

Joint Response from a Number of Civil Society Organizations on the Draft Environmental and Social Management System (ESMS) of the Green Climate Fund

The Green Climate Fund (GCF) Governing Instrument requires the Board to adopt environmental and social safeguards that will apply to all of its lending.¹ As such, in Decision B.07/02, the GCF Board asked the Secretariat to create an Environmental and Social Management System (ESMS). In developing this ESMS, the GCF has the opportunity to learn lessons from decades of experience. Having a robust ESMS can help ensure that GCF-funded projects and programmes not only do not harm people and the environment, but also actively promote positive sustainable development through adaptation and mitigation activities. A best practice ESMS for the GCF is necessary to support the transformational paradigm shift in developing countries that the GCF seeks to promote.

A number of civil society organizations actively engaged in GCF proceedings² has elaborated the following joint response following the GCF Secretariat's request for public inputs on the GCF ESMS, including a draft Environmental and Social Policy (ESP). The comments try to respond to the GCF Secretariat's request for specific inputs as well as present overarching concerns on the ESMS. Additionally, we have provided specific textual edits and suggestions on the draft ESP itself in the attached Annex.

a) Scope and Principles - Adequacy of coverage and guiding principles of the policy

The draft ESP provides significant coverage on a range of aspects in terms of both application and details on certain specific environmental and social issues. In some parts, the draft ESP is too vague and discretionary, and this should be addressed in the final version. For example, in various places when dealing with managing environmental and social risks the draft ESP states that issues will be addressed, but fails to specify how and when or how to assess them, and in particular what the risks to assess are. The following section presents a discussion on the adequacy of both the scope and the principles.

1. Scope of Coverage

We are concerned that the current draft ESMS only contains the overarching Environmental and Social Policy (ESP), but does not detail the GCF's own Environmental and Social Standards (ESSs). Currently, the GCF is using the IFC Performance Standards as the interim ESSs. However, as mentioned in the draft policy these should be replaced by the GCF's own ESSs. The IFC Performance Standards, which were designed for a different institution and have themselves been long-criticized for a plethora of shortcomings,³ are not adequate for long-term use by the GCF and should be replaced with the GCF's own ESSs in a timely manner. It is difficult to fully understand and comment on the draft ESMS without also having the ability to comment on the ESSs that the GCF is developing for

¹ Governing Instrument for the Green Climate Fund, doc. FCCC/CP/2011/9/Add.1, paras.18(e), 65 (2011), available at <http://unfccc.int/resource/docs/2011/cop17/eng/09a01.pdf>.

² A number of civil society organizations provided inputs on this draft and additional civil society organizations signed on in support of the draft. They are listed at the end of this submission.

³ While the IFC Performance Standards have some positive aspects, they have numerous shortcomings. We highlight some of the shortcomings in this document, for example related to FPIC. Additionally, the IFC Performance Standards are weak in a number of areas, including but not limited to, allowing for client self-reporting, financial intermediaries, human rights, land and resource rights, and allowing for projects and programmes that will impact critical habitat. This is by no means a comprehensive list, but helps illuminate why the IFC Performance Standards are inappropriate for permanent use by the GCF.

itself, as the ESSs should further elaborate the standards related to labor, biodiversity, and human rights protections, among other things.

The ESMS should include a description of the process for creating the GCF's own safeguards, which were supposed to be designed within three years of the Fund becoming operational.⁴ However, two years have passed since then and no process has been designed yet. We encourage the GCF to progress speedily on developing its own ESSs to avoid the IFC Performance Standards becoming the de facto permanent GCF ESS. The GCF's own ESSs should be developed through a fully participatory, gender-responsive, and comprehensive public consultation process within an adequate timeframe that allows for several review and improvement phases. GCF safeguards must be "harmonized upwards" with the highest protections internationally, with due consideration given to both UN institutions and multilateral development banks. GCF safeguards must not continue to be weaker than the most robust safeguards of other financial institutions⁵ and UN agencies.⁶ Given that

⁴ Decision B.07/02, paragraph (d): the Board also decided that the process of developing the GCF own ESS standards, which would build on evolving best practices, should be completed within three years of the GCF becoming operational, and with inclusive multi-stakeholder participation.

⁵ For example, the GCF must not have weaker requirements than the following ADB requirements:

- * The ADB maintains responsibility for conducting due diligence, project categorization and oversight;
- * The ADB supports the strengthening and use of Country Systems for ADB projects, with a **mandatory, clear and extensive review system** to determine the equivalency of Country Systems with ADB safeguards, prior to ADB agreement for their use. ADB **requires public input** into ADB determination of CSS equivalence, **bans the use of borrower systems for "highly complex and sensitive projects,"** underscores ADB responsibility for due diligence, and provides detailed requirements. (Note: World Bank also has detailed CSS Equivalency Requirements – See OP 4.00, especially 6-page Table A1 describing required CSS assessment methodology.)
- * The requirement that environmental assessments be conducted for **all components of all projects, regardless of funding sources**;
- * The requirement that the Bank conducts due diligence and ensures **client compliance** with environmental and social requirements;
- * A suite of relatively detailed rules for **Financial Intermediaries**, necessitating ADB management approval of category A subprojects, and full application of ADB safeguards, **including information disclosure and consultation**;
- * Relatively detailed **gender-sensitive requirements**.
- * Relatively robust definition of "**meaningful consultation**" procedures, with materials and consultations to be provided "**in a form and language(s) understandable to affected people** and other stakeholders. For illiterate people, other suitable communication methods will be used."
- * The ADB's **Prohibited Activities List** clearly states that "The following do not qualify for Asian Development Bank financing", including "production of or trade in radioactive materials, including **nuclear reactors** and components thereof;" and "production or activities involving harmful or exploitative forms of forced labor or child labor."
- ⁶ Similarly, the GCF should not have weaker standards than other institutions, including the UN agencies. For example, UNDP's Social and Environmental Standards (2014) have several positive aspects, including those related to human rights and Indigenous Peoples. For example:
 - * UNDP will not support activities that do not comply with national law and obligations under international law, whichever is the higher standard (para. 3 of the Overarching Policies and Principles section).
 - * When there are multiple partners providing resources for a project, in assessing the project "UNDP reviews the entire Programme or Project for consistency with the requirements of the SES." (para. 9 of the Overarching Policies and Principles section)
 - * UNDP ensures both the promotion and protection of human rights, as well as inclusion and non-discrimination. "UNDP shall both refrain from providing support for activities that may contribute to violations of a State's human rights obligations and the core international human rights treaties, and seek to support the protection and fulfillment of human rights" (para. 14 of the Overarching Policies and Principles section).
 - * UNDP promotes equality. "In its Programmes and Projects, UNDP will uphold the principles of accountability and the rule of law, participation and inclusion, and equality and non-discrimination, noting that prohibited grounds of discrimination include race, ethnicity, gender, age, language, disability, sexual orientation, religion, political or other opinion, national or social or geographical origin, property, birth or other status including as an

the ESSs are not part of this draft ESMS, the ESMS should explicitly require the Environmental and Social Policy to be revised in conjunction with the development of the GCF's own ESSs.

The draft ESP refers to three engagement areas: strategic and institutional level; entities and intermediaries level; and project level.

Strategic and Institutional Level

Paragraph 8 of the ESP states that the policy "will apply to all prospective and approved GCF-financed activities," which we believe means that it will apply to all projects, sub-projects, and programmes that have already been approved by the GCF Board, including all future sub-projects. This is a particular concern for GCF equity investments, where few details of future activities to be funded are known at the time of approval. The policy should confirm this.

In regards to co-financing (paragraph 9), it is important that the highest ESS standards apply to an entire GCF project or programme co-financed by other institutions, irrespective of whether GCF financing is in the minority or even miniscule. It also must be assured that the "common approach" suggested entails an upward harmonization effort for all co-financiers, including the GCF if applicable, and does not allow for settling at a lower common denominator. Thus, it needs to be clear how this upward harmonization is to be ensured so that the "same level" means full equivalency. As both the Fund's gender policy and the soon to be developed Indigenous Peoples policy are a substantial part of the ESMS and complementary to the ESP, it has to be clarified in the ESP that the Fund expects co-financing partners to include both in the "same level of environmental and social protection as this policy."

Entities and Intermediaries

As discussed later in this document, there is significant concern about how this ESP applies to accredited entities, financial intermediaries, and executing entities. The ESP must make it explicitly clear that the ESP and related policies in the ESMS framework must be complied with at all of these levels and that they apply to all sub-projects, for which AEs will have full legal responsibility.

Project Level

At the project level, the document should mention that any subsequent projects that come from the implementation of GCF funded programmes should also comply with the ESMS. Experience has shown that the Board may approve funding proposals where the actual concrete activities that will be carried out with GCF money are not yet defined. For example, in the project "Sustainable energy for the Caribbean," approved during the 14th Board Meeting, there was no definition as to where/how/when the geothermal facilities would be constructed. Instead, the GCF money was to be partially used to answer those questions. To avoid, mitigate, and/or compensate for all social and environmental risks coming from GCF funded activities, the ESMS must be applied to all sub-projects

indigenous person or as a member of a minority. UNDP will also ensure the meaningful, effective and informed participation of stakeholders in the formulation, implementation, monitoring and evaluation of Programmes and Projects" (para. 15 of the Overarching Policy and Principles section).

* UNDP ensures that there is meaningful, effective, and informed stakeholder engagement by requiring a number of characteristics including that it is free from manipulation, culturally appropriate, tailored to language preferences, gender and age-inclusive, initiated early, and based on disclosed information, among other things (para. 14 of the Policy Delivery Process and Accountability section). Additionally, UNDP ensures that engagement "will be conducted in a gender-responsive, culturally sensitive, non-discriminatory and inclusive manner, ensuring that potentially affected vulnerable and marginalized groups are identified and provided opportunities to participate" (para. 12 of the Policy Delivery Process and Accountability section).

and they must fully comply with all parts of the ESMS. This clarity has to be provided specifically in the case of equity investments or risk insurance facilities supported with GCF funding.

2. Guiding Principles

The ESP has several positive aspects. We are pleased to see that the guiding principles include a gender-sensitive approach and compliance with applicable law, among others. We also appreciate the reference in paragraph 11(e) that the ESP will be both “consistent and linked with” the other relevant policies of the GCF as this is an important aspect of creating a comprehensive ESMS. However, the ESP should make clear that the “principles” in both paragraphs 11 and 12 are requirements that the GCF will ensure are met by the projects, sub-projects, and programmes that it finances.

Additionally, we are pleased that GCF-financed activities will ensure that human rights are respected and observed and that projects and programmes will “not cause, promote, contribute to, perpetuate or exacerbate human rights violations.” However, we are concerned that the mentions of labour and working conditions, Indigenous Peoples, human rights, and biodiversity are listed under paragraph 12 as considerations additional to the guiding principles for implementing the policy and as “underlying principles and objectives of its ESS standards.” These must not be add-ons, but core requirements in all GCF activities. As noted above, the GCF has not yet put forward its own ESSs, but instead relies on the IFC Performance Standards. However, the IFC Performance Standards do not have a specific human rights safeguard nor are human rights adequately incorporated into the ESSs.⁷ Instead the policy should say that the GCF will ensure that GCF-financed activities will comply with the standards delineated in paragraph 12 of the draft ESP. In particular, with respect to the paragraph on Indigenous Peoples (currently para. 12 (b)), since the GCF is currently in the process of developing a proactive Indigenous Peoples Policy, it should be listed under paragraph 11 as a clear requirement. The Indigenous Peoples Policy is discussed in more detail later in this submission.

We have the following recommendations to improve the principles and to ensure their adequate application:

- The principle of integration of environmental and social sustainability (para.11 (a)) should include mention of the ESMS’s objective to actively contribute to the GCF’s guiding principle to generate social, development, economic, and development co-benefits to the environment and the people that depend on it. In line with the guiding principles of the GCF outlined in the Governing Instrument, the ESMS must be broader than merely avoiding “doing harm,” but instead be a part of defining what a transformation project/programme under the GCF must look like.
- The principle of mitigation hierarchy (para. 11 (d)) should provide more clarity about when and under what conditions and circumstances it will resort to providing compensation and/or restoration. GCF-funded activities that need to compensate or provide restoration for impacts or risks because these cannot be avoided, minimized, or mitigated, should be seldom carried out and should only be done when there is sufficient evidence to back up their use. If mitigation or compensation/restoration of risks or impacts cannot be guaranteed, the GCF should not approve the project or programme. Furthermore, sufficient, equitable, and adequate compensation or restoration plans should be elaborated with people and communities that will be affected and that will require compensation or

⁷ In Paragraph 12 of its Policy on Environmental and Social Sustainability, the IFC “recognizes the responsibility of business to respect human rights” and that “This responsibility means to avoid infringing on the human rights of others and to address adverse human rights impacts business may cause or contribute to.” However, it does not include any specific requirements related to human rights due diligence or tangible steps to be taken by the private sector in Fund-supported projects or programs.

restoration. Because of the special nature of the GCF and its objective of a paradigm shift, no trade-offs should be necessary between environmental and social harm for some other kind of gain. Likewise, the policy should not allow for any form of “offsetting” or “trading off” impacts at one site against compensation or restoration efforts at another unrelated one. Any mention of “offsets” or “offsetting” has to be eliminated from the draft policy.

