

Appendix 4

The international framework for engagement of indigenous peoples in climate change policy

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The following international instruments¹ have been placed in tables according to topic area. Note, however, that many of the instruments are relevant to several topic areas. Clauses marked * are relevant to indigenous knowledge's.

1 The information in this appendix is a summary of information from various international mechanisms that contribute to the international framework for Indigenous engagement in climate change policy. For further information see the Office of the High Commissioner for Human Rights website. At: <http://www2.ohchr.org/english/law/index.htm#core>. For those mechanisms not available at this site, further information is provided.

1.1 Human rights

Name	Objective	Clauses of particular relevance to indigenous peoples ²	Relevant domestic federal legislation	Clauses of particular relevance
The Universal Declaration of Human Rights	Provides a common standard of achievement for <i>all peoples and nations</i> , to the end that every individual and every organ of society shall strive to promote respect for fundamental rights and freedoms, and to secure their universal and effective recognition and observance.	<ul style="list-style-type: none"> ▪ All articles are relevant to Indigenous people's rights ▪ Art 7: equality before the law ▪ Art 8: right to effective remedy for violations of rights ▪ Art 17: the right to own property individually and in association with others ▪ Art 25: the right to a standard of living adequate to health and well-being ▪ Art 27*: the right to participate in the cultural life of the community. 		

² Note that while the major human rights mechanisms (UNDHR, ICCPR, ICESCR, ICERD) are considered relevant to represent the rights of Indigenous peoples, other mechanisms which address more specific human rights may include specific articles concerning Indigenous Peoples rights. These are reflected throughout the table.

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
International Covenant on Civil and Political Rights	Contributes to the creation of conditions whereby everyone may enjoy their civil and political rights.	<ul style="list-style-type: none"> ▪ All articles are relevant to Indigenous people's rights. ▪ Art 1: self determination and the disposal of natural wealth and resources without prejudice ▪ Art 6: right to life and for that right to be protected by the law ▪ Art 25: to take part in the conduct of public affairs through representatives of choice and to have access to public service on general terms of equality ▪ Art 27: to enjoy their own culture and use their own languages. 		

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
<p>International Covenant on Economic, Social and Cultural Rights</p>	<p>Promotes the creation of conditions whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights, so that the ideal of free human beings enjoying freedom from fear and want may be achieved.</p>	<ul style="list-style-type: none"> ▪ All articles are relevant to Indigenous people's rights. ▪ Art 1: self determination and the disposal of natural wealth and resources without prejudice. ▪ Art 11: the right to a standard of living. ▪ Art 15*: the right to take part in cultural life, to enjoy the benefits of scientific progress and application, and the protection of the moral and material interests resulting from any scientific, literary or artistic production. 		
<p>International Convention on the Elimination of All Forms of Racial Discrimination</p>	<p>Promotes the implementation of the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end.</p>	<ul style="list-style-type: none"> ▪ All articles are relevant to Indigenous people's rights. ▪ Art 1: defines 'racial discrimination' and provides for special measures. ▪ Art 2: State legislation and policy prohibits racial discrimination. ▪ Art 5: outlines the rights which must be protected from racial discrimination. 		

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
<p>Convention on the Rights of the Child</p>	<p>Recognises and protects the rights of children, in recognition of the fact that childhood is entitled to special care and assistance.</p>	<ul style="list-style-type: none"> ▪ All articles are relevant to Indigenous children's' rights. ▪ Art 6: the need to ensure the survival and development of the child. ▪ Art 8: to preserve a child's identity, including nationality, name and family relations as recognized by law without unlawful interference. ▪ Art 20: special State protection and assistance for children who may be temporarily or permanently deprived of his or her family environment. ▪ Art 27: a standard of living adequate for the child's physical, mental, spiritual, moral and social development. ▪ Art 30: to enjoy their own culture, and use their own languages. 		
<p>Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief</p>	<p>Promotes understanding, tolerance and respect relating to freedom of religion and belief, ensures that the use of religion or belief for ends inconsistent with the Charter of the United Nations is inadmissible.</p>	<ul style="list-style-type: none"> ▪ Art 6: to freedom of thought, conscience, religion or belief including to make, acquire and use articles and materials related to the rites or customs of a religion or belief. 		

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
Declaration of the Principles of International Cultural Co-operation ³	Recognises that ignorance of the ways and customs of peoples still presents an obstacle to friendship amongst nations, peaceful co-operation and progress. ⁴	<ul style="list-style-type: none"> ▪ Art 1: to have the value and dignity of culture respected and preserved ▪ Art 6: to respect the distinctive character of each culture. 		
Declaration on the Right to Development	Confirms that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations.	<ul style="list-style-type: none"> ▪ All articles are relevant to indigenous people's development. 		
Convention on the Protection and Promotion of the Diversity of Cultural Expressions ⁵	Protects and promotes the diversity of cultural expressions.	<ul style="list-style-type: none"> ▪ All articles are relevant to indigenous people's rights. 		

