

## Annex 3

**Title:** Cultural Heritage and Indigenous Peoples

**Document Type:** Guidelines

**Process Owners:** Corporate Sustainability      Corporate Social Responsibility  
Project Management      Security

**Purpose:** These guidelines are being issued to provide information on the principles behind the “Cultural Heritage and Indigenous Peoples Policy” and facilitate its full understanding by all leaders and employees of the First Philippine Holdings group of companies.. This offers advice on how the various FPH units can put into practice the Cultural Heritage and Indigenous Peoples Policy in their respective areas of operation in order to meet the policy objective of contributing to the preservation and enrichment of our country’s cultural heritage and diversity. These guidelines are compliant with local laws and are aligned with international conventions entered into by the country.

**Scope :** The policy and these guidelines apply to all units of First Philippine Holdings inclusive of all its subsidiaries where it has management and operational control. They apply to all its employees regardless of rank, consultants, contract personnel, and other co-creators within the company’s administration, regardless of rank or employment. It applies when they are within Company Premises, and when carrying out official business or work-related tasks.

### **Definitions:**

Based on local regulations and international human rights conventions:

**Chance finds-** an accidental discovery of cultural artifacts in areas with previously unknown cultural heritage.

**Cultural heritage"** - refers to the totality of cultural property or resource preserved and developed through time and passed on to posterity.

**Cultural property-** refers to all products of human creativity by which a people and a nation reveal their identity, including churches, mosques and other places of religious worship, schools and natural history specimens and sites, whether public or privately-owned, movable or immovable, and tangible or intangible.

**Customary laws-** consist of customs that are accepted as obligatory rules of conduct or practices and beliefs vital and intrinsic part of the IPs social and economic system

**Indigenous Peoples (IP)** - a group of people who have continuously lived as an organized community on communally defined territory who have claims of ownership, since time immemorial on the territories they occupy. Irrespective of their legal status, they have retained some or all of their own social, economic, cultural, and political institutions apart from the mainstream society.

**Intangible cultural heritage"** - refers to the practices, representations, expressions, knowledge and skills, as well as the instruments, objects and artifacts associated therewith, that communities, groups and individuals recognize as part of their cultural heritage, such as: (1) oral traditions, languages and expressions; (2) performing arts; (3) social practices, rituals and festive events; (4) knowledge and practices concerning nature and the universe; and (5) traditional craftsmanship.

**Sacred site-** refers to a place, object, structure or a natural feature of area held by government of IPs of particular importance in relation with the custom of indigenous cultural community

**Traditional knowledge-** refers to practices and innovations of indigenous communities embodying their traditional lifestyles

### **Legal Mandates:**

#### 1. Cultural Heritage

- Philippine Constitution of 1987 (Art. XIV, Sec. 14-17 on the duty of the State to foster the preservation and enrichment of the Filipino culture)
- Republic Act 10066 of 2009 (National Cultural Heritage Act) and its Implementing Rules and Regulations
- UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage of 2003

## 2. Indigenous Peoples (IP)

- 1987 Philippine Constitution, Article III, Bill of Rights
- Republic Act 8371 of 1997 (Indigenous Peoples Rights Act) and its Implementing Rules and Regulations
- UN Declaration on the Rights of Indigenous Peoples of 2007

## 3. Related Issuances

- Human Rights
  - 1987 Philippine Constitution, Article III, Bill of Rights
  - UN Universal Declaration of Human Rights of 1948
  - UN International Covenant on Civil and Political Rights of 1996
  - International Covenant on Economic, Social and Cultural Rights of 1996
  - International Convention on the Elimination of All Forms of Racial Discrimination of 1969
- Biological Diversity
  - Convention on Biological Diversity of 1992

### **Related Documents:**

- FPH Code of Conduct and Business Ethics
- FPH Human Rights Policy

### **Fundamental Principles:**

The company's "Cultural Heritage and Indigenous Peoples Guidelines" shall adhere to the following principles:

- Protection of cultural integrity

Preserve the tangible and intangible cultural heritage of the Philippines and of the host country (in the case of international projects) pursuant to local laws and international conventions.

- Social justice and human Rights

The fundamental human rights and freedoms of individuals and their roles in the practice of their culture as embodied in national and international conventions shall be upheld and respected.

