure. The structure also could include one or several chair persons.

There is a range of options for designing operational aspects of the governing body. These aspects have implications for how the governing body will be able to fulfill the LCIP Platform’s functions. Examples to consider for the design of such a “governing body” are:

- *Size*: The body’s size depends on the functions of the governing body that it aims to fulfill. It could consist of as few as two people. Other bodies with advisory functions (such as the UNPFII, see section 2.2.1 above) consist of up to 16 members. The LCIP decision mentions the “balanced representation” of LCIPs and Parties (para. 10), which could be linked to the FWG. The size should also take into account the IIPFCC’s aim to see all seven regions represented. For instance, a body of seven Party representatives and seven indigenous representatives (representing the seven regions) could fulfill the regional representation at the same time as the principle of an “equal status.”
- *Competences and outputs*: The body’s competences and outputs span a range of functions that it could fulfill within the LCIP Platform’s structure. Its potential activities also link directly to the modalities of implementation of the platform (see section 4.2 below):
  - An overarching *steering group function* of the body would be, for instance, to elaborate a work plan for the LCIP Platform, including a timeline. More specifically on the modalities of the platform’s implementation, the governing body could decide on the content of a website or on the agenda of a workshop. With a view to a potential review process for the LCIP Platform, the body could prepare the indicators and conduct the review.
  - An *expert group function* of the body, for instance, would allow reaching out to knowledge holders and relevant bodies under the Convention and in other regimes. It could gather input via a website or via workshops on the international or national level. Regarding potential outputs, it could be mandated with the power to prepare a report or recommendations on topics linked to the LCIP Platform’s functions. These reports and/or recommendations could be published on a website, be reviewed and further discussed in workshop settings, but also be presented to other bodies under the Convention, including the subsidiary bodies SBI and SBSTA, the COP or the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA).

*For comparison:* As an “ad hoc open-ended working group,” the FWG would be established by the COP as a subsidiary body under the UNFCCC (Art. 7.2 (i) of the Convention). Such a subsidiary body could provide reports to be reviewed by the COP. It would qualify as a “negotiating body” since all Parties would be represented and its outcome would need to be reviewed by the COP. However, *para. 9 of the LCIP decision excludes a “negotiating body”*. We include this type of body in the following overview only in order to enable a comparison with the other types.

If such a negotiating body were to follow the Convention’s draft RoP – which are also applied by SBI, SBSTA and the Ad-hoc Working Group on the Paris Agreement (APA) – LCIPs could participate only in the same way as other observer organizations without the right to vote (see section 2.1.2 above). Changing the existing RoP could introduce a different standing for LCIPs in all of the subsidiary bodies, but would likely be opposed by a number of Parties.

The main difference in creating a new subsidiary body to fulfill the LCIP Platform’s functions would be the possibility to create its own rules of procedure without the need to change LCIPs’ standing in all other proceedings under the Convention. While legally possible, we consider it to be very unlikely that consensus would be reached even on new rules of procedure that would introduce a different standing for LCIPs just for a specific body. Thus, for the following overview, it is assumed that such a negotiating body would apply the existing UNFCCC draft RoP.

The figure (figure 1) gives a broad overview on the possibilities to fulfill the LCIP Platform’s functions and on how they would reflect of UNFCCC’s principles. The colors indicate the *possibility* to implement the function with this structure (*green*), *limited* (*yellow*), *severely limited* (*orange*) and the *no possibility* (*red*).