- The principle of continuous improvement and best practices (para. 11(f)) should mention that the information provided, experience and knowledge shared, and recommendations made by the Independent Accountability Units (in particular the Independent Evaluation Office and the Independent Redress Mechanism) will be fully taken into account in the exercise of improving and continuously updating the ESMS in a transparent and participatory manner, in line with the GCF self-definition of being a “learning institution.”
- On the principle of stakeholder engagement and disclosure (para. 11 (g)), there should be explicit mention of broad multi-stakeholder support and participation throughout the GCF project/programme cycle, starting with conceptualization, planning, and design and throughout implementation, including by employing participatory monitoring by beneficiaries and affected people. Additionally, it should specify that the determination of “relevant stakeholders” of a project/programme must be based on self-selection and that the proactive information disclosure requirement of the GCF should also cover all meetings with stakeholders, which should be publicly announced well in advance of the meeting. It should also mention the importance of compliance with the disclosure periods adopted in the GCF Information Disclosure Policy. Currently, there is no enforcement method that guarantees compliance with these disclosure periods. When these periods are not complied with, the possibility for civil society organizations and local communities to engage with the GCF and its accredited entities and their implementing entities becomes affected, and severe harm to people and the environment may occur.
- On the principle of harmonized application of environmental and social requirements (para.11(j)), there should be a clear indication that the suggested harmonization is an upward harmonization so that best practice is used and not a downward one to the lowest acceptable common denominator
- On the principle of consistency with UNFCCC REDD-plus (REDD+) safeguards (para 11(l)), the language as elaborated in the draft ESP does not take into due account the best practices already developed and applied to mitigation and adaptation. The proposed language excludes from consideration all the standards and guidance that have been piloted and applied to REDD+ on the basis of the Cancun Safeguards, among others the REDD+ Social and Environmental standards and the UN REDD’s, which are the most advanced in regards to Indigenous Peoples. Thus, placeholder language is needed here to refer to the policies and guidance and further operationalization of the Cancun Safeguards. Explicit reference and/or benchmarking to UN REDD and other upper level standards on Indigenous Peoples rights can be made in the ESMS Manual or in the specific paper on Results Based Finance/REDD+ currently under development. Furthermore it should be pointed out that in regard to monitoring of compliance with REDD+ Safeguards, the Safeguards Information System envisaged at the UNFCCC level refers only to Parties’ monitoring “systems” and modalities, and not to qualitative assessments of safeguard compliance.
- On the principle of a gender-sensitive approach (para.11 (h)), we believe gender sensitivity is not sufficiently integrated into the ESP yet, but instead is perceived to be included in the ‘social aspect’ of the ESP.⁸ Gender risks and impacts should be required to be elaborated separately. The social impacts

⁸ See the discussion in the “Background” for the Environmental and Social Policy, discussions in paragraph 14 (p. 1-2) and section 1.1 (p. 2). Also, in the draft ESP, paragraph 14(h) says that the gender policy “complements the intent for social inclusion of the environmental and social policy and the ESS standards.”

and risks are not elaborated enough in this document, thus it is not guaranteed that aspects of gender risks and impacts would be identified within the social impacts.

Meanwhile, the Gender Policy (and by extension the current and subsequent Gender Action Plans to guarantee the Gender Policy's implementation) is considered as complementary to the requirements particularly to enhance social access to development benefits.⁹ But gender risks and impacts are much broader than just issued of social inclusion and should not be reduced by the draft ESP policy as such. Since the GCF committed to taking a gender-sensitive approach, gender impacts and risks should be a standalone aspect of the ESP. In the whole document there is no description on gender requirements of the ESP in the form, for example, of gender impacts and risks assessment. The ESP should require such assessments and link them explicitly to the project/programme-specific gender action plans required for project/programme proposal approval by the GCF Secretariat.

As noted above, the principles in paragraph 12 must also be treated as requirements with which to be complied. Additionally, the following changes not previously mentioned should be made:

- The principle of human rights in Paragraph 12(c), should include a clear statement that the GCF will not support projects/programmes that negatively impact human rights.
- On the principle of biodiversity (para.12 (d)), the mention of biodiversity offsets should be stricken. The GCF should not allow biodiversity to be destroyed based on the argument that financial compensation or protection elsewhere amounts to "no net loss." As such there should be no allowance for biodiversity offsets, certainly not in critical habitats.
- On the principle related to Indigenous Peoples (IP), this ESP provides further evidence for the need to have an Indigenous Peoples Policy, that clearly spells out the international obligations, covenants, and treaties on Indigenous Peoples rights that states, IEs, and the GCF are expected to respect, as well as IP related standards for the private sector. We acknowledge and celebrate the recent decision made by the Board to create an Indigenous Peoples Policy. We would like to see wording in the ESP that ensures that any future decision relating to indigenous people will pass through this soon-to-be-policy and that it will be an integral part of the ESMS.

Further, we note that the guiding principles do not cover a number of issues such as pollution and cultural heritage, among others. We suggest that the following principles be included:

- The Precautionary Principle should be included as one of the ESMS guiding principles.¹⁰ This principle, which has been widely adopted in international environmental law, states that when there is lack of scientific consensus, the burden of proof that an activity is not harmful falls on those taking the action.
- Additionally, the ESP should include as one of its guiding principles that the GCF will not finance activities that exacerbate climate change.

⁹ As stated in the Background portion under "Links with Existing Policies" in section 1.2(i) (p. 6) that "The GCF gender policy and action plan complements the requirements of the GCF interim ESS standards"

¹⁰ See Rio Declaration on Environment and Development, Principle 15 (1992); see also UNDP, Social and Environmental Standards, para. 23 (2014), available at <http://www.undp.org/content/dam/undp/library/corporate/Social-and-Environmental-Policies-and-Procedures/UNDPs-Social-and-Environmental-Standards-ENGLISH.pdf> ("UNDP uses a precautionary approach to natural resource conservation and reviews its development cooperation activities to ensure they do not cause negative environmental effects.").

b) Requirements and roles and responsibilities - Clarity of the requirements of the policy, the roles and responsibilities of GCF and the entities, and suggestions to improve its implementation, in the context of the proposed ESMS

Roles and responsibilities of the GCF

On responsibilities of the GCF, the policy states the specific activities in which the Secretariat plays an active role. These include tasks related to assessing capacities needed in order to seek accreditation; managing environmental and social risks in GCF activities, information disclosure, stakeholder engagement, and redress mechanisms for affected communities and developing countries. More details are needed in the draft policy about which unit/person in the Secretariat is responsible for what aspect of due diligence. Saying the GCF is responsible for doing something is insufficient.

The policy states that the GCF is responsible for requiring that Accredited Entities (AEs) comply with their own respective ESMS, however the policy should also clarify that once the GCF's ESMS is adopted, it will be applicable to all AEs as well. The policy should make clear that the AEs own ESMS must be equivalent or better than the GCF's ESMS. Further, in order to guarantee robust proactive social and environmental protection that goes beyond a simple "do no harm" approach, it is imperative that all AEs comply with the same standards according to the type of accreditation and the level of risk for which they are accredited.

Accreditation

The policy in its section on accreditation (para. 13) is weak in that it only focuses on the capacity to manage without giving due diligence to the actual track records of accredited entities. It should be clarified that not only compliance on paper (existence of applicable policies and systems), but also implementation practice and a respective track record determine the consistency of the AEs' systems and approach with the GCF ESP. The GCF's existing practice of accreditation has shown a lack of such due diligence in several worrisome instances.

Also, when considering the capacity of an AE to deal with ESS risk, the Secretariat should take into account the AE's entire portfolio of activities and ensure that alignment with climate objectives as an important way to prevent environmental and social harm. As a financial mechanism of the UNFCCC, the GCF is obliged to fulfil the objectives of the Paris Agreement adopted at COP21 including, in Article 2.1(c), the objective of "making finance flows consistent with a pathway towards low greenhouse gas emissions and climate resilient development." The GCF Board has emphasized the critical role the Fund can play in leveraging its resources to affect changes in broader patterns of investment, beyond direct support from the GCF. Towards that end, the GCF has a critical role to play in encouraging its accredited entities to make the necessary portfolio shifts to realize the objectives under the Paris Agreement.

Environmental and Social Risk Management throughout the Project/Programme Cycle

The GCF's ESMS is set up in a similar manner to other development finance institutions, UN entities, and other similar multilateral institutions, which have an overarching ESP as well as specific ESSs that provide further requirements for projects and programmes. However, in most of those systems, the ESP was developed in conjunction with the ESSs. Here, the GCF appears to be developing the ESP without also developing its own ESSs, and instead is still referring to the interim ESSs (i.e. the IFC Performance Standards). The problem with that is that the interim ESSs do not necessarily provide the same level of standards as called for in this draft ESP.

In looking at the diagram explaining the elements of the ESMS, it appears that the GCF is responsible for ensuring that projects and programmes comply with the ESP and other GCF policies, including the Information Disclosure Policy and Gender Policy, among others. Then the AEs have to ensure compliance with the ESSs. However, to ensure that the standards and principles in the ESP are complied with in each project, the ESSs should incorporate these principles and the interim ESSs do not do so adequately. The GCF will have to ensure through its due diligence and oversight that the projects and programmes it is funding meet these policies and recognize that meeting the ESSs and meeting the requirements of the ESP are not necessarily the same.

The policy appropriately includes the need to ensure that adequate screening and categorization processes are conducted. However, it does not clarify who in the Secretariat will be responsible for overseeing such processes or how it will ensure that they are implemented. The policy must clearly define that the Secretariat's responsibilities include having enforcement capabilities in instances where deficits in an AE's compliance with the GCF's ESMS become apparent. Thus, the language in the draft policy under paragraph 14 should be strengthened to reflect the Secretariat's obligation to ensure AE compliance.

Similarly, on responsibilities related to information disclosure, stakeholder engagement, and redress mechanisms, the GCF should have a designated person or unit within the Secretariat to oversee this work, accessible to stakeholders. This person or unit must ensure that stakeholder engagement is based on representation through a self-selection process of respective stakeholders involved, and that AEs comply with their obligation of informing potentially affected people about the grievance and redress mechanisms during project design and throughout, not only when they are already facing problems due to the project construction and operation (para. 15(a)).

As noted above, screening and risk categorization are critically important and the responsibility of both the GCF and the accredited entities. We appreciate that paragraph 26 provides some detail about what to consider in categorizing the risk, however, the phrase "sensitivity of the receiving environments and communities" is vague. For instance, does it refer to areas of critical habitat or areas where there is little rule of law and it is dangerous for environmental and human rights defenders, or both? This should be clarified by providing more information about what is meant by sensitivity.

Additionally, paragraph 27 should include gender impacts and risk assessment as part of the screening and categorization. Further, while we appreciate including both direct and indirect and induced and cumulative impacts, long term impacts should be also considered during the impacts assessment detailed in paragraph 27. Lastly, it should include processes for how Indigenous Peoples and other interested stakeholders can engage in developing participatory risk assessment and categorization.

The ESP should also state very clearly that in order to improve the supervision of the performance and compliance of AEs, the Fund in its ongoing due diligence (both for the accreditation as well as for monitoring environmental and social risks throughout the project/programme cycle) should consult with and welcome relevant information provided by third parties, including CSOs and affected communities, as well as information coming from the Independent Accountability Units. In this way self-reported information provided by the AEs can be verified, improving supervision and performance of these entities.

Roles and responsibilities of Accredited Entities (AEs)

In listing the responsibilities of AEs, the draft policy in paragraph 17(a)(i) should clearly state that the GCF's ESMS applies to all AEs and elaborate that the AE's own ESMS needs to be equivalent to or better than the GCF's ESMS, particularly in requiring meaningful and inclusive multi-stakeholder consultation and engagement throughout the project/programme cycle. The list of AE responsibilities in the case of GCF-financed activities (para. 17(b)) should include a clear reference to proactive information disclosure. With respect to sub-projects, the ESP should obligate AEs to ensure that all sub-projects (such as equity investments) are properly screened, assigned to the appropriate environmental and social risk categories, subject to the AE's due diligence and oversight, and that information about all sub-projects, for example of equity investments, is disclosed in line with the GCF's proactive information disclosure.