3 The Declaration of the Principles of International Cultural Co-operation was proclaimed by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its fourteenth session on 4 November 1966. At: http://www.unhchr.ch/html/menu3/b/n_decl.htm.

4 At: http://www.hreoc.gov.au/social_Justice/nt_report/ntreport00/append5.html.

5 The Convention on the Protection and Promotion of the Diversity of Cultural Expressions was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 3 to 21 October 2005 at its 33rd session. At: http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html.

1.2 Indigenous specific instruments

Name	Objective	Clauses of particular relevance to Indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
Declaration on the Rights of Indigenous Peoples	To proclaim a standard of achievement on the rights of Indigenous Peoples to be pursued in a spirit of partnership and mutual respect.	<ul style="list-style-type: none"> ▪ All of the articles are relevant to the rights of Indigenous peoples. ▪ Art 1-6: the full enjoyment of all human rights, non-discrimination, self-determination and autonomy, maintenance of Indigenous institutions, and the right to a nationality. ▪ Art 7-10: freedom from genocide, forced assimilation or destruction of culture, forced relocation from land, right to integrity and security of the person, and right to belong to an indigenous community or nation. ▪ Art 11–13*: rights to practice and revitalize culture and the transmission of histories, languages etc; and the protection of traditions, sites, ceremonial objects and repatriation of remains. 		

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
		<ul style="list-style-type: none"> ▪ Art 18-24: rights to participation in decision-making, through representative bodies; rights to their own institutions to secure subsistence and development; special measures to be adopted to address indigenous disadvantage and ensure non-discriminatory enjoyment of rights; right to development; and access to traditional health practices and medicines. ▪ Art 25-32*: rights to maintain traditional connections to land and territories; for ownership of such lands and protection of lands by State; establishment of systems to recognize indigenous lands; rights to redress and compensation for lands that have been taken; conservation and protection of the environment and their cultural heritage and traditional knowledge; and the right to determine and develop priorities and strategies for the development or use of the lands or territories and other resources. 		

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
Declaration of Indigenous Peoples on Climate Change ⁶	Promotes the establishment of a United Nations working group on Indigenous Peoples to be present at future climate change conferences, as equal partners in negotiations. To make a statement of claim of the right of indigenous peoples to participate in negotiations.	<ul style="list-style-type: none"> ▪ All articles are relevant to Indigenous peoples and are concerned with the particular challenges of indigenous peoples in addressing climate change. 		
Third International Forum of Indigenous Peoples and Local Communities on Climate Change (Bonn Declaration) ⁷	Denounces the exclusion of indigenous peoples from debates under the UNFCCC and the Kyoto Protocol. Opposes measures to mitigate climate change that are based on a mercantilist and utilitarian vision of the forests, seas, territories and resources of indigenous peoples.	<ul style="list-style-type: none"> ▪ All articles are relevant to indigenous peoples and are concerned with the particular challenges of indigenous peoples in addressing climate change. 		

6 The Declaration of Indigenous Peoples on Climate Change was developed at the Second International Indigenous Forum on Climate Change, at the Hague, 15 November 2000. At: <http://www.austlii.edu.au/journals/AILR/2002/18.html>.

7 The Bonn Declaration Third International Forum of Indigenous Peoples and Local Communities on Climate Change was developed at Bonn, Germany on July 14-15, 2001, for the second session of the sixth Conference of Parties to the United Nations Framework Convention on Climate Change (COP6B), and reaffirms the Alburquerque Declaration, Quito Declaration, the Lyon Declaration of the First International Forum of Indigenous Peoples and Local Communities on Climate Change, and the Hague Declaration of the Second Forum.

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
<p>International Labour Organisation Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries⁸</p>	<p>In light of developments in international law since 1957, as well as developments in the situation of indigenous and tribal peoples in all regions of the world, to set out new international standards in relation to indigenous and tribal peoples, with a view to removing the assimilationist orientation of earlier standards.</p>	<ul style="list-style-type: none"> ▪ All of the articles are relevant to the rights of Indigenous peoples. ▪ Art 13-19: use, ownership and possession of traditional lands and the right to development, resolution of land claims, rights to use, management and conservation of natural resources, including to be consulted with on sub-surface resources and receive compensation for damages, the right to reside on traditional lands, and where relocation is necessary that lands or compensation be provided to them for future development. 		