Figure 1: Possible structural elements of the LCIP Platform

Element	Governing body		For comparison Ad hoc open-ended working group / negotiating body	
<b>Functions</b>				
Knowledge/information exchange	<b>Possible</b> Dependent on the inclusion of LCIP participants (e.g., as experts) Could set the agenda and organize the knowledge/information sharing		<b>Limited</b> Possible invitation of LCIP representatives as observers Could set the agenda and organize knowledge/information sharing	
Capacity for engagement	<b>For LCIPs:</b>  <b>Possible</b> Dependent on the LCIP's rights to participate)	<b>For Parties/ other stakeholders:</b>  <b>Possible</b> Dependent on the rights to participate	<b>For LCIPs:</b> <b>Very limited</b> Presence at meetings but limited to observer participation	<b>For Parties/ other stakeholders:</b>  <b>Very limited</b> Presence at meetings (for stakeholders limited to observer participation)
Climate change policies and actions	<b>UNFCCC level:</b> <b>Possible</b>	<b>National level:</b> <b>Limited</b> Dependent on the modalities of implementation	<b>UNFCCC level:</b> <b>Possible</b>	<b>National level:</b> <b>Limited</b> Dependent on the modalities of implementation
<b>IIPFCC Principles</b>				
Full participation	<b>Possible</b>		<b>Not possible</b>	
Equal status	<b>Possible</b>		<b>Not possible</b>	
Self-selection	<b>Possible</b>		<b>Possible</b> (for observer organizations)	
Adequate funding and voluntary contributions	<b>Possible</b>		<b>Possible</b>	

Another potential element that does not make use of a “body” structure would be a *work programme* as described above (see section 2.1.3). In this case, the agenda setting and decision-making would be either the task of bodies that operate under the draft RoP, such as the SBSTA, or the task of the UNFCCC Secretariat. In both cases, the full participation and equal status of indigenous peoples would not be possible.

## 4.2 Modalities of implementation

Additional elements to consider for the LCIP Platform governance are the modalities of how the work could be implemented (figure 2). This includes options that would be available for the abovementioned structures. The modalities and their specific design are dependent on the availability and prioritization of funding:

Figure 2: Possible modalities (working methods) of the LCIP platform

Element	Website		Meeting/Workshop on the international level		Meeting/Workshop on the national level	
<b>Functions</b>						
Knowledge/information exchange	<b>Possible</b> Depending on the functions provided (case study database, platform for exchange)		<b>Possible</b> Depending on the chosen agenda and format		<b>Possible</b> Depending on the chosen agenda and format	
Capacity for engagement	For LCIPs: <b>Limited</b>	For Parties / other stakeholders: <b>Limited</b>	For LCIPs: <b>Limited</b>	For Parties / other stakeholders: <b>Limited</b>	For LCIPs: <b>Limited</b>	For Parties / other stakeholders: <b>Limited</b>
Climate change policies and actions	<b>UNFCCC level:</b> <b>Limited</b>	<b>National level:</b> <b>Limited</b>	<b>UNFCCC level:</b> <b>Possible</b>	<b>National level:</b> <b>Limited</b>	<b>UNFCCC level:</b> <b>Limited</b>	<b>National level:</b> <b>Possible</b>
<b>IIPFCC Principles</b>						
Full participation	<b>Possible</b>		<b>Possible</b>		<b>Possible</b>	
Equal status	<b>Possible</b>		<b>Possible</b>		<b>Possible</b>	
Self-selection	<b>N/A</b>		<b>Possible</b>		<b>Possible</b>	
Adequate funding and voluntary contributions	<b>Possible</b>		<b>Possible</b>		<b>Possible</b>	

- *Website*: A dedicated website within the UNFCCC website has often been a starting point in the past and an entry point for issues with a growing focus. A website allows a range of different elements that can serve different functions. For instance:
  - A database that gathers existing case studies on good practices and knowledge and makes them easily accessible and searchable.
  - Enable a direct exchange amongst knowledge holders and between them and participants in the international negotiations.
  - A system for an online consultation on particular topics that could be used to gather specific input for the level of the international negotiations, for instance with a link to a specific agenda item (e.g., adaptation communications).