- Free and Prior Informed Consent (FPIC)

Consent from IPs must be obtained before the implementation of any activity affecting their territories and in the development and use of natural resources therein, as mandated in R.A. 8371 Indigenous People's Rights Act of the Philippines.

## **Guidelines for the Respect for Cultural Heritage and Indigenous Peoples**

### 1.0 Governance on Cultural Heritage and Indigenous Peoples

In contributing to the preservation of the country's cultural heritage, the company will be guided by existing governance instruments consisting of corporate policies, national laws and international conventions signed by the Philippines. The alignment with international norms is important in the light of the expansion of the company beyond Philippine shores. In particular, these issuances are earlier identified under "Legal Mandates".

The other governance instruments in the company that will guide the "Cultural Heritage and IP Guidelines" are listed below:

- The guidelines adhere to the Lopez values, specifically nationalism and social justice.
- The "FPH Code of Conduct and Business Ethics" contains the policy that upholds the preservation of the country's heritage and the respect for IP culture.
- The company's commitments are contained in the "Cultural Heritage and Indigenous Peoples Policy" stated below:

*Affirming the Lopez value on social justice, First Philippine Holdings Corporation recognizes Indigenous Peoples (IPs) as valuable partners in our areas of operation. In the conduct of our business, we uphold their rights to their territories, cultural integrity and self-determination. This is our contribution to the preservation and enrichment of our nation's cultural heritage and diversity.*

- The FPH Board through its Corporate Governance Committee has oversight responsibility in the implementation of corporate sustainability which includes the policy on "Cultural Heritage and Indigenous Peoples".

- The company conducts information education seminars as well as embedding activities on its environmental and social safeguards policies, including cultural heritage and IP for all its officers and employees to ensure compliance with the policy.

## 2.0 Coverage of Cultural Heritage

Cultural heritage is the way of life developed by a distinct community and passed on from generation to generation, including customs, practices, places, objects, artistic expressions and values. These are manifested as tangible and intangible heritage. The guidelines cover the following categories of cultural heritage:

### 2.1 Tangible heritage which is either:

- moveable or immovable objects, property, sites, structures, or groups of structures, having historical, cultural, artistic, and religious values to the country, people or community
- unique natural features or resources with cultural, religious, spiritual or symbolic significance for a nation, people or community associated with that feature such as sacred mountains, forest, trees, landscapes

Tangible cultural heritage includes the elements in the surroundings that can influence the state of the cultural resource or property.

### 2.2 Intangible cultural heritage

An intangible cultural heritage are practices, knowledge and skills as well as objects and artifacts associated therewith, that communities, groups and individuals recognize as part of their cultural heritage, They are in the form of a) oral traditions, languages and expressions; b) performing arts; c) social practices, rituals and festive events; d) knowledge and practices concerning nature and the universe; and e) traditional craftsmanship.

#### 2.2.1 Cultural Diversity

The company promotes cultural diversity in its workplace and respects the cultural diversity of its external stakeholders. Their diverse knowledge and skills help the Company make informed plans and decisions and to effectively manage and implement its projects for culturally-sensitive operations.

### 2.2.2.Indigenous Peoples

An intangible cultural heritage of significance is the IP culture which is also known as a living heritage. Special attention is given to IP given that they are a vulnerability sector. IPs are protected by national laws and international conventions entered by the country. IPs also have direct influence over the projects of the company found in their territories and vicinity or future ones that will be found therein.

The Indigenous Peoples Rights Act (IPRA) of 1997 identifies the four bundles of right of the IP:

- right to ancestral lands and domains
- right to self-governance and empowerment
- right to social justice and human rights
- right to cultural integrity

## 3.0 Respect for Cultural Heritage and Indigenous Peoples in Company Operation

When the company's projects involve cultural heritage areas, objects or practices, the following must be considered:

### 3.1 Project planning

During project preparation and planning, the company must take into account:

- due diligence on the presence or absence of cultural heritage and IP areas and if they are present, cultural heritage must be included in the Environmental and Social Impact Assessment (ESIA) process of the project so that preventive and mitigating measures may be developed
- procedures to undertake in case of "chance finds" or accidental encounter of cultural artifacts

### 3.2 Consultation

To ensure the full understanding of the of situation in the project area and to assure the stakeholders that their views will be incorporated in the project decision and measures, stakeholders who have relationships with the cultural resources under consideration must be consulted.