Further, the draft policy currently makes almost no mention of executing entities. This should be fixed. Both the accredited entities and executing entities should be fully compliant with the ESP (not to mention the ESSs) and the AEs need to provide the necessary oversight and compliance enforcement vis-a-vis executing entities. As the entities that sign the legal agreement with the GCF, the AEs are obligated to ensure that their executing entities are in compliance with the policies. This must be insured especially with respect to all the requirements of the ESP on consultation and participation, which includes in the case of Indigenous Peoples their free, prior, and informed consent (FPIC). Enforcement of FPIC and more broadly meaningful and fully participatory consultations must be required as one key responsibility of the AE in case of intermediation of any kind (para. 21).

In general, the GCF ESP should clarify that when AEs are acting as intermediaries they are responsible for all activities related to GCF-funding of the grantees, borrowers, and investees they work with regarding their compliance with the ESMS. This also applies in cases such as equity investments, where GCF funding might be further intermediated by the investee. AEs may choose whatever intermediaries they wish, but these intermediaries, which can be of the most varied nature, do not pass through any accreditation or similar due diligence process, to assess compliance with GCF's principles and standards. Through the Accreditation Master Agreements (AMAs), AEs are contracted with the GCF and are obliged to it. Thus, they should be made clearly responsible for ensuring their chosen intermediaries comply with it as well. This is the only way to ensure that all GCF-funded activities are in line with the Fund's ESMS. It is therefore not appropriate, as paragraph 20 seems to imply, that AEs that are functioning as financial intermediaries (FIs) may develop their own ESMS after accreditation and in response to potential risks, as the equivalency of such a system with the Fund's ESMS cannot be assured. Instead, if an AE is going to function as a financial intermediary, then the ESMS that it presents when applying for accreditation should recognize this and be determined to be capable of addressing the risks that come with being an FI.

As noted earlier, the proper identification and categorization of risks is key to being able to address them. One of the responsibilities of AEs is "ensuring that the environmental and social risks and impacts of activities proposed for GCF financing are assessed." To fulfil this obligation, a proper risk categorization must be done, and done in conjunction with an Environmental and Social Impact Assessment (ESIA) that must be neutral and of the highest quality. This should be mentioned as part of the ESP.

We appreciate that the draft ESP says that risks need to be identified and that measures to avoid, minimize, or mitigate these risks or provide compensation or remedy need to be planned. The ESP

should further specify that in both identifying risks and creating the response to them, the AEs should consult with the potentially affected communities.

Critically, AEs are responsible for informing potentially affected communities of the existence of the Independent Redress Mechanism of the Fund and of their own grievance redress mechanism and how to access them, as required by this policy. The AEs must do this early in the project lifecycle and during the first stages of the public participation processes.

The draft ESP is silent on the role of the National Designated Authorities (NDAs) in ensuring compliance with the GCF ESMS and the ESSs. It should acknowledge NDAs as important partners in the successful application of the GCF ESMS at the level of national implementation of GCF projects and programmes. NDAs through their no-objection role ensure that proposed AE projects and programmes are in line with national legal obligations, including under international human rights law and with respect to gender equality (for example under CEDAW) or the rights of Indigenous Peoples under UNDRIP, as well as national funding priorities for the GCF (as elaborated in country programmes for example). As initiator of project and programme concepts, an NDA also has the ability to put the AEs it selects to develop these concepts into full-fledged proposals under scrutiny for their ability to comply with the GCF ESMS in line with the country's priorities. Lastly, under the monitoring and accountability framework, they play a role in supporting participatory monitoring approaches and their integration in AE project and programme implementation. This role should be acknowledged in the ESP.

c) Gaps - identifying any other areas that may have been missed and proposing ways to fill these gaps, drawing from experiences in policy delivery from similar institutions

While the ESP covers a substantial number of issue areas, there remain several significant gaps that could result in avoidable harm to people and the environment and more social, environmental, and economic benefits for all.

Financial Intermediaries

As noted above, the draft ESP does not provide clarity about FIs. Lending through FIs is difficult for both institutions themselves and affected communities, stakeholders, and the public to track. Thus, it is important for institutions, like the GCF, to adopt clear guidelines and requirements for FIs to follow to ensure that their subprojects comply with environmental and social policies and do not harm people and the environment.

As such, the policy needs to provide specific ESMS rules for financial intermediaries and needs to be significantly more specific on the application of the policy to subprojects. As the ones contractually obliged with the GCF, AEs are responsible for the environmental and social performance of the implementing and executing entities they choose to work with. It cannot be assumed that those implementing sub-projects will do so in accordance with the GCF's ESMS. The ESP should have a specific section devoted to entities functioning as financial intermediaries, detailing their responsibilities vis-à-vis subprojects, with obligations based on what we have learned about the problems with FIs through lending at development finance institutions and ensuring actual positive environmental and social outcomes. Thus, the ESP needs to spell out details specifically for FIs and their sub-projects.

Exclusion and Prohibited Activities List

The GCF should have an exclusion list of activities that will not receive GCF funding. The exclusion list should clearly state the activities that “do not qualify for financing” as they pose serious risks and harms to the environment and communities, including: activities already identified in MDB exclusion lists such as trade in weapons and munitions, support for nuclear power, harm to tropical forests, and the use of forced or child labor; land acquisition without Free, Prior and Informed Consent; and, given the GCF’s climate mandate, financing fossil fuels and other forms of unsustainable energy, for example waste incinerators, large dams, and bioenergy with carbon capture and storage (BECCS).

Glossary

The ESP should include a glossary with definitions of terms so that all institutions, entities, and stakeholders understand what each specific term means.

Paris Agreement Obligations

As we noted earlier, the GCF can play a critical role in helping meet the Paris Agreement objective to make “finance flows consistent with a pathway towards low greenhouse gas emissions and climate resilient development.” The ESP should reflect this obligation and acknowledge the GCF’s role in helping accredited entities make necessary portfolio shifts.

Rights-Based Approach

The draft ESMS does not specify the adoption of a rights-based approach, although it includes a human rights standard of “do-no-harm.” A rights-based approach cannot be limited to that component and needs to be characterized throughout the document.

Furthermore, when dealing with scope and application, the ESP proposes a common approach – that “*will achieve the same level of environmental and social protection as the GCF policy.*” As we have noted previously in this submission, at this stage the ESMS does not envisage a new set of ESS, instead the current interim ESSs will still apply. This remains concerning given that these interim standards are not necessarily the most advanced and best available (in the case of FPIC for instance) hence the risk of using the GCF’s policy as the benchmark for the common approach might in fact lower the standards applied because in some cases the accredited entities’ or implementing entities’ standards might be higher (for example, the UN agencies’ safeguards). Instead, the ESP should specify that, when adopting a common approach, the highest and most stringent standard will apply.

In terms of compliance with applicable laws, the ESMS states that “*GCF would not support projects that do not comply with applicable laws, including national laws and obligations of the country directly applicable to the project, under relevant international treaties and agreements.*” This sentence is not clear, and leaves too many loopholes based on national legislation that in many cases, for instance in the case of Indigenous Peoples, does not internalize international obligations that are “directly applicable to the project.”

Grievance Redress Mechanisms

We appreciate the inclusion of a section (6.3) on grievance redress mechanisms in the draft ESP. Given that the section includes grievance redress at multiple levels, the title of the section should be “Grievance Redress Mechanisms” (plural rather than the singular “mechanism”). Having opportunities for providing redress for grievances at all levels is important to ensure that projects and programmes do not harm people and the environment and when they do that those harms are

addressed adequately and efficiently. However, as was stated in the civil society submission on the Draft Terms of Reference (TOR) for the Independent Redress Mechanism (IRM), there should be no sequencing of grievance mechanisms, but rather the person or group of people filing the complaint should get to choose which mechanism they wish to use and in what order.

Further, paragraph 74 indicates that the ESS standards establish principles and requirements for setting up project-level grievance mechanisms. However, the IFC Performance Standards, which are the interim ESS standards, do not include principles and requirements for project-level grievance mechanisms. As such it is unclear to what this is referring. When the GCF establishes its ESS standards, it should include such principles and requirements for project-level grievance mechanisms and in doing so should look to best practice, such as the UN Guiding Principles on Business and Human Rights¹¹ and the guidance toolkit developed by the IFC's Compliance Advisor/Ombudsman¹², and consult with the IRM. In that vein, we appreciate the requirement that AEs' mechanisms should incorporate the criteria in the UN Guiding Principles on Human Rights. Also, it should be made clear that like the IRM, the project level grievance mechanisms, and AEs' grievance mechanisms can receive complaints from people who are affected or potentially affected by GCF-funded projects and programmes.

Resettlement

As mentioned before, it is problematic that the ESP is not being developed in conjunction with the ESSs as the ESP does not currently include mention of all the safeguards we hope will be in the GCF ESSs or even that are in the current interim ESSs. While we assume that the ESSs will include specific standards on some of its guiding principles mentioned, for example labor and biodiversity, we encourage the GCF to also include a specific safeguard on displacement and resettlement. When the GCF develops its ESSs, the standard on this should make clear that GCF-funded projects will seek to avoid physical and economic displacement and involuntary resettlement.

Further, the GCF should not be financing the types of the projects and programmes that have led to large scale displacement. Even as some 'modern' resettlement processes in middle income countries or with strong safeguard support have been adopted, evidence shows that most schemes still fail to achieve their objective, as seen, for example in the Bui Dam in Ghana (2011) or the Kandadji Dam in Niger (2016). Such practices should not continue under the GCF as they are not in line with the GCF's mandate to "in the context of sustainable development ... promote the paradigm shift towards low emission and climate resilient development pathways."¹³

Information disclosure and stakeholder engagement standards will have to be tailored to the particular status of Indigenous Peoples

As to information disclosure and stakeholder engagement, the reference to the need to ensure a culturally appropriate process and also publish documents in local languages is welcome. However, given the specificity of Indigenous Peoples, we recommend that a dedicated "Indigenous Peoples Consultation and Engagement guidance" be developed that could also

¹¹ See UN Human Rights Council Office of the High Commissioner, *Guiding Principles on Business and Human Rights* (2011), available at http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

¹² See Compliance Advisor/Ombudsman (CAO), "Grievance Mechanism Toolkit" (2016), available at http://www.cao-ombudsman.org/publications/documents/CAOGrievanceMechanismToolkit_2016.pdf.

¹³ GCF, Governing Instrument for the Green Climate Fund, para. 2 (2011).

include guidance on FPIC or that these elements be properly addressed in the ESMS Manual and the IP Policy.

d) Enhancing outcomes - identifying opportunities to enhance environmental and social outcomes through the policy and ESMS

The draft ESP elaborates under policy objectives in paragraph 7(h) that the ESP aims to “Provide the basis for a coherent, consistent and transparent management system founded on the principles of sustainable development, for improving performance and outcomes, managing risks and impacts, and enhancing access to benefits for project-affected people in all GCF- financed activities.” We welcome the intent to combine the avoidance of harm with positive development benefits and giving due consideration to vulnerable populations. Further, we believe that all GCF projects should seek to maximize multiple benefits, especially human and economic development benefits in support of the Sustainable Development Goals (SDGs) and that the ESMS should lead to a prioritization of GCF funding for activities that provide sustainable development and sustained livelihood benefits to the most vulnerable populations. Thus, for the ESP to fulfill these objectives, other current GCF policies, including for example the investment criteria or performance measurement frameworks, need to be supportive of and coherent with this goal.

For example, especially around energy, the GCF currently takes a supply perspective measuring installed capacity and connected households. As the objective of electrification is not to provide as much power as possible for the invested money but to create human and economic development, the GCF needs to focus energy-related indicators on addressing energy poverty with equitable and gender-responsive access to renewable energy service delivery. Rather than just measuring cost effectiveness per unit of power, GCF performance measurement should focus on expected value creation per dollar invested for different service levels with particular attention given to the lowest quintile of the population. CSOs, in their submissions on the performance measurement frameworks and specific indicators, have repeatedly argued in favor of a performance measurement framework and other specific indicators centered on sustainable development benefits provided to people.

It is a positive development that the draft in fact does not limit itself to a do-no-harm approach, but rather also hints to contribute to a do-good approach by specifying that one of the goals is to contribute to the “improvement of environmental and social outcomes.” Nevertheless, in examining the whole document, it seems that such an acknowledgement of the “do-good” component is not properly followed up. As a matter of fact, the whole document is characterized by a “do-no-harm” implementation, risk prevention and management, while it does not envisage any indicator, criteria or procedures to ensure and assess the “do-good” component, in the specific criteria to assess effective pursuit of improved environmental and social outcomes. Such a limited approach is also evident when the document only refers to the purpose of the Environmental and Social Policy’s goal of giving “due consideration to vulnerable populations,” without acknowledging the potential benefits derived from community-based adaptation and mitigation.