- *Meeting/Workshop at the international level:* A workshop setting at the UNFCCC level allows for a dialogue between governments and LCIPs, including other relevant observer constituency groups if needed:
  - This would allow representatives of Parties, local communities and indigenous peoples to discuss a specific issue among themselves but also to invite external speakers to inform Parties and/or LCIPs on good practices from other international regimes or national good practices (capacity building at the international level).
  - The workshop could meet on a regular basis, for instance twice a year, annually or biennially and follow a structured agenda that determines the content and the format.
  - It could be co-moderated by Parties, local communities' and indigenous peoples' representatives.
  - In previous submissions on the engagement of observer organizations, a "platform for dialogue" has been suggested with formats such as a round table, a public plenary style debate or a workshop.<sup>61</sup>
  - As a specific variation, such a meeting at the international level could also be organized as a "high-level event" to include high ranking officials from Parties and LCIPs.
- *Meeting/Workshop at the national level:* A local workshop allows bringing the knowledge exchange directly to the knowledge holders:
  - Its topic and agenda could follow regional priorities and allow a focused exchange on them. This format could contribute to the capacity building of LCIPs on the national level.
  - It can be co-moderated by Parties, local communities' and indigenous peoples' representatives.
  - The funding to organize such a regional workshop and to invite participants could be also raised by voluntary contributions. Different Parties could be interested to enable such an exchange in their country.

### 4.3 Governance options of an LCIP Platform (combinations of governance elements)

As the previous subsections show, a single element is unlikely to serve the functions of the LCIP Platform well. A combination of elements, however, could accommodate most of the functions.

This section describes three options (figure 3–5). They cannot cover all possibilities that the elements described above provide, but they show the potential of different

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<sup>61</sup> Section F, para. 40 (a), online at: <http://unfccc.int/resource/docs/2010/sbi/eng/16.pdf>

elements as well as the potential diversity of structures that could serve the platform's functions.

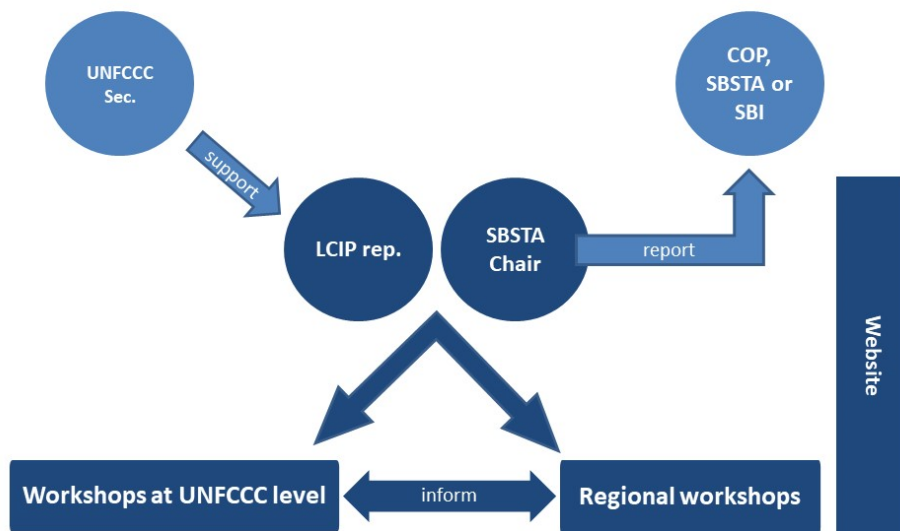
Some of the options presented here mirror the main concepts discussed by Parties and LCIPs representatives at COP23 in Bonn:

- Option 1: *Dialogue Platform* with chair-persons and meetings on the international and national level (plus website).
- Option 2: *Expert group* with regional meetings (plus website).
- Option 3: *Steering Committee* with meetings on the international and regional level (plus website).
- For comparison: An *ad hoc open-ended working group* with regular workshops on the international level (plus website).

The elements that are considered an integral part of the LCIP Platform are colored in a darker blue.