8 The Indigenous and Tribal Peoples Convention, 1989 (No.169) was adopted on 27 June 1989 by the General Conference of the International Labour Organisation at its seventy-sixth session. The Convention entered into force on 5 September 1991. At: <http://www2.ohchr.org/english/law/indigenous.htm>.

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
Indigenous Peoples' Kyoto Water Declaration ⁹	To declare an indigenous position on the protection of water.	<ul style="list-style-type: none"> ▪ All of the articles are relevant to the rights of Indigenous peoples. ▪ Para 9-14*: right to self-determination and water, including protection of traditional knowledge. ▪ Para 15*: use and protection of traditional knowledge. ▪ Para 16: decision-making, free-prior and informed consent. ▪ Para 27*-28*: inter-generational transferral of knowledge. ▪ Para 32*: the conservation of traditional knowledge and ecosystems in accordance with the CBD. 		

9 The Indigenous and Tribal Peoples Convention, 1989 (No.169) was adopted on 27 June 1989 by the General Conference of the International Labour Organisation at its seventy-sixth session. The Convention entered into force on 5 September 1991. At: <http://www2.ohchr.org/english/law/indigenous.htm>.

1.3 Greenhouse

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
United Nations Framework Convention on Climate Change	Aims to achieve stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.	<ul style="list-style-type: none"> ▪ While the mechanism has particular relevance to addressing climate change, none of articles specifically refer to the rights of Indigenous people. 		
Kyoto Protocol to the United Nations Framework Convention on Climate Change	Aims to put in place measures in pursuit of the objective of the United Nations Framework Convention on Climate Change.	<ul style="list-style-type: none"> ▪ While the mechanism has particular relevance to addressing climate change, none of articles specifically refer to the rights of Indigenous people. 		

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
Vienna Convention for the Protection of the Ozone Layer	Provides for the protection of human health and the environment against adverse effects resulting from modifications of the ozone layer. To encourage the exchange of relevant scientific, technical, socio-economic, commercial and legal information. To cooperate in promoting the development and transfer of technology and knowledge.	<ul style="list-style-type: none"> ▪ None of articles are of particular relevance to Indigenous people. 	Ozone Protection and Synthetic Greenhouse Gas Management Act	
Montreal Protocol on Substances that Deplete the Ozone Layer	Promotes the introduction of control measures in order to affect the objectives of the Vienna Convention for the Protection of the Ozone Layer.	<ul style="list-style-type: none"> ▪ None of articles are of particular relevance to Indigenous people. 	Ozone Protection and Synthetic Greenhouse Gas Management Act	

1.4 Heritage

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
<p>Convention concerning the Protection of the World Cultural and Natural Heritage</p>	<p>Aims to maintain, increase, and diffuse knowledge by assuring the conservation and protection of the world's heritage. To safeguard and preserve the world's cultural and natural heritage. For the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance.</p>	<ul style="list-style-type: none"> ▪ Art 4-6*: identification, protection, conservation, presentation, rehabilitation and transmission to future generations of the cultural and natural heritage. 	<p>Environment Protection and Biodiversity Conservation Act 1999</p> <p>Australian Heritage Council Act 2003</p> <p>Protection of Movable Cultural Heritage Act 1986</p> <p>World Heritage Properties Conservation Act 1983</p> <p>Aboriginal and Torres Strait Islander Heritage Protection Act 1984.</p>	<p>Various. Includes protections of World Heritage property and National Heritage places.</p> <p>Sections 5 and 7</p> <p>Sections 7 and 17</p> <p>Sections 8 and 11</p> <p>All</p>

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
<p>Convention for the Safeguarding of Intangible Cultural Heritage</p>	<p>Safeguards intangible cultural heritage; to ensure respect for the intangible cultural heritage of the communities, groups and individuals concerned; to raise awareness at the local, national and international levels of the importance of the intangible cultural heritage, and of ensuring mutual appreciation thereof; and to provide for international cooperation and assistance.</p>	<ul style="list-style-type: none"> ▪ Art 11-15* :safeguarding intangible cultural heritage at the national level including: <ul style="list-style-type: none"> – oral traditions and expressions including language – knowledge and practices concerning nature and the universe – recognition, respect and enhancement of intangible cultural heritage through education, awareness-raising and capacity-building – the participation of communities, groups and individuals in the creation, maintenance, transmittal and management of intangible cultural heritage. 	<p>Environment Protection and Biodiversity Conservation Act 1999</p> <p>Australian Heritage Council Act 2003</p> <p>Protection of Movable Cultural Heritage Act 1986</p> <p>World Heritage Properties Conservation Act 1983</p> <p>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</p>	<p>Various. Includes protections of World Heritage property and National Heritage places.</p> <p>Sections 5 and 7</p> <p>Sections 7 and 17</p> <p>Sections 8 and 11</p> <p>All</p>