It is understandable that an ESP, that is related to an Environmental and Social Management System, cannot realistically delve into the positive contributions of Indigenous Peoples’ traditional knowledge and livelihoods, and hence offers a narrow definition of maximized benefits (that somehow needs to be spelled out: biodiversity conservation, land tenure, sustainable livelihoods, among others). Nevertheless, such a narrow approach offers a solid reason for a standalone Indigenous Peoples Policy whose purpose would be to enable the GCF to develop a “vision” on the connection between

Indigenous Peoples and climate change, and on how Indigenous Peoples can contribute to the GCF's stated goals, while preventing any harm that the GCF operations might do to Indigenous Peoples.

e) Engagement - identifying scope for further engagement of multi-stakeholders to continuously improve the policy and ESMS

Developing the full ESMS beyond the ESP

The current draft does not make clear what the process going forward will be, including lack of reference to the process for the development of the rest of the ESMS beyond the Environmental and Social Policy. The GCF should set out a clear process for the initial development of the rest of the ESMS that includes consultation and a call for inputs. Given that the GCF Board has approved numerous projects, this process for developing the GCF's own ESSs to replace the interim ESSs should be undertaken during 2017.

Additionally, as noted at various points throughout these comments, currently the only part of the ESMS that is being proposed and consulted on is the ESP. This is incomplete. The proposed ESP consistently references the ESSs, but, as we note above, the GCF has not yet developed its own ESSs and instead is still relying on the IFC Performance Standards as its interim ESSs, which, as we have noted, are inadequate for the GCF. In order to ensure that the ESP and ESSs are consistent, when the GCF does a consultation on its draft ESSs (which it should do), it should also allow for comments and review of the ESP. Developing an ESMS should not be done in a piecemeal manner, especially when the ESP and ESSs are so interlinked.

Further, we agree with the GCF that it should be constantly learning and improving its ESMS and policies as necessary to fulfill its mandate. Thus, in evaluating its policies the GCF should take into account what stakeholders say, including during consultations on projects and programmes, as well as lessons learned from the complaints brought to the IRM.

The GCF should develop all the policies of the ESMS in consultation with stakeholders. To help ensure the GCF is able to adequately engage stakeholders in this process the GCF should disclose information about the policies in multiple languages and in a timeframe that allows for feedback from people around the world. The policy should specify that key documents should be disclosed as early as possible and allow for consultations on the policies that are part of the ESMS for comments for at least 120 days preferably and, at a minimum, not less than 30 business days.

Further, the IRM is a fundamental piece in the possibility of engaging of the affected communities. For this mechanism to be fully functional, it is crucial that information about its existence and support for its use is provided from the very beginning of interactions between AEs and potentially affected communities. For this to be the case, AEs should inform communities about the existence of the IRM at the beginning of consultation processes and be open to supporting its use. This should be clearly stated in wording of the AEs' obligations to disclose information and develop stakeholder engagement plans. Additionally, the AEs must disclose the existence of entity-level and project-level grievance mechanisms.

Relationship between the ESMS and Other GCF Policies

We appreciate that the draft ESP references that there will be coherence with it and the other GCF policies and practices (para. 11(e)) and in the chart describing responsibilities. However, there still is room for improvement as regards the standalone Indigenous Peoples Policy that is soon to be developed, as well as some other policies.

Improving the inclusion of future Indigenous Peoples Policy and UNDRIP/FPIC in the ESMS and the ESP:

While paragraph 12(b) is welcome, in line with our concerns outlined above, the fact that it is anchored to non-committing text is reason for concern. As a matter of fact, according to the current draft, the GCF will **seek to ensure** that (emphasis added): *“All GCF financed activities will aim to avoid adverse impacts on indigenous peoples, promote benefits and opportunities, foster respect for the culture, and the people and preserve the indigenous culture, knowledge and practices, and will support the full and effective participation of IPs. Design and implementation of activities will be consistent with the rights and commitments set forth in the UNDRIP, including FPIC.”*

“Will seek to ensure” and “aims to avoid” hint at this principle being discretionary in nature, which, in fact, would create too many legal loopholes and be in conflict with the mandatory character of the interim ESS standard on Indigenous Peoples. Also the use of the term “adverse” risks creating excessive flexibility in compliance obligations, and needs to be clearly specified. What is adverse? Who defines what an “adverse impact” is?

Furthermore, as it stands now, the text does not acknowledge the positive contribution of Indigenous Peoples’ traditional knowledge and livelihoods to adaptation and mitigation. Additionally, the ESP correctly refers to FPIC, but while the interim ESSs are in place, the FPIC requirements do not align with international standards, including UNDRIP, because IFC’s Performance Standard on Indigenous Peoples is not in line with them. So there is a need to include specific language on FPIC and what is the applicable standard and when FPIC would be applied. This can be done in the Indigenous Peoples Policy, but, in the interim, the Adaptation Fund’s Environmental and Social Policy¹⁴ and its list of situations where FPIC is required could be used as a starting point. And at a later stage, once the ESP and the Indigenous Peoples Policy are approved, specific guidance on participation of Indigenous Peoples and FPIC should be developed and adopted. Such guidance could also be included in the planned ESSs of the GCF that will complement the ESP.

Better language is also needed with reference to screening of potential impacts on Indigenous Peoples (para. 48). As it stands now the text reads as follows: *“screening projects for potential impact on indigenous peoples, consistent with the objectives and requirements of the ESS standard on IPs. Where there are potential impacts on IPs the GCF will require the entities to*

¹⁴ Adaptation Fund, Environmental and Social Policy, para. 18 (Nov. 2013), available at <https://www.adaptation-fund.org/wp-content/uploads/2015/09/Environmental-Social-Policy-approved-Nov2013.pdf> (stating that “The Fund shall not support projects/programmes that are inconsistent with the rights and responsibilities set forth in the UN Declaration on the Rights of Indigenous Peoples and other applicable international instruments relating to indigenous peoples.”).

prepare an indigenous peoples development plan or an IP Planning framework. Scope and extent of plans will be proportional to the “vulnerability” of IPs and extent of impacts in customary rights of use and access to land and natural resources, socioeconomic status, cultural integrity, indigenous knowledge and skills and overall welfare.”

This language is also welcome, but again there are some unclear aspects. What are the categories of impacts on Indigenous Peoples that would trigger the requirement to prepare an Indigenous Peoples Development Plan or an Indigenous Peoples Planning Framework? There is a limited list in the second part of the paragraph, but it would be better to include an appendix listing a broader spectrum, to be developed with the direct contribution of Indigenous Peoples. And again, as noted above, the interim ESS standard on Indigenous Peoples (the Performance Standard 7 of the IFC Performance Standards) does not necessarily reflect the best standard available, especially in regard to climate change related projects and programmes. Finally there is an issue of consistency along the project cycle, since a project that would be assessed now on the basis of the interim ESSs might then have to be assessed, monitored, and evaluated again using the new ESSs that are likely to be developed and adopted in the coming few years. This is why on a precautionary basis, it would be better to resort to the “higher standard” between the GCF and IEs.

FPIC is also referred to in paragraph 66 of the draft ESP on stakeholder engagement, which indicates it will require a *“Stakeholder engagement plan that describes the disclosure of information, meaningful consultation, and informed participation and in certain circumstances, FPIC as required in the ESS standards.”* Again, the current interim ESS standard on FPIC does not align to international best practice. Further, in paragraph 67, it says *“(…) For activities affecting indigenous peoples, this engagement will be supported by the objectives and requirements of the ESS standard on indigenous peoples, including with respect to free, prior and informed consent. There is no universally accepted definition of free, prior and informed consent.”* Again, we welcome the reference to FPIC, however the specification that there is no universally accepted definition of FPIC seems redundant, if not counterproductive, since it does not ensure a coherent and consistent application of FPIC in GCF projects, leaving too much space for discretion and choice between FPIC, Broad Community Support, or Free Prior Informed Consultation. As previously stated, the interim ESS on FPIC lists a limited set of modalities to implement FPIC. Such a list needs to be updated, for instance, by using the list provided by the Adaptation Fund. As regards FPIC, for instance, according to the Adaptation Fund’s Guidance Document for Implementing Entities on compliance with the Adaptation Fund Environmental and Social Policy, the IE will have to:

- 1) Describe how the project/programme will be consistent with UNDRIP, and particularly with regard to Free, Prior, Informed Consent (FPIC) during project/programme design, implementation and expected outcomes related to the impacts affecting the communities of indigenous peoples.*
- 2) Describe the involvement of indigenous peoples in the design and the implementation of the project/programme, and provide detailed outcomes of the consultation process of the indigenous peoples.*

3) Provide documented evidence of the mutually accepted process between the project/programme and the affected communities and evidence of agreement between the parties as the outcome of the negotiations. FPIC does not necessarily require unanimity and may be achieved even when individuals or groups within the community explicitly disagree.

4) Provide a summary of any reports, specific cases, or complaints that have been made with respect to the rights of indigenous peoples by the Special Rapporteur and that are relevant to the project/programme. This summary should include information on subsequent actions, and how the project/programme will specifically ensure consistency with the UNDRIP on the issues that were raised.”¹⁵

Coherence with the Gender Policy (and Related Gender Action Plan)

As indicated earlier in this submission, coherence of the ESP with the Gender Policy requires a full, separate consideration of gender risks and impacts beyond those relating only to social inclusion more broadly and requires that a separate gender impact and risk analysis feed into a project/programme specific gender action plan as required by the GCF Secretariat. This means specifically that being in compliance with the ESMS and the ESP requires the AE to consider gender dimensions more broadly and articulate beyond a “do no harm” approach to a proactive approach that supports gender equality and women’s empowerment. This also has to carry through the ESP to other principles and requirements, such as in the engagement with Indigenous Peoples, in stakeholder engagement and disclosure, in compliance with applicable laws, and with labour and working conditions, in all of which gender equality considerations play an important role.

Thank you for your consideration of our proposals. Please see the attached Annex for the specific textual edits and suggestions on the document itself. We welcome any questions you have, and we would be happy to discuss this submission with you further.

Submitted by:

CSO Contacts for this Submission (alphabetically)

Asociación Interamericana para la Defensa del Ambiente (AIDA)

Andrea Rodriguez Osuna (GCF Contact Point)

Senior Attorney, Climate Change Program

(52-55) 5212-0141

arodriguez@aida-americas.org

Center for International Environmental Law (CIEL)

Erika Lennon (GCF Contact Point)

Senior Attorney, Climate & Energy Program

+1-202-742-5856

elennon@ciel.org

¹⁵ Adaptation Fund, Guidance document for Implementing Entities on compliance with the Adaptation Fund Environmental and Social Policy 12 (revised June 2016), available at https://www.adaptation-fund.org/wp-content/uploads/2016/07/ESP-Guidance_Revised-in-June-2016_Guidance-document-for-Implementing-Entities-on-compliance-with-the-Adaptation-Fund-Environmental-and-Social-Policy.pdf.

The following civil society organizations (CSOs) have provided input for this submission in addition to AIDA and CIEL (in alphabetical order):

Friends of the Earth US
Heinrich Böll Stiftung North America
Forest Peoples Programme
Hivos International
Institute for Policy Studies (IPS)
Practical Action UK
Rainforest Foundation Norway
Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education) (Philippines)
Trade Union Advisory Council
Ulu Foundation

Additionally, the following civil society organizations (CSOs) have signed on to this submission (in alphabetical order):

African Women's Network for Community Management of Forests (Africa/Cameroon)
Alianza Hondureña ante el Cambio Climático (Honduras)
Alliance for Rural Democracy (Liberia)
Asian Peoples Movement on Debt and Development
Asociación Ambiente y Sociedad (Colombia)
Both ENDS (The Netherlands)
Campaign for Climate Justice Nepal (CCJN) (Nepal)
Center of Indigenous Cultures of Peru (CHIRAPAQ) (Peru)
Centre for 21st Century Issues (c21st) (Nigeria)
Centre of Research and Development in Upland Area (CERDA) (Vietnam)
Centro para la autonomía y desarrollo de los pueblos indígenas (CADPI) (Nicaragua)
Derecho, Ambiente y Recursos Naturales (DAR) (Peru)
Federación por la Autodeterminación de los Pueblos Indígenas (FAPI) (Paraguay)
Fundación para el Desarrollo de Políticas Sostenibles (FUNDEPS) (Argentina)
Gender Action
Gender and Environmental Risk Reduction Initiative (GERI) (Nigeria)
Germanwatch (Germany)
Global Forest Coalition
Green Advocates International (Liberia)
International Rivers
International Trade Union Confederation
International Work Group for Indigenous Affairs (IWGIA) (Denmark)
Labour, Health and Human Rights Development Centre (Nigeria)
Latinamerican Climate Finance Group (Latin America)
Maryknoll Office for Global Concerns
Natural Resources Women Platform (Liberia)
Sahabat Alam Malaysia (Malaysia)
Sierra Club (U.S.)
Social Justice Connection (Canada)
Solidaritas Perempuan – Women's Solidarity for Human Rights (Indonesia)
Third World Network (Malaysia)
Transparency International Korea

ANNEX

This Annex contains the specific textual edits and suggestions on the draft ESP itself.