#### 4.3.1 Option 1 – Dialogue Platform

Figure 3: Option 1 – Dialogue Platform



Option 1 (figure 3) shows a conceptualization of a *platform focused on dialogue with a small “footprint” of its governance elements*. Key actors in such a setting would be two chairpersons of the platform, for instance the SBSTA chair and a single LCIPs representative. A variation could be the inclusion of a representative for each, local communities and for indigenous peoples, in addition to the SBSTA Chair. The chairs could – with support from the UNFCCC Secretariat – set the agenda for workshops on the international or regional level. Their input could be compiled into reports by the Secretariat, which would be forwarded to a subsidiary body under the Convention or

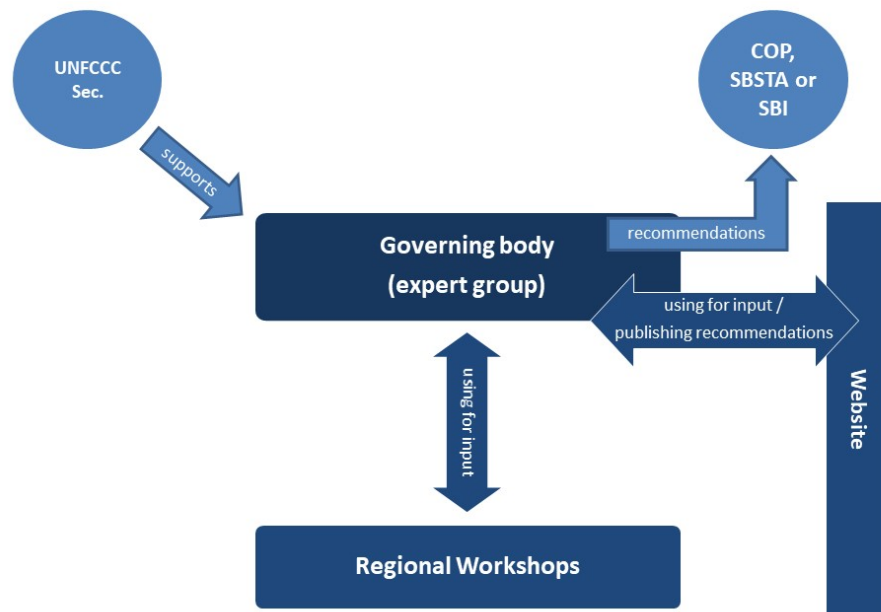


the COP itself. A website would provide additional space for exchange and for the information gathered in the process.

With its workshops on different levels, this option could cover the LCIP Platform’s function with regard to knowledge exchange as well as provide capacity building particularly on the national level. Depending on the agenda setting for the workshops, it could also cover the impact on climate policies and actions. The very limited governing elements would result in the need of intense support by the Secretariat (similarly to a work programme) and limit also the capacity building of LCIPs on the international level due to the minimal representation to some extent.