For cultural matters, the following are the relevant stakeholders (but not limited to) who may need to be consulted:

- affected communities in the project area
- historical or traditional users and owners of cultural heritage
- traditional communities that embody the traditional way of life
- government agencies on archeology and national culture
- local museums, cultural institutes and universities
- concerned civil society and non-governmental organizations

### 3.3 Cultural impact assessment

A cultural impact assessment is the evaluation of the effects of a proposed development on the cultural resources/property and the way of life of a group of people with their participation. Consistent with the holistic approach of FPH and considering the close relationship of culture with people and the environment, the cultural impact assessment can be integrated into a single process under the project's ESIA.

### 3.4 Operational concerns

#### 3.4.1 Tangible Cultural Heritage

Civil works during project development have the potential to adversely affect tangible cultural resources and properties. As in the ESIA principle of mitigation hierarchy, impacts must first be avoided and if they cannot be avoided, measures that can minimize the adverse effects must be adopted. Any measure that will be undertaken must assure the authenticity, integrity and functionality of the cultural resource or property. The transfer of immovable national cultural treasures is prohibited based on the national law.

Notwithstanding the ESIA, cultural impact assessment and consultations, there can be accidental discovery of cultural resources and properties also known as "chance find" which is an unanticipated discovery of cultural artifacts in areas with previously unknown cultural heritage. In this case, procedures must be available in the contracts of service providers to preserve and fully recover these cultural artifacts. The company must implement the following measures:

- temporary suspension of work
- notification of and consultation with relevant authorities
- fencing off the area to avoid disturbance
- assessment by experts
- establishment of a system to keep records for verification
- monitoring of chance find procedures

Based on the law, chance finds must be reported to the National Museum or the National Historical Institute and the local government unit (LGU) with jurisdiction in the area.

### 3.4.2 Intangible Cultural Heritage

The intangible cultural heritage of major significance to the country and the company in its project sites is the culture of IPs in the area. Below must be considered to respect the IP culture and their rights.

#### 3.4.2.1 Free and Prior Informed Consent

In recognition of the rights of IPs to their ancestral domain and self-determination and to respect their culture, a “Free and Prior Informed Consent” (FPIC) must be secured by the company.

FPIC is both a principle and a process that seeks consensus of all members of the indigenous cultural communities which is free from any external interference or coercion and obtained after a proponent fully discloses the intent and scope of the activity in a language and process that are understandable to the community. The FPIC process guarantees that the potential social and environmental effects of any project from the perspective of the IPs will be considered, including their right to approve or reject the project.

The company must secure an FPIC prior to any activity that will be located within ancestral domains. The following are the critical parameters that the company must consider:

- provision of complete and accurate information needed for decision in a manner understood by the IPs
- participative consultation

- freedom of IPs to have their own internal and collective decision-making process
- respect for IP's collective decision and related conditions
- proper and accurate documentation of IP decision

#### 3.4.2.2 Grievance Redress Mechanism (GRM)

The GRM for IP communities are mandated in the Indigenous Peoples Rights Act where IPs have the right to use their own customary laws and justice systems in resolving conflicts and disputes. Issues may be dealt with at the tribal council level. For disputes on IP rights, the National Commission on Indigenous Peoples (NCIP) is the sole authority. This is however conditioned on a prior certification issued by the IP Council of Elders/Leaders. The decision of the NCIP is appealable for review with the Court of Appeals.

Depending on the IP complainant, other existing platforms for redress of grievances or concerns are available. These include but not limited to formal complaints, whistleblower reports, ESIA multi-sectoral monitoring, focus group discussions and assemblies.

The characteristics of a robust GRM as well as the steps to be undertaken in a GRM process that are found in the guidelines for the FPH Human Rights Policy may be considered to enhance the IP resolution process.

#### 3.4.2.3 Monitoring of Respect for IP Rights

Since the respect for IP culture is rights-based, the monitoring procedures contained in the Human Rights Guidelines will apply.

The following information must be gathered to assess the effectiveness of the measures to the cultural impacts:

- existing and potential IP rights risks and impacts and affected stakeholders
- unforeseen impacts experienced and affected stakeholders
- how the policies and management systems are implemented and their results
- recurring grievances and affected stakeholders
- recurring stakeholder feedback and affected stakeholders

- fulfilment of commitments and legal obligations
- lessons learned from the process and improvement of the system