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15 December 2016

Environmental and social management system

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Background

2. In its seventh meeting, the Board requested the Secretariat to develop an environmental and social management system (ESMS) for the GCF. An ESMS is a set of management processes and procedures that would allow the GCF to identify, analyse, avoid, control and minimize the potential adverse environmental and social impacts of its activities and maximize the potential environmental and social benefits in a consistent way, and to improve the environmental and social performance of the GCF and its activities over time. An outline of the ESMS as contained in the decision describes its key elements, which include the environmental and social policy, the interim environmental and social safeguards (ESS) standards and a suite of management processes and procedures, including organizational capacity and functions.
3. This document summarizes the progress made in developing the ESMS of the GCF, describes the architecture of the envisaged ESMS and presents the proposed environmental and social policy.

Stakeholder inputs for the GCF environmental and social management system

4. On 30 November 2015, the Secretariat, through a call for public inputs, invited organizations and all entities involved and interested in climate change mitigation and adaptation, GCF interim ESS standards and related topics, to provide inputs for the development of the ESMS of the GCF. Inputs to the following elements, as per the ESMS outline adopted in decision B.07/02, were requested:
 - (a) Environmental and social policy;
 - (b) Environmental and social assessment and management procedures and processes, including the review of institutional capacities of entities during the accreditation process and the categorization of funding proposals by accredited entities;
 - (c) Monitoring and reporting (including the GCF monitoring and accountability framework for accredited entities adopted in decision B.11/10); and
 - (d) Organizational capacities and functions, including roles and responsibilities within the GCF and between various entities.
5. The inputs received have informed the formulation of the proposed environmental and social policy, as well as process for further developing the ESMS. Further inputs on the scope of the ESMS and the draft environmental and social policy were provided by the AC and AP in October 2016.

Environmental and social management system

6. An ESMS is an overarching framework for achieving improvements in environmental and social outcomes while addressing any unintended adverse impacts in all the GCF-financed activities. As a broader operational framework, it provides an opportunity for the GCF to incorporate environmental and social considerations into its decision-making and operations in ways that not only include safeguard measures of 'do no harm,' but also identify opportunities to 'do good' and improve environmental and social outcomes. An ESMS allows the GCF to integrate environmental and social considerations across various levels of decision-making and operations in a systematic, coherent and transparent manner and at three entry points:

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- (a) At the facilities and operations level, in relation to the organization's operations, such as environmental and social management practices, institutional capacities and stakeholder involvement;
- (b) At the project and programme level, through an environmental and social risk assessment and management framework tailored to the nature and scale of the activities and the magnitude of the environmental and social risks and impacts; and
- (c) At the policy level, by establishing the process for integrating sustainability considerations into the strategies and decisions of the organization.

1.1 Elements of an environmental and social management system

The structure of an ESMS should reflect the mandate of an institution, how it is organized and operated and how it intends to fulfil this mandate. In general, ESMS and the safeguards frameworks are structured with the following elements:

- (a) An environmental and social policy that sets out the purpose and objectives, scope, principles, roles and responsibilities and general requirements to effectively manage environmental and social risks and impacts and improve performance. The policy presents the commitments of the institution and articulates the principles to which the institutions will hold itself accountable;
- (b) Related policies and practices that represent the existing rules and governance frameworks of institutions. The policies and practices are expected to complement and support the ESMS. These typically include information disclosure, grievance redress mechanism, the gender policy and action plan, and supervision, monitoring and reporting policies. For the GCF, these would involve those cited in section IV of this document, as well as those that may still be developed that are relevant to the design and implementation of the ESMS, including a new indigenous peoples policy;
- (c) An environmental and social management system manual consisting of management processes, procedures and guidance, which assists an organization in implementing the environmental and social policy and the application of the ESS. The ESMS also describes the organization's institutional and governance arrangements (e.g. roles and functions) and how an organization will conduct its due diligence, screening, monitoring and reporting. For the GCF, the processes, procedures and guidance will be aligned with the contents of the ESMS as indicated in the decision by the Board;
- (d) Environmental and social safeguards that identify the outcomes and operational requirements ~~as~~ applicable to GCF-financed activities, including the technology choices of activities.¹ For the GCF, this ~~pertains currently refers~~ to the International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability, which were adopted by the GCF Board, ~~as the GCF~~ interim ESS standards.² In paragraph (d) of the same decision, the Board also decided that the process of developing the GCF own ESS standards, which would build on evolving best practices, should be completed within three years of the GCF becoming operational, and with inclusive multi- stakeholder participation. It is therefore expected that this process will begin in the near future;³
- (e) Stakeholder engagement delivering meaningful and active participation of GCF stakeholders, including national designated authorities and focal points and civil society organizations. Such participation ensures that projects are designed, developed and planned and implemented, monitored, and reported on in a manner that recognizes and takes into account the views of the various stakeholders and affected communities,

Comment [LS1]: Recommended to have explicit mention of these two relevant policies

Comment [LS2]: The suggested edits reflect that language is needed that stronger reflects the entire project cycle, including the earliest design and planning stages.

including in particular vulnerable women and indigenous peoples, and including cooperative technology assessment.

¹ GCF-financed activities may refer to GCF projects, programmes and readiness activities.

² Decision B.07/02, paragraph (c).

³ Decision B.07/02, paragraph (d)

This also includes ~~GCF~~ accountability mechanisms such as the GCF's own independent Redress Mechanism and the grievance mechanisms of accredited entities, which function ~~as a forum~~ for people who may be affected by GCF projects ~~that do not comply with the ESMS or ESS~~ to seek redress;

- (f) Guidance and tools containing technical and administrative references for entities in implementing the environmental and social policy and ESS standards. In adopting the IFC Performance Standards on Environmental and Social Sustainability as the GCF interim ESS standards, the Board also adopted the IFC Performance Standards Guidance Notes as well as the World Bank Group's Environmental, Health, and Safety Guidelines.⁴ This element also includes normative references ~~to~~ stakeholder engagement, including consultations, country coordination, obtaining necessary consent from indigenous peoples, and support and acceptability from local communities, and from vulnerable and socially excluded populations, including women. Best practice options for country coordination and multi-stakeholder engagement in developing national strategic frameworks and funding proposals are contained in annex XIV to decision B.08/10; and
- (g) GCF staff, resources and organizational structure to support the effective implementation of the ESMS. Staff will have the necessary expertise in all areas covered by the ESS standards of the GCF to carry out their responsibilities.

The envisaged ESMS for the GCF brings these elements together and into a coherent system of managing the environmental and social aspects of institutions and their operations. It also brings together three key interacting institutions sets of actors:

- (a) The GCF itself, ensuring that the proposed policy is implemented, and its objectives reached;
- (b) Accredited entities, applying the GCF interim ESS standards in GCF-financed activities; and
- (c) Stakeholders, including national designated authorities, and focal points, civil society and communities, who provide feedback on project/programme operations throughout the project/programme cycle and help to shape outcomes and policy discourses.

The structure of the ESMS of the GCF takes note of the interrelationships among the various elements and institutions and ensures that the roles and responsibilities of the institutions are consistent with their mandates and the business model of the GCF. For the GCF, the proposed architecture of the ESMS is illustrated in the figure below.

Comment [EL 3]: All stakeholders should be supported to be sufficiently informed and have sufficient capacities to jointly assess and decide on climate technology options, and to work together to analyse the most suitable climate technology options for adaptation, mitigation, and loss and damage needs. Given the potential environmental and social impacts, this will ensure that environmental and social concerns are adequately addressed from all stakeholder perspectives when implementing climate technologies, which will be fundamental aspects of GCF funded projects.

Comment [HT4]: Reference to the IRM should be a standalone element of the ESMS rather than seemingly subsumed under (e) 'stakeholder engagement' as it is at the moment. The IRM is not about engagement, really, it is about accountability for financing choices.

Comment [EL 5]: The subsequent list is not just of institutions so this should be changed.

⁴ IFC. 2012. *International Finance Corporation's Guidance Notes: Performance Standards on Environmental and Social Sustainability*. Available at <http://www.ifc.org/wps/wcm/connect/e280ef804a0256609709ffd1a5d13d27/GN_English_2012_Full-Documents.pdf?MOD=AJPERES> and IFC. 2007. *Environmental, Health, and Safety General Guidelines*. Available at <<http://www.ifc.org/wps/wcm/connect/554e8d80488658e4b76af76a6515bb18/Final%2B-%2BGeneral%2BEHS%2BGuidelines.pdf?MOD=AJPERES>>. The World Bank Group's guidelines are undergoing updating.

Elements of the Green Climate Fund environmental and social management system



Abbreviations: EHS = environmental, health and safety, ESMS = environmental and social management system, ESS = environmental and social safeguards, IFC = International Finance Corporation, NDAs = national designated authorities, PS = Performance Standards, WBG = World Bank Group.

1.2 Coherence with best practices

The outline of the proposed ESMS of the GCF draws coherence in terms of structure with the safeguards frameworks of other international finance institutions, ~~and~~ multilateral development banks (MDBs), UN agencies, and other relevant multilateral institutions. The elements of the ESMS will be organized to reflect the best practices in safeguards and sustainability frameworks of MDBs, ~~and UN agencies, and other relevant multilateral institutions~~, which typically consist of an overall policy, set of standards, management procedures and processes, guidance and references, and methods of disclosure, alongside an accessible and independent grievance mechanism.

In addition to the coherence of the ESMS with the safeguards and sustainability frameworks, the elements of the ESMS will also be consistent with the continual improvement process and specifications of internationally accepted environmental and quality management systems. ~~The ESMS elements will correspond to the continual improvement model of Plan-Do-Check-Act.~~

Comment [LS6]: Concern about only allowing reference to MDBs, which are generally much weaker than ESMS of UN agencies with respect to human rights integrations/obligations. We should not allow for MDB standards to become de facto standards for the GCF as a UN organization under the UNFCCC.

Comment [K07]: i.e. things like GAFSP, Global Partnership for Education, others

found in management system standards such as the ISO 14001 and the European Union Eco-Management and Audit Scheme.

Most of the elements of what is envisaged as the ESMS of the GCF are already established vis-à-vis the existing relevant policies and frameworks, the GCF interim ESS standards, and the technical and normative references such as the IFC guidance notes and practices on stakeholder engagement.

Completing the architecture of the ESMS of the GCF will entail adopting an overarching environmental and social policy and developing a manual for the ESMS, while maintaining flexibility to allow for GCF operational policy changes and additions such as an indigenous peoples policy, and the development of the GCF's own environmental and social safeguards (ESSs).

Comment [Aa8]: Those instruments are relevant for fiduciary purposes only and they are not applicable to all entities so the relevance for the ESMS is not clear, suggest deleting.

Comment [LS9]: This language could cement an inherent bias of making the interim ESS standards the permanent ones. The need for flexibility and upgrading in light of new operational policies and framework changes needs to be acknowledged.

Comment [KO10]: ...this has to be done without prejudice to the GCF safeguard development process. Deletion suggested.

Comment [EL 11]: The GCF should develop its own ESSs as the interim ESSs are not suitable for permanent adoption by the GCF.

Links with existing policies and frameworks

For an ESMS to be effective as a broad operational framework, it must be able to harness the resources and existing policies of an organization. For GCF, the elements of an ESMS will need to be linked and implemented in a manner consistent with the following existing governance framework and policies, which are described in the context of the GCF interim ESS standards and ESMS requirements:

- (a) **Accreditation framework.** In line with the initial guiding framework for the GCF accreditation process,⁵ the accreditation considers the capacity, competency and track record of entities in applying the GCF interim ESS standards as reflected in their ESMS. The assessment underpins the fit-for-purpose approach to accreditation and the scaled risk-based deployment of the GCF interim ESS standards in GCF-financed activities;⁶
- (b) **Results management framework.** The results of the adaptation and mitigation actions at the strategic, programme and project levels are considered as potential co-effects from the implementation of the ESMS and the application of the GCF interim ESS standards. In managing risks and adverse impacts, the environmental and social outcomes of activities, measured through quantitative and qualitative information in the performance measurement framework, enhance the achievement of results;⁷
- (b)(c) **Economic and financial feasibility analysis.** The project's economic and financial feasibility analyses consider the expenses and savings from the environmental and social risk mitigation and management processes. It does so in a timely and integrated manner;
- (c)(d) **Monitoring and accountability framework.** The framework provides the monitoring and reporting requirements both at the accredited entities' institutional level (accreditation) and for GCF-financed activities.⁸ The framework covers the compliance performance and reporting requirements for the ESS standards of the GCF, which will be consistent with the requirements of the ESMS;
- (c)(e) **Evaluation policy and Independent Evaluation Unit.** The Independent Evaluation Unit will conduct periodic independent evaluations of the Fund's performance in order to provide an objective assessment of the Fund's results and the effectiveness and efficiency of its activities. Through the GCF evaluation policy and the Independent Evaluation Unit, evaluations may be undertaken regarding the effectiveness of implementing the GCF interim ESS standards;
- (c)(f) **Information disclosure policy.** The policy supports the commitments of the GCF to proactive disclosure, transparency and accountability in all aspects of its operations and to strengthening public trust.⁹ The policy promotes effective and meaningful stakeholder

engagement by making available to the affected communities and the public timely, understandable, relevant and accessible information on the environmental and social risks and impacts as well as the benefits of GCF-financed activities (e.g. information related to environmental and social reports). There are varying advance disclosure timelines depending on the project's environmental and social risk category; for example, at least 120 days in advance of the ~~accredited entity's or Board's decision~~, whichever is earlier, for category A/intermediation 1 activities and at least 30 days for category B/intermediation 2. The policy also stipulates that the reports be available in both English and the local language;

Comment [KO12]: Hasn't the board clarified that the 120 day disclosure period applies to GCF board decision making?