#### 4.3.2 Option 2 – Governing body with a focus as expert group

Figure 4: Option 2 – Expert Group

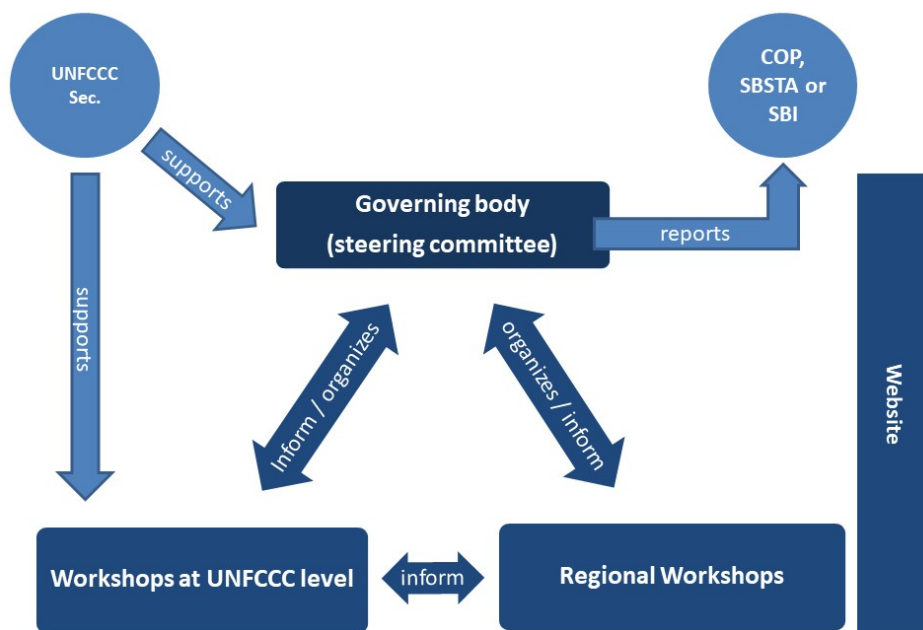


Option 2 (figure 4) shows a governance structure that uses an *expert group as the main actor* of the LCIP Platform’s governance. The expert group would be comprised of LCIPs experts that could be matched by an equal number of Party representatives. The group’s main task would be providing recommendations to a subsidiary body, e.g. SBSTA, or directly to the COP. These recommendations could feed into the process every two or three years, to allow the expert group the influx of sufficient information. Main components for the gathering of information would be a website and workshops. The website could be utilized as a portal to provide information, e.g. on specific calls for submissions, to the expert group. The workshops could be conducted on the regional level to provide a direct link between the knowledge holders and the UNFCCC expert level.

This option could fulfill the LCIP Platform’s function of knowledge exchange reasonably well, depending on the frequency and activity of exchange in the regional workshops and on the website. The expert group itself would provide for the capacity building on the UNFCCC level and could also influence international climate policies with its recommendations. Depending on the size of the group, it could be heavily dependent on the support of the UNFCCC Secretariat.

#### 4.3.3 Option 3 – Governing body with a focus as steering group

Figure 5: Option 3 – Steering Committee



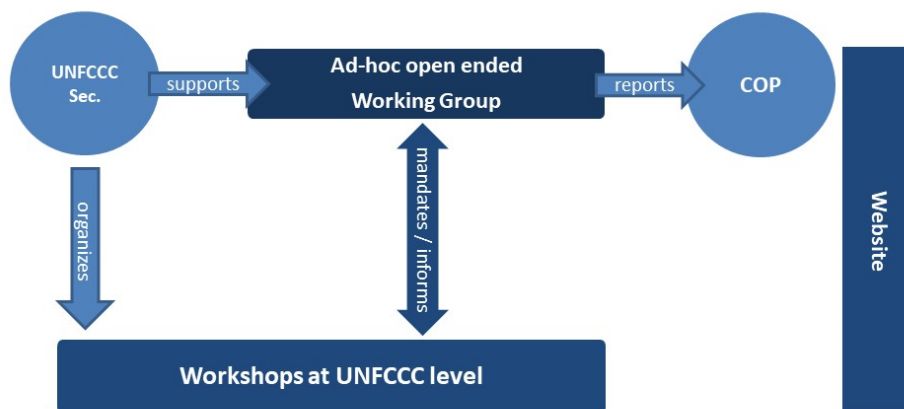
A mix between the first two options, this option (figure 5) would utilize a sort of “steering committee” comprised of LCIPs representatives as well as State Parties that would engage in the agenda setting of the workshops on the international and regional level and also in the further development of a work plan for the platform overall. With the support of the Secretariat, it could prepare summary reports that would be forwarded to a subsidiary body, e.g. SBSTA, or directly to the COP on a regular basis. The frequency should give the steering committee enough time to set the platform priorities within its mandate, implement the work and follow up on progress in the following year.

As a combination of the first two options, this structure could fulfill the LCIP Platform’s function of knowledge exchange with its workshops on the international and regional level. The steering committee itself would provide for the capacity building on the UNFCCC level and could also influence international climate policies with its reports. Depending on the size of the group, it could be heavily dependent on the

support of the UNFCCC Secretariat. In addition, the influence on national policies would depend on the agenda of the regional workshops.