1.5 Environment and sustainable development

Name	Objective	Clauses of particular relevance to Indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
Rio Declaration on Environment and Development	Aims to establish a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people. To work towards international agreements that respects the interests of all and protects the integrity of the global environmental and developmental system.	<ul style="list-style-type: none"> ▪ Principle 22*: recognises the vital role of Indigenous communities' knowledge and traditional practices in environmental management, and the identity, culture and interests of Indigenous peoples to enable their effective participation in the achievement of sustainable development. 	<p>National Environment Protection Council Act 1994</p> <p>National Environment Protection Measures (Implementation) Act 1998</p>	
Agenda 21 ¹⁰	Outlines actions that governments, international organisations, industries and the community can take to achieve sustainability. Aims to alleviate poverty, hunger, sickness and illiteracy worldwide while halting the deterioration of ecosystems which sustain life. Recognises the impacts of human behaviours on the environment and on the sustainability of systems of production.	<ul style="list-style-type: none"> ▪ Chapter 18: the right to enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. 		

10 United Nations Economic and social development, Agenda 21. At: <http://www.environment.gov.au/commitments/uncsd/publications/agenda21/index.html>.

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
United Nations Millennium Declaration	Aims to establish a just and lasting peace all over the world in accordance with the purposes and principles of the Charter of the United Nations. To ensure that globalisation becomes a positive force for all the world's people.	<ul style="list-style-type: none"> ▪ Chapter 26: provides for sustainable development strategies that recognise, accommodate, promote and strengthen the role of indigenous people and their communities, and the protection and management of natural resources recognising the effects that climate change will have on Indigenous peoples. ▪ While the mechanism has particular relevance to addressing human rights issues, none of articles specifically refer to the rights of Indigenous people. 		

1.6 Forests

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
<p>Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forest (Forest Principles)¹¹</p>	<p>Contributes to the management, conservation and sustainable development of forests and to provide for their multiple and complementary functions and uses.</p>	<ul style="list-style-type: none"> ▪ Preamble (c): the recognition of the traditional uses of forests. ▪ Art 2(d): the participation of indigenous peoples in the development, implementation and planning of national forest policies. ▪ Art 5(a): national forest policies that recognise and support for the identity, culture and the rights of indigenous people, and to have an economic stake in forest use, and maintain cultural identity through, inter alia, those land tenure arrangements that promote the sustainable management of forests. 	<p>Environment Protection and Biodiversity Conservation Act 1999</p>	<p>Various. Includes protections of listed threatened species, listed threatened ecological communities, and endangered and endangered communities.</p>

11 United Nations General Assembly, Report of the United Nations Conference on Environment And Development, Rio de Janeiro, 3-14 June 1992, Annex III, Non-Legally Binding Authoritative Statement Of Principles For A Global Consensus On The Management, Conservation and Sustainable Development of all types of Forests. At: <http://www.un.org/documents/ga/conf151/acomf15126-3annex3.htm>.

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
		<ul style="list-style-type: none"> ▪ Art 8(f): national policies and/or legislation aimed at the management, conservation, and sustainable development of forests that include protection of cultural, spiritual and historical values of forests of national importance. ▪ Art 12(d)*: indigenous capacity and local knowledge regarding the conservation and sustainable development of forests should be recognised, respected, recorded, developed and introduced in the implementation of programs, including access to benefits arising from the utilisation of Indigenous knowledge. 		

1.7 Wetlands

Name	Objective	Clauses of particular relevance to Indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat ¹²	Aims to stem the progressive encroachment on and loss of wetlands. To conserve wetlands and their flora and fauna through a combination of far-sighted national policies and co-ordinated international action.	<ul style="list-style-type: none"> ▪ While the mechanism has particular relevance to addressing climate change, none of articles specifically refer to the rights of Indigenous people. 	Environment Protection and Biodiversity Conservation Act 1999	Various. Includes protections of declared Ramsar wetlands.

12 Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention). At: http://www.ramsar.org/key_conv_e.htm.

1.8 Biodiversity

Name	Objective	Clauses of particular relevance to indigenous peoples	Relevant domestic federal legislation	Clauses of particular relevance
Convention on Biological Diversity	Promotes the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.	<ul style="list-style-type: none"> ▪ Art 8(j)*: respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity and promote their application with the approval and involvement of the holders of such knowledge, innovations and practices; encourage the equitable sharing of the benefits arising from the utilization of such knowledge innovations and practices. ▪ Art10(c): protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements. 	Environment Protection and Biodiversity Conservation Act 1999	Various. Includes protections of listed threatened species, listed threatened ecological communities, endangered communities, and listed migratory species.