(f)(g) **Risk management framework, guidelines and register.** The initial risk management framework, and subsequent risk and investment guidelines for the public and private sectors and the detailed risk register¹⁰ apply to the operations of the GCF.^{11, 12} The risk register identifies risk categories that are triggered by a failure in the application and practice of the GCF interim ESS standards by the executing entities or a failure of oversight by accredited entities of executing entities on conformance to the GCF interim ESS standards, among other GCF standards. The risk register also acknowledges the role of the GCF interim ESS standards in mitigating risks particularly related to the failure of entities to comply with applicable national and international laws;

Comment [JC13]: Language should be clarified to ensure that it also captures all with environmental risks posed by project implementation? E.g. use of untested geoengineering technologies?

⁵ Decision B.07/02, annex I

⁶ Decision B.08/03, annex I

⁷ Decisions B.07/04 and B.08/08

⁸ Decision B.11/10.

⁹ Decision B.12/35.

¹⁰ Decision B.12/34.

¹¹ Decision B.13/36, annexes VIII and IX.

¹² Decision B.12/34.

(g)(h) **Independent Redress Mechanism.** This independent mechanism was mandated under the Governing Instrument for the GCF to provide redress for the grievances and complaints of communities and people.¹³ The mechanism provides the GCF with a process for receiving complaints and issues from project and programme affected persons and/or communities, and processes to respond and provide redress on environmental and social impacts that result from an action or an omission to follow GCF operational policies and procedures regarding the GCF interim ESS standards; and

(i) **Gender policy and action plan.** The gender policy and action plan details the commitment of the GCF to efficiently contribute to gender equality and ultimately bring about greater and more sustainable climate change results, outcomes and impacts.¹⁴ The GCF gender policy and action plan complements the requirements of the GCF interim ESS standards, particularly in enhancing social access to development benefits and addressing potential social risks and impacts related to gender responsiveness, equitable benefit-sharing and inclusiveness. The gender policy and action plan should be applied in conjunction with the ESS standards and its requirements be mainstreamed in the GCF environmental and social policy (ESP).

Comment [LS14]: The ESMS treats the Gender Policy and Action Plan too much as an add-on, but does not reflect sufficiently on the mainstreaming of gender equality considerations in the ESP and ESMS. Thus, in the following, some suggestions are provided how language on gender policy integration in the ESP could be improved.

(h)(j) **Indigenous peoples policy.** The indigenous peoples policy will provide an overarching statement of the GCF's approach to financing activities implemented by, or impacting on, indigenous peoples. The policy is expected to be adopted in 2017/2018 and will form part of the ESMS once it is in place.

Comment [LS15]: With the Board decision at BM15 to develop an Indigenous Peoples policy, the ESP going forward needs to formally acknowledge its role for both the ESP and its integration into the ESMS.

Environmental and social policy

1.3 Overview of an environmental and social policy

An essential element of an ESMS is the environmental and social policy which elaborates the commitments of an institution to integrate environmental and social issues into its functions and outcomes, and establishes the responsibilities and requirements to deliver on these commitments. Specifically, the proposed policy of the GCF aims to:

- (a) Provide a coherent, consistent, accountable and transparent approach that will improve outcomes, manage risks and impacts, and enhance access to benefits from all GCF-financed activities;
- (b) Support the decision-making of the GCF by ensuring that environmental and social considerations are mainstreamed into all of its functions and mandates (e.g. accreditation of entities, [choice of climate technologies](#), readiness and preparatory support and the general project/[programme](#) cycle of approval, implementation and review);
- (c) Underpin the development of an ESMS that integrates a systematic approach to assessing, managing and monitoring the environmental and social performance of the operations of the GCF and those of the accredited entities and other development institutions with which it is associated; and
- (d) Define the responsibilities and processes to deliver on the commitments of the GCF.

1.4 Description of the contents of an environmental and social policy

The organization and contents of the proposed policy closely follow similar policies and reflect the lessons learned and experiences of institutions in implementing safeguards and mainstreaming sustainability actions:

- (a) **Policy objectives.** This section of the proposed policy identifies what the policy intends to achieve and aligns the objectives with the institutional mandate of the GCF, as well as the objectives of other relevant policies and governance frameworks such as those discussed in section IV of this document. It also highlights the policy as an overarching framework that ensures institutional consistency and coherence in managing risks and impacts by linking to the other relevant policies and practices of the GCF;

¹³ Decision B.06/09, annex V.

¹⁴ Decision B.09/11, annexes XIII and XIV.

- (b) **Scope of application.** ~~The proposed policy~~ This clarifies the applicability of the commitments outlined in it, including its mandatory application by all [accredited entities and implementing and executing institutions](#) ~~the policy~~;
- (c) **Guiding principles.** This section describes the principles adhered to by the GCF that will guide it in achieving the objectives of the proposed policy. These principles include those described in the Governing Instrument, the environmental and social objectives and those elaborated in the GCF interim ESS standards, [the indigenous peoples policy](#), [the gender policy and action plan](#), and the other relevant policies of the GCF;
- (d) **Overview of roles and responsibilities.** This section describes the roles, responsibilities

Comment [Aa16]: It needs to be made clear here that this policy is mandatory and should be applied by all entities and institutions regardless of their existing policies on this matter.

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and the institutional arrangements between the GCF, accredited entities and other stakeholders in achieving the objectives and requirements of the proposed policy. Where additional parties will be involved, their respective roles and responsibilities will be described in the ESMS manual to be developed in alignment with the policy and the GCF interim ESS standards;

- (e) **General requirements for environmental and social risk management.** This section describes the requirements of the proposed policy and how the GCF intends to achieve the objectives of the policy. Given the business model and the project cycle of the GCF, the identified requirements include those associated with accreditation, screening, due diligence, assessment, management planning, monitoring and reporting. These processes are expected to contribute to achieving the objectives of the proposed environmental and social policy;
- (f) **Information disclosure, stakeholder engagement and grievance redress mechanism.** The requirements for ensuring transparent, inclusive, consistent and meaningful participation of stakeholders are discussed in this section. These requirements are linked to the GCF information disclosure policy, as well as the options and best practices for multi-stakeholder engagement, country ownership, and the independent Redress Mechanism;
- (g) **Implementation and resource provision.** This section describes the implementation of the policy through the ESMS and the GCF resources to support the implementation; and
- (h) **Effective date and review.** This section defines the effective date and the review of the policy.

Annex I: Environmental and social policy

I. Introduction and context

1. The GCF is an operating entity of the Financial Mechanism of the United Nations Framework Convention on Climate Change (UNFCCC), with the role of ~~mobilizing contributing to international actions to combat climate change through~~ long-term climate financing for developing countries ~~through for country-driven climate actions under the Convention~~. The Governing Instrument for the GCF mandates the GCF to promote the paradigm shift towards low-emission and climate-resilient development pathways in the context of sustainable development.
2. The global community is confronted with the task of addressing climate change while at the same time ensuring the well-being of people and ecosystems. To support this, the GCF strives to maximize the impact of its funding for mitigation and adaptation, and seeks a 50/50 balance between the two, while promoting environmental, social, economic and development co-benefits and taking a gender-sensitive approach. Taking into consideration the sustainable development context in its mandate, the GCF ensures that adequate safeguards are integrated into its operations and access to benefits from supported activities are enhanced. This integration of safeguards translates into an opportunity for the GCF to support projects and undertake activities that at a minimum, do not harm, and preferably positively benefit, the already fragile environment and vulnerable people while maximizing development outcomes in a gender-responsive way.
3. The GCF is establishing an environmental and social management system (ESMS) to ensure that mechanisms are in place to assist the GCF in incorporating environmental and social considerations into the core of its decision-making and ensuring projects and programmes do no harm while working towards the goals of climate change mitigation and adaptation. An ESMS is a collection of policies, standards, management processes, and procedures that allow an organization to examine, control, eliminate, and reduce the adverse environmental and social impacts of its activities in a consistent way and to improve outcomes over time. These elements of the ESMS will be integrated with other business processes and governance frameworks and will be utilized across the organization of the GCF. The ESMS will be an evolving management system that will continue to mature as the GCF's operations develop. The figure below illustrates how the various ESMS parts relate to and support each other.
4. The GCF adopted the International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability as its interim environmental and social safeguards (ESS) standards, which is an element of the ESMS.¹⁶ The ESS standards – the interim standards as well as the GCF's own ESS standards which are still to be developed – identify the key environmental and social outcomes and their technical and procedural requirements for GCF-financed activities, as well as environmental and social issues needing particular attention.¹⁷
5. The GCF intends to establish an overarching environmental and social policy that organizes the existing policies and practices of the GCF into a coherent framework. The policy articulates the integration of environmental and social considerations-standards that must be met into the wide-ranging actions to address climate change that are financed by the GCF. This document presents the proposed environmental and social policy of the GCF.

Comment [WU17]: This ESMS policy would be better if it had the GCF's proposed ESSs rather than consistently referring to the interim ESSs as it is difficult to fully understand the entire ESMS and how the ESP and ESSs will work together when the GCF's ESSs are missing.

¹⁶ Decision B.07/02, paragraph (c).

¹⁷ Until the GCF develops and adopts its own ESS standards, the ESS standards referred to in this document are the interim ESS standards of the GCF.

Elements of the Green Climate Fund environmental and social management system



Abbreviations: EHS = environmental, health and safety, ESMS = environmental and social management system, ESS = environmental and social safeguards, IFC = International Finance Corporation, NDAs = national designated authorities, PS = Performance Standards, WBG = World Bank Group.

II. Environmental and social policy

2.1 Policy objectives

6. The GCF will ensure that, in carrying out its mandate of promoting in the context of sustainable development, the paradigm shift towards low-emission and climate-resilient development pathways by providing mobilizing resources to support for climate actions in developing countries, it will effectively and equitably manage environmental and social risks and impacts and improve outcomes performance. The policy presents the commitments of the GCF and articulates the principles-standards to which the GCF will hold itself accountable. Through this policy, the GCF will ensure that all its activities and the projects and programmes that it supports will seek to:

(a) Avoid, and [where avoidance is impossible,] [where all efforts at avoidance are exhausted,] mitigate the adverse impacts on people and the environment;

Comment [KO18]: This mandate is wrong. Its mandate isn't to mobilize resources.

Comment [EL 19]: The ESP articulates the standards that the GCF will hold itself accountable to, not merely principles.

(a)(b) Provide equitable access to development benefits;

(b)(c) Undertake collaborative technology assessments to ensure unknown impacts of emerging technologies, including potential trans-boundary impacts, are thoroughly considered; and

(e)(d) Give due consideration to vulnerable populations, including ensuring the free, prior, and informed consent of indigenous peoples, and ensuring that priority is given to the participation of communities and other groups of people potentially affected by GCF activities, including ensuring appropriate spaces for women, children, the elderly, disabled persons, and other traditionally marginalized groups.

Comment [KO20]: What does 'due consideration' mean?

7. The policy articulates the commitments of the GCF with regard to sustainable development, elaborates its intention to integrate environmental and social issues into its processes and activities, and sets the roles and responsibilities of the GCF and its partners, including the requirement to deliver on these commitments. The policy defines how the GCF will manage the environmental and social risks and impacts and support the overall sustainability of its operations and investments in line with obligations under national law, international law, and other relevant standards. Specifically, the policy aims to:

- (h) Provide the basis for a coherent, consistent and transparent management system founded on the principles of sustainable development, for improving performance and outcomes, managing risks and impacts, and enhancing equitable access to benefits for project/programme-affected people in all GCF- financed activities;
- (i) Support the decision-making of the GCF, particularly regarding the accreditation of entities, the provision of support, and the design, development, approval, implementation, and review of GCF-financed activities;
- (j) Underpin the development of an ESMS that integrates a systematic approach to-managing integrating environmental and social performance and risk into the operations of the GCF and those of the accredited entities and other development institutions with which it is associated; and
- (k) Define the responsibilities and processes to deliver on the commitments of the GCF.