#### 4.3.4 For comparison only – Negotiating body / Ad hoc open-ended working group with a dialogue component

Figure 6: For comparison – Ad hoc open-ended Working Group / Negotiating body



This combination (figure 6) is provided for comparison only and not considered to be a potential outcome of the negotiations for the LCIP Platform. The LCIP Decision specifically excludes the notion of a *negotiating body*. The graphic shows, however, that such a body could include perspectives and enable exchange via workshops (here: on the international level). The necessary support would then need to be provided by the UNFCCC Secretariat. A website would allow to gather the information and to provide additional input for the decisions of the working group. However, the possibilities for capacity building of LCIPs on the international level and of the influence on national climate policies and actions could be somewhat limited.

While this structure could fulfill a major part of the LCIP Platform functions, it would not be similarly suited to fulfill the indigenous peoples' principles, particularly the equal footing with Parties.

#### 4.3.5 Overview of the options

The following overview (figure 7) shows that *most options with several components allow the LCIP Platform's structure to compensate for shortcomings of specific formats* regarding their size or their mandate. The table should provide only a first checklist to facilitate the future discussions by providing a reference frame.

Figure 7: Possible governance options for the LCIP Platform

Options	“Dialogue Platform”		“Expert Group”		“Steering Committee”		For comparison Negotiating Body	
<b>Functions</b>								
Knowledge/ information sharing	Possible		Possible		Possible		Possible	
Capacity for engagement	For LCIPs: <b>Limited</b>	For Parties/ other stakehold- ers: <b>Limited</b>	For LCIPs: <b>Possible</b>	For Parties/ other stakehold- ers: <b>Possible</b>	For LCIPs: <b>Possible</b>	For Parties/ other stakehold- ers: <b>Possible</b>	For LCIPs: <b>Very limited</b>	For Parties/ other stakehold- ers: <b>Very limited</b>
Climate change policies and actions	UNFCCC level: <b>Possible</b>	National level: <b>Possible</b>	UNFCCC level: <b>Possible</b>	National level: <b>Possible</b>	UNFCCC level: <b>Possible</b>	National level: <b>Possible</b>	UNFCCC level: <b>Possible</b>	National level: <b>Very limited</b>
<b>IIPFCC Principles</b>								
Full participation	Possible		Possible		Possible		<b>Not possible</b>	
Equal status	Possible		Possible		Possible		<b>Not possible</b>	
Self-selection	Possible		Possible		Possible		Possible (for observer organizations)	
Adequate funding and voluntary contributions	Possible		Possible		Possible		Possible	

#### 4.4 Further process to set up the LCIP Platform

The LCIP Decision provides a *limited mandate for further negotiations*. The COP requested SBSTA in para. 10 to consider the “further operationalization of the platform” as well as “to conclude its considerations” and make recommendations to COP24 in 2018. This requires Parties to proceed with the negotiations on the structure at the SBSTA48 meeting in April/May 2018.

As long as there is no governance structure established that takes over the operationalization of the LCIP Platform and works towards the fulfillment of its functions, the LCIP Platform development continues to be bound to an expiring mandate. If, for whatever reasons, the mandate is not renewed by COP24 in 2018, there will be no further development of the LCIP Platform.

At the same time, the COP decided in the LCIP Decision to continue to work *towards* the full operationalization of the platform (para. 7, emphasis added). It does not, however, require to fully operationalize the platform already at SBSTA48 and COP24. Thus, when discussing the options for the platform’s governance elements,

Parties and LCIPs should consider if the structure and all of its modalities need to be established at the same time (e.g., in a Decision to be adopted at COP24) or – if not – which elements should be included first and would allow to set up the remaining elements of the platform further down the line.

Based on the outcome of the discussions on the potential governance arrangements of the platform, a main outcome at SBSTA48 and COP24 could be an agreement on the questions if and how a governance structure should be designed to carry out a range of first activities. It could also focus on what these first activities should entail to cover the functions and principles set out above.

In these discussions, Parties and LCIPs should also find consensus towards the following questions:

- *Self-development of the LCIP Platform structure within a confined mandate?*  
In the case that only parts of the platform's governance structure are set up with a decision by COP24, Parties and LCIPs should decide whether the platform needs to be further set up in the negotiation process by Parties (similarly to the discussions that took place at COP22 and at COP23). In this case, the negotiation mandate would need to be renewed by a potential COP24 Decision. However, additional elements of the platform structure and its modalities could instead be developed by the LCIP Platform itself, more specifically by one of its structural elements suggested above. For instance, a potential COP24 Decision could create an LCIP Platform expert group with the mandate and the aim to design and/or organize certain platform activities such as regular (regional) workshops.
- *Review of the LCIP Platform?*  
In the discussions on the governance structure, Parties and LCIPs should keep in mind the possibility to include a clause for review of the platform. This mandate for a review could be set in a way that it would allow not only 1) to recommend improvements in the existing governance structure of the platform but also 2) identify additional elements in its work plan that would enable the platform to fulfill its mandate better.



## 5. Conclusion

The LCIP Platform governance is open to a variety of elements. *This paper provides a toolkit* of these elements that should enable LCIPs and Parties alike to structure their discussions around some key questions: Which function should be implemented with which element? Which elements should be set up first? What might be useful to review and implement later?

The discussion on the functions and the necessary means for their implementation allows selecting and prioritizing the different elements. Even with different political priorities, *the range of options on the table leaves room for a consensus* that reflects the principles of the Rio Declaration, by acknowledging the vital role of LCIPs for the process and by enabling their effective participation in it.





# Sammanfattning

Samarbetsplattformen Local Communities and Indigenous Peoples Platform (LCIP Platform) etablerades 2015, men det praktiska förverkligandet av plattformen pågår fortfarande. Plattformen skulle kunna erbjuda ett viktigt steg i strävandena att inkludera sådana aktörer som inte formellt är parter i UNFCCC-processen att delta i de internationella klimatförhandlingarna. Klimatkonventionens parter, lokala samhällen och ursprungsbefolkningar behöver utbyta åsikter och ståndpunkter om centrala aspekter av samarbetsplattformen, inklusive potentiella förvaltningsstrukturer och en tidtabell för det fortsatta praktiska förverkligande av samarbetet.

Ett beslut vid COP23 (2017) förtydligade ytterligare samarbetsplattformens syfte och funktioner, som omfattar:

- Utbyte av kunskap.
- Kapacitetsfrämjande åtgärder för deltagande, både med avseende på lokala samhällens och ursprungsbefolkningars (LCIPs) möjligheter att delta i UNFCCC-processen, men även gällande övriga intressegruppers (inkl. klimatkonventionens parter) beredskap och förmåga att samverka med LCIPs.
- Integrering av olika kunskapssystem, arbetssätt och innovationer gällande politikåtgärder och det praktiska förverkligandet av klimatkonventionen både på internationell och nationell nivå.

Det finns olika möjligheter att förverkliga samarbetsplattformen i praktiken. Till de olika verksamhetsformer som skulle kunna ingå i plattformen hör t.ex. en webbplats med en mängd olika funktioner, workshops på både internationell och nationell nivå samt någon typ av förvaltningsorgan. Klimatkonventionens parter, lokala samhällen och ursprungsbefolkningar kan genom att delta i dessa verksamheter mera i detalj diskutera hur plattformens funktioner bäst kan genomföras. Generellt torde en kombination av olika verksamhetsformer vara mest ändamålsenlig.

För tillfället, och på basis av besluten vid COP23, finns bara en indikation om vilka typer av förvaltningsstrukturer som kunde ingå i samarbetsplattformen. Om parterna beslutar att förverkliga förslaget att tillsätta en särskild arbetsgrupp ("facilitative working group") för plattformen skulle rollen för en sådan arbetsgrupp kunna definieras på olika sätt. En möjlighet skulle kunna vara att tillsätta en internationell expertgrupp, som skulle ha en rådgivande funktion i förhållande till UNFCCC-processen. En annan möjlighet skulle kunna vara att etablera en styrgrupp, som t.ex. kunde initiera och följa upp samarbetet i form av internationella och regionala workshops. Dessutom skulle även en samarbetsform utan arbetsgrupper kunna övervägas, t.ex. någon typ av dialog – eller samverkansplattform med vice-ordförande på den internationella nivån.