2.2 Scope of application

8. The policy will apply to all prospective and approved GCF-financed activities and to both public and private sector entities. Activities supported by the GCF include projects and programmes, and other activities, and thus include a wide range of investment and readiness and preparatory support activities. The financial instruments may vary and may include grants, concessional loans, guarantees and equity investments. The policy applies to three engagement areas:

- (a) At the strategic and institutional level, the policy responds to the mandate expressed in the Governing Instrument and links to other operational strategies and policies, including

internal structures and governance frameworks of the GCF;

- (b) At the implementing entities and financial intermediaries level, the policy sets out the requirements for accredited entities working with the GCF to establish and maintain robust, systematic, accountable, inclusive, gender-responsive, participatory, and transparent systems to manage the risks and impacts arising from GCF- financed activities in a manner consistent with the policy and the ESS standards adopted by the GCF. These requirements complement the accreditation framework and will also be considered in the accreditation and re-accreditation processes; and
 - (c) At the project and programme level, the policy establishes the requirements for environmental and social risk assessment and management aligned to the ESS standards of the GCF ensuring that due diligence is undertaken in line with applicable obligations under national and international law for all GCF-financed activities, including at the sub-project level, regardless of whether these are solely supported by the GCF or co-financed by other development organizations/institutions.
9. Where activities are co-financed by other institutions, the GCF will encourage accredited entities and the co-financing institutions to explore a common approach for the assessment and management of the environmental and social risks and impacts. The GCF can agree to a common approach, provided that such a common approach is consistent with this policy and the ESS standards of the GCF and takes the GCF gender policy and action plan into account and will achieve the same, or higher, level of environmental and social protection as this policy.
10. Additional country requirements on environmental and social safeguards and sustainability may be integrated with the requirements of the GCF provided that the entities establish the consistency of the additional requirements with this policy and the ESS standards of the GCF.

Comment [LS21]: The common approach should also apply to the gender policy and its requirements such as the initial social and gender impact and risk analysis

Comment [EL 22]: Explicit mention should include the gender policy as that is part of the overall ESMS and the common approach minimum is the level of protection of it.

Comment [LS23]: More clarity is needed on how is this equivalency then going to be achieved/certified? Does the Secretariat check this?

III. Guiding principles

11. The guiding principles setting out how to achieve the objectives of this policy, the GCF will ensure the following requirements are met-achieve the objectives of the policy will be as follows:
- (a) Integration of environmental and social sustainability. Sustainable development underpins the mandate and objectives of the GCF and hence is a key consideration in the policies and governance frameworks of the GCF. Within the parameters of the ESMS, this is translated into the operations of the GCF such as accreditation and reaccreditation, investment criteria, ESS application, monitoring and accountability, information disclosure, gender mainstreaming and the independent Redress Mechanism;
 - (b) Scaled risk-based approach.¹⁸ The ESS will be implemented using a risk-based approach rather than a simple one-size-fits-all approach. This will ensure that environmental and social requirements and processes are commensurate with their level of risk and coupled with a focus on the relevant ESS standards;
 - (c) Fit-for-purpose approach.¹⁹ In the context of the GCF accreditation process, the approach recognizes the roles of a wide range of entities, which can differ according to the scope and nature of their activities, and their capacity to manage environmental and social risks and impacts. The GCF enables entities to access various levels of support differentiated by their capacities in meeting fiduciary and environmental and social

Comment [EL 24]: Reference to principles is too weak and the GCF should be required to do the following things, elaborated under para. 11.

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safeguards requirements;

- (d) Mitigation hierarchy. The GCF adheres to the mitigation hierarchy as an overall principle to managing environmental risks and impacts. The mitigation hierarchy aims to:

- (i) Anticipate and Avoid adverse risks and impacts on people and the environment;
- (ii) Ensure that, where avoidance is not possible, adverse risks and impacts are minimized through abatement measures;
- (iii) Mitigate through measures to remedy adverse impacts; and
- (iv) Where avoidance, minimization, or mitigation measures are not available or sufficient, design and implement measures that compensate for or offset any residual risks and impacts or provide restoration;

Where potential risks and impacts are identified that cannot be avoided, mitigated or compensated for, then the GCF will not approve the project or programme.

- (e) Coherence and links with relevant policies and practices of the GCF.²⁰ The GCF environmental and social policy is an overarching policy that will be consistent and linked with the relevant policies and practices of the GCF such as those related to accreditation, monitoring and accountability, the Independent Redress Mechanism, information disclosure, indigenous peoples, gender policy and action plan, and others as appropriate;
- (f) Continuous improvement and best practices.²¹ The ESMS of the GCF will be continuously updated in a transparent and participatory manner to sustain its relevance and responsiveness to the prevailing organizational, social, economic and political conditions. It will also be consistently aligned in compliance with international best practices and applicable standards and reflect the experiences and lessons learned by other relevant institutions as well as on its own;
- (g) Stakeholder engagement and disclosure. The ESMS of the GCF ensures that there is broad multi-stakeholder support and participation in planning, developing, and implementing GCF-financed activities throughout the project/programme cycle, including measures to manage and mitigate environmental and social risks and impacts. The process to build

Comment [LS25]: The ESP must not mention "offsets" or "offsetting" and instead refer to compensation and/or providing restoration.

¹⁸ Decision B.07/02, annex I.

¹⁹ Decision B.07/02, paragraph (j), and decision B.08/02, paragraph (c).

²⁰ Decision B.07/02, paragraph (n), and annex VI.

²¹ Decision B.07/02, paragraph (n), and annex VI, requiring the ESMS of the GCF to be consistent with accepted evolving international systems for quality and environmental management systems

support will be inclusive, gender-responsive, culturally appropriate and supported by the disclosure of relevant information;²²

- (h) Gender-sensitive approach.²³ The GCF will contribute to gender equality and inclusiveness by ensuring that the methods and tools to promote gender equality and reduce gender disparities in climate actions are established and implemented. The gender policy adopted by the GCF complements the intent for social inclusion of the environmental and social policy and the ESS standards;
- (i) Knowledge-sharing to improve performance. The GCF will lead and promote the sharing of

Comment [LS26]: The gender policy applies to the ESP implementation beyond "the intent for social inclusion." Deletion suggested.

lessons learned and experiences in applying ESS and in implementing ESMS among entities and stakeholders and integrate, ~~where applicable,~~ with the capacity development, communications and outreach activities of the GCF and the entities;

- (j) Harmonized application of environmental and social requirements. The GCF will promote the harmonized application of environmental and social requirements with co-financing institutions to reduce multiple and overlapping requirements for entities, through the development of common approaches that maintain/ensure the GCF standards are met and achieve the same or greater level of environmental and social protection;
- (k) Compliance with applicable laws. The GCF will not support projects that do not comply with applicable laws, including national laws and obligations of the country or countries directly applicable to the project or programme under relevant international treaties and agreements; and

- (l) Consistency with UNFCCC REDD-plus safeguards. On issues related to REDD-plus, the environmental and social requirements of the GCF will be consistent with all relevant REDD-plus decisions under the UNFCCC and existing highest standards for the operationalization of these decisions. The environmental and social requirements of the GCF will be consistent with the guidance and safeguards for policy approaches and positive incentives on issues related to REDD-plus.²⁴

- 12. In addition to the guiding principles for implementing the policy, the GCF adheres to the underlying principles and objectives of its ESS standards. These embody the generally accepted principles related to assessing and managing environmental risks and impacts. The GCF will seek to ensure that GCF-financed activities comply with conform to these principles/requirements, as may be relevant, as well as the following ones pertaining to environmental and social safeguards/issues requiring particular attention, as follows:

- (a) Labour and working conditions. All activities financed by the GCF will promote decent work, fair treatment, non-discrimination and equal opportunities for workers and will meet the requirements of the core labour standards as set by the International Labour Organization;
- (b) Indigenous peoples. All GCF-financed activities will aim to avoid adverse impacts on indigenous peoples, promote benefits and opportunities, foster respect and preserve for the culture and the people, and preserve the indigenous cultures, knowledge systems, and traditional livelihoods and practices, and will support the full and effective participation of indigenous peoples and recognize their positive contribution to GCF goals throughout the entire project/programme cycle. The design and implementation of activities will be consistent with respect the rights and commitments set forth in the United Nations Declaration on the Rights of Indigenous Peoples, including the principle right of to free, prior and informed consent;
- (c) Human rights. All activities supported by the GCF will be designed and implemented in a manner that will promote protect, and fulfil universal respect for, and observance of, human rights for all. Actions to support human rights will be consistent with the principles contained in the Universal Declaration of Human Rights and other international human rights instruments. The GCF will not support projects/programmes that negatively impact human rights. The GCF will

Comment [EL 27]: Why aren't these guiding principles? The following things should also be requirements.

Comment [WU28]: It is difficult to know what these are given that currently the GCF is using interim ESSs and has yet to develop its own.

require entities to ensure that the supported activities do not cause, promote, contribute to, perpetuate or exacerbate human rights violations; and

²² Decision B.12/35, paragraph (a), annex XXIX.

²³ Decision B.09/11, paragraphs (a–b).

²⁴ UNFCCC decision 1/CP.16.

- (d) Biodiversity. All GCF-financed activities will be designed and implemented in a manner that will protect critical habitats, biodiversity and ecosystem ~~services~~. The GCF will not support projects/programmes that negatively impact critical habitats. Compensation, ~~or “offsets,”~~ should be used to mitigate adverse impacts on biodiversity and ecosystems ~~critical habitats~~ in rare cases and only as a last resort when:

- (i) All other technically feasible avoidance, minimization and restoration measures have been considered;

~~(ii)~~ (ii) They are supported by rigorous, sound science;

~~(iii)~~ (iii) Developed in consultation with independent experts; and

~~(iv)~~ (iv) Long-term management and financing is secure.

Comment [WU29]: The ESP should make it clear that the GCF will not support projects or programmes that impact critical habitat.

IV. Overview of roles and responsibilities²⁵

4.1 Overview of the roles and responsibilities of the GCF

13. Accreditation. In relation to the accreditation of entities, the GCF is responsible for determining the capacity of the entities to manage environmental and social risks and impacts of GCF-financed activities based on both existing policies and management systems as well as implementation track records. ~~Where capacities exist, the~~ GCF will assess the consistency of the system and approach used by the entities and intermediaries with GCF environmental and social standards using the fit for purpose approach. As necessary ~~On the other hand, where the capacities are constrained,~~ the GCF will collaborate with the entities on measures to improve capacities, including the deployment of necessary support and assistance through the GCF Readiness and Preparatory Support Programme.
14. Managing environmental and social risks throughout the project/programme cycle. Within the parameters of GCF-financed activities, the GCF is responsible for:

- (a) Requiring the accredited entities to implement their ESMS, which should be equivalent to, or better than the GCF's ESMS, thereby providing for a systematic, consistent and transparent management of risks and impacts of GCF-financed activities. Where gaps or weaknesses exist between the ESMS of an entity and the GCF's ESMS, the GCF will require that these be addressed by the entities in a manner and time amenable to the GCF and the entities so that an effective ESMS is in place before GCF-financed activities are implemented;
- (b) Requiring and ensuring an appropriate screening and categorization processes within the ESMS;
- (c) Conducting environmental and social due diligence on activities proposed for funding consideration, and recommending to the Board for GCF financing only those proposed activities with satisfactory approaches to managing environmental and social risks and impacts, consistent with the ESP and ESS standards of the GCF;
- (d) Requiring that environmental and social risks and impacts assessments for an accredited entity's activities are adequate and provide sufficient information to (i) assess whether the GCF should consider funding the project or programme, or not finance it because of the potential risks and impacts and (ii) determine suitable avoidance, mitigation or compensation measures, in those cases where proceeding with funding consideration is appropriate. Where gaps or weaknesses exist, the GCF will require that they be addressed. The assessments will also provide the basis

Comment [Aa30]: In implementing their own ESMS, it needs to be ensured that it is equivalent to or better than the GCF's ESMS. Thus compliance with the GCF ESMS becomes the minimum mandatory standard for all AEs.

Comment [KO31]: Who does what at the GCF to ensure implementation?

Comment [KO32]: What is meant by 'screening' in this case?

Comment [KO33]: Who specifically is responsible for this?