Tidtabellen för det praktiska förverkligandet av plattformen behöver också fastställas, inklusive frågan om alla typer av verksamhetsformer behöver initieras samtidigt. Möjligheterna att utvärdera plattformens verksamhet bör eventuellt också beaktas.

# Annex

Highlights of the meeting of the Informal Friendly States and Indigenous Peoples' representatives in Helsinki, 27-28 February 2018

## **Informal meeting allowing to build momentum for LCIP Platform operationalization**

The aim of the Helsinki workshop was to further advance the operationalization of the Local Communities and Indigenous Peoples (LCIP) Platform of the UNFCCC, by gathering friendly experts and negotiators involved in the Platform negotiations to an informal meeting. The meeting gathered indigenous peoples' representatives from all seven regions of the world, government representatives from six different continents, and representatives from many relevant bodies of the United Nations. After successful negotiations at Bonn/Fiji COP23 in November 2017, there is a strong momentum and political support for creating an effective governance structure and a concrete and impactful work programme for the Platform.

## **Challenges aired and discussed in a constructive manner**

Among other the role of local communities in the Platform was openly discussed, and it was noted that the indigenous peoples' representatives cannot speak on behalf of local communities. However, both groups need to be taken into account in the future negotiations on the Platform. According to the participants, the Platform should strengthen indigenous peoples' connection to and participation in the UNFCCC process, while protecting their rights and principles. The connection and dialogue should be both bottom-up and top-down, and also harness opportunities and responsible stakeholders that can help advance climate action beyond the UNFCCC processes.

## **Potential activities for inclusion into work programme identified and initially compared**

The workshop hosted fruitful group works and plenary discussions on potential key activities and elements for the work programme of the Platform. The group works addressed the work programme through the Platform's three functions, i.e. knowledge, capacity for engagement, as well as climate change policies and actions.

Ideas were presented on e.g. the role and actions of the agreed facilitative working group, possible expert groups and workshops under the Platform, the different types of capacity building needed, the methods for knowledge exchange and on how the Platform can strengthen and recognize the value of indigenous peoples' rights and knowledge.

### **Governance structure options and key elements raised a lively debate**

The draft background report produced by Ecologic Institute served as a basis for a lively debate on governance structure options for the Platform. The role of the facilitative working group, whether it is only a planning body or the actual governing body of the Platform, was one of the key topics discussed. While no final consensus was found on the preferable governance structure options, there was a common understanding that this issue is one of the main discussion points in the next UNFCCC negotiations in May. The background report will be further amended and published in April by the Nordic Council of Ministers (its NOAK working group), and be available to all interested stakeholders.

### **Workshop outcomes and next steps**

The workshop outcomes, including the ideas presented in the group work session, form a useful basis for the next discussions on the topic in SBSTA48 in May this year. The next international workshop of the Platform is expected to be held in conjunction with the May negotiations, for which both government and UNFCCC participants expressed strong expectations to form a decision text for COP 24 in order not to risk losing the momentum at the Katowice negotiations.



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### **Local Communities and Indigenous Peoples Platform**

Local communities and indigenous peoples (LCIPs) have been involved in the implementation of the UN Framework Convention on Climate Change (UNFCCC) since 1992. In 2015, the Conference of the Parties established a new element to strengthen LCIPs efforts to address and respond to climate change – the LCIP Platform. This report develops potential options for making the LCIP Platform operational. A facilitative working group, an expert group or a dialogue platform could enable further exchange of knowledge, promote capacity building and enhance the engagement of local communities and indigenous peoples in the UNFCCC process. Proposals provided in this report were discussed at an informal meeting held in February 2018 in Helsinki, Finland. The international meeting was attended by representatives of experts and negotiators involved in the development of the LCIP Platform.



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