²⁵ These roles and responsibilities are further elaborated in the remaining sections of the policy.

for the GCF to confirm the risk categories of activities in line with the definition of the ESS standards of the GCF and the level of risks to which the entity was accredited;

- (e) Ensuring that ~~Confirming with~~ accredited entities' the environmental and social management plans (ESMPs) ~~to~~ address the identified risks and impacts and any other safeguards, instruments and tools that may be required, and reviewing their adequacy. Where there are gaps or weaknesses, the GCF will require that they be addressed. The GCF will also require that accredited entities implement (which may include the role of an executing entity), or monitor and supervise (as an intermediary) the project or programme's implementation and compliance with the environmental and social obligations and conditions, and require that any gaps or weaknesses be addressed;
 - (f) Reviewing proposed operational changes within the accredited or executing entity or of the project/programme and require additional measures to comply with the GCF's ESMS, if necessary; and
 - (g) Carry out monitoring, reviewing, and reporting functions related to the environmental and social performance of accredited entities and the supported projects and programmes, as may be required, consistent with the monitoring and accountability framework for accredited entities (MAF);
15. Information disclosure, stakeholder engagement and grievance redress. The GCF is responsible for:
- (a) Confirming that the project/programme-affected persons and communities are consulted – and in the case of indigenous peoples their free, prior and informed consent attained - by the accredited entities or through the executing entities during the design and implementation of

Comment [KO34]: Who specifically at the Secretariat is responsible – because even currently not all of this is being done.

- the activities and that effective grievance redress mechanisms to receive complaints and feedbacks are established and function in a collaborative ~~and~~ manner complementary to the ~~I~~Independent Redress Mechanism, and requiring that any gaps or weaknesses be addressed;
- (b) Ensuring that accredited entities agree to fully implement remedial actions stipulated by the Board on the recommendation of the ~~I~~Independent Redress Mechanism in response to complaints it has received and in accordance with the terms of reference, guidelines, and procedures of the ~~I~~Independent Redress Mechanism; and
- (c) Confirming that all information related to the environmental and social risks and impacts of activities are appropriately disclosed to meet the requirements of the information disclosure policy of the GCF, and working with entities to address any gaps or weaknesses.
16. The GCF will require accredited entities to comply with their environmental and social obligations, including those specified in the project/programme safeguards plans and frameworks, its project/programme-specific gender action plan, the indigenous peoples policy, applicable country laws and regulations, and the obligations of the country ~~directly~~ applicable to the project under relevant international treaties and agreements. Where the accredited entities fail to comply with the safeguards requirements, the GCF will work with them to develop and implement corrective actions that will bring the activities back into compliance, and that will fully compensate for harms caused by non-compliance. Where the accredited entities fail to re-establish compliance within a time frame and manner that are mutually agreed upon, the GCF may exercise its remedies under its legal agreement with the entities, such as suspension of financial transfers or revoking the entity's accreditation.

Comment [KO35]: Who at the GCF Secretariat is responsible for this? It is not clear that this is currently being done for projects.

Comment [LS36]: The enforcement should not focus on agreeing to implement, but on the implementation. Deletion suggested

Comment [KO37]: What happens to projects in interim? i.e. while the AE is out of compliance and project activity is occurring? Can the project be put on hold? Further, the GCF must ensure that when this happens the AEs must compensate for any harms that occurred due to non-compliance.

Comment [LS38]: Language should be strengthened with reference to enforcement actions by the Secretariat

4.2 Overview of roles and responsibilities of the accredited entities

17. Accredited entities are responsible for:

- (a) In the case of activities proposed for GCF financing:
- (i) Implementing an ESMS, at least equivalent to the GCF's ESMS, to manage the environmental and social risks and impacts of activities, including meaningful and inclusive multi-stakeholder consultation and engagement throughout the project/programme cycle, taking into account the particular situation of indigenous peoples, from design through implementation, appropriate to their role as an implementing entity (which may include a project execution role), an intermediary entity, or both, maintaining or improving on the ESMS on which their accreditation was approved;
- (ii) Ensuring that activities proposed for GCF financing are properly screened and assigned to appropriate environmental and social risk categories;
- (iii) Cooperating with the GCF in the due diligence of the activities proposed for GCF financing;
- (iv) Ensuring that the environmental and social risks and impacts of activities proposed for GCF financing are properly assessed;
- (v) Ensuring that measures to avoid, minimize, mitigate, and offset or compensate for adverse impacts are planned for activities proposed for GCF financing; and

Comment [KO39]: The ESP needs to include a glossary with definition of terms to provide clarity on their differentiation and meaning: for example, implementing entity vs. intermediary entity vs. executing entity vs.; sub-project; program; etc.

- (vi) Ensuring that remedial actions stipulated by the Board on the recommendation of the independent Redress Mechanism in response to a complaint from project/programme-affected people are respected and promptly implemented; and
- (b) In the case of GCF-financed activities:
 - (i) Ensuring that ESMPs are implemented, with operational changes as needed;
 - (ii) Monitoring the environmental and social performance of GCF-financed activities;
 - (iii) Proactively disclosing information and developing and implementing a stakeholder engagement plan, and an Indigenous Peoples' Action Plan where it applies, including entity-level and project-level grievance mechanisms; and
 - (iv) Monitoring and reporting the progress and performance to the GCF and its stakeholders throughout the implementation of the GCF-financed activities, in accordance with the MAF.
 - (iv)(v) Disclosing sub-projects (including, for example, new equity investments) and ensuring that these activities are properly screened, assigned to the appropriate environmental and social risk categories, and subject to due diligence and oversight.
- 18. The accredited entities will confirm that the measures to manage environmental and social risks and impacts, including, as relevant, information disclosure, stakeholder engagement and grievance redress, are included in the agreements with executing entities such as tendering documents and contracts.
- 19. The accredited entities are responsible for compliance with all applicable laws, including the laws, regulations and standards of the country or countries in which the projects or programmes are located, and obligations of the country or countries directly applicable to the project or programme under relevant international treaties and agreements.
- 20. Entities that are functioning as financial intermediaries are exposed to environmental and social risk through the activities of their grantees, borrowers, and investees. Intermediaries are responsible for managing the environmental and social risks associated with the supported activities and ensuring positive social and environmental outcomes, or at minimum, outcomes that do no harm. The intermediaries will review the activities to identify where the entities and the GCF could be exposed to potential risks and take necessary action, including the development and operation of an ESMS to oversee and manage these risks.
- 21. The accredited entities will be responsible for ensuring that the project/programme-affected communities and vulnerable populations are properly consulted – and in the case of Indigenous People, free, prior and informed consent appropriately attained – on the risks and anticipated impacts and the expected benefits that can be derived from the projects. In order to ensure meaningful and effective consultation and participation of the affected communities and vulnerable populations, the accredited entities will disclose and make publicly available relevant information on the project in accordance with the requirements of the information disclosure policy of the GCF and subsection 6.1 of this policy.

Comment [KO40]: Shouldn't a plan for stakeholder engagement also be including for GCF activities propose for financing – i.e. (a)?

Comment [OR41]: More clarity about application of the policy to "sub-projects" is needed and should be elaborated in the policy.

Comment [LS42]: Financial intermediation also includes on-granting. Should make sure that grant-giving is not forgotten.

Comment [KO43]: There should be a specific section devoted to entities functioning as financial intermediaries, detailing their responsibilities vis-à-vis subprojects, with obligations based on what we've learned about the problems with FIs and ensuring actual positive environmental and social outcomes. Details need to be spelled out specifically for FIs and their sub-projects.

V. General requirements for environmental and social risk management

5.1 Accreditation

22. The GCF operates through accredited entities (including financial intermediaries). These entities are tasked to deliver upon the objectives of the GCF through the supported projects and programmes while ensuring that the environmental and social commitments of the GCF are met. Accredited entities will have the capacity and the system for developing and screening funding proposals to identify the potential environmental and social risks and impacts and to determine necessary actions to ensure compliance consistency with the ESP and ESS standards of the GCF.
23. The accreditation of entities will be conducted pursuant to the GCF accreditation framework.²⁶ Under this framework, the GCF examines, where applicable and in line with the ESP, ESS standards and other relevant policies, the robustness of the applicant's ESMS, including the effectiveness and independence of its grievance redress mechanism as well as its capacity to comply with the GCF gender policy and other specific policies that will be adopted by the Fund. The accreditation process will also ensure that entities access GCF support at a level commensurate with their institutional capacity to undertake the assessment and management of environmental and social as well as gender equality risks and impacts.

Comment [KO44]: It is unclear why the AE would be determining consistency with ESS standards of the GCF. The AP would have already done that during the accreditation process. Or do they mean determining compliance of environmental/social risk and impacts with GCF's ESS? This needs to be clarified.

5.2 Environmental and social management system of Accredited Entities

24. The ~~accredited~~ accredited entities will ensure that an effective ESMS equivalent to or better than the GCF's ESMS, is in place to allow a better understanding of the environmental and social risks and impacts associated with the projects and programmes and the means to subsequently manage these effectively and equitably. The ESMS will be appropriate to the role of an implementing entity (which may include a project execution role), an intermediary entity, or both. The accredited entity will maintain or improve on the ESMS on which its accreditation was approved to ensure that it is equivalent to or better than the GCF's ESMS. The level of detail and complexity of the management system and the staff and financial resources allocated to it will be adequate to manage the expected level of risks and impacts of the projects and programmes to be financed. If the accredited entity has been accredited to have an intermediary function, its ESMS will include the policies, procedures, and resources to conduct due diligence and oversight over executing entities and ensure that the executing entities fulfil the GCF project-level requirements discussed in sections IV, V and VI of this policy and in line with the ESP and ESS standards of the GCF. The staff of the accredited entity, including those who may be part-time or externally acquired (e.g. consultants) will have the necessary expertise in all areas covered by the ESS standards to carry out their responsibilities. The ESMS forms one of the important criteria for the accreditation of the entities and also the basis for project screening and due diligence process to confirm how the ESS are translated to specific measures at the project level.

Comment [EL 45]: The Accredited Entities ESMS should be equivalent or better to the GCF's ESMS.

Comment [KO46]: This has to be dealt with more carefully, since it's a huge problem for FIs.

5.3 Screening and categorization

25. The GCF, pursuant to the ESS standards, requires an accredited entity – whether its role is as an implementing entity or an intermediary entity – to screen projects and programmes including any sub-projects, and to categorize them appropriately.
26. In screening projects, the entity will determine the nature and scale of risks and potential impacts, the breadth and depth of environmental and social assessment, measures to manage these and the extent of appropriate stakeholder engagement and type of information to be disclosed. The risk category of a project or programme, aligned with the fit-for-purpose approach,²⁷ is proportional to the nature, scale and location of the project or programme and its

environmental and social risks and impacts and the sensitivity of the receiving

²⁶ Decision B.07/02.

²⁷ Decision B.08/03.

environments and communities. Pursuant to the ESS standard on assessment and management of environmental and social risks and impacts, accredited entities assign risk categories to all activities, including sub-projects under a programme, with attention paid to specific environmental and social risks, as specified in the environmental and social safeguards IFC Performance Standards 1 to 8. The risks and impacts are assessed at the pre-mitigation stage and consider the most serious potential impacts of all activities, including associated facilities,²⁸ and all sub-projects.

27. The risks and impacts will include direct and indirect, induced and cumulative impacts,²⁹ and will cover the areas of influence, including associated facilities, ~~where relevant~~. In assigning the risk categories of activities, the accredited entities will undertake an integrated review taking into consideration the combined environmental and social risks and impacts, as well as the nature, magnitude and complexity of these impacts and specific characteristics (including the physical environmental characteristics as well as the societal, social, and legal characteristics) of the influence area.
28. If a programme (not a single project) is being submitted for consideration for GCF funding, the accredited entity will assign the risk categorization of the highest risk project in the programme.
29. The GCF reviews the projects and programmes proposed for GCF financing, including the accompanying ESS documents, to confirm the environmental and social risk category assigned during screening. If it is inconsistent, the GCF will require the accredited entity to reflect the necessary classification. In reviewing the ESS risk categorization, the GCF verifies that proposed project and programme activities are appropriate given the risk level at which the entity is accredited. Only projects and programme activities within the accredited entity's accreditation level will be considered for GCF financing.
30. The environmental and social risk categories as defined in the interim ESS standards of the GCF apply to activities financed by the GCF as follows:
 - (a) Category A. Activities with potential significant adverse environmental and social risks and impacts that, individually or cumulatively, are diverse, irreversible, or unprecedented;
 - (b) Category B. Activities with potential mild adverse environmental and social risks and impacts that, individually or cumulatively, are few, generally site-specific, largely reversible and readily addressed through mitigation measures; and
 - (c) Category C. Activities with minimal or no adverse environmental and social risks and/or impacts.
31. In assessing risks and impacts associated with investments through financial intermediation, the assessment will be based on the risks associated with the intended end use. Categories of projects involving investments through financial intermediation functions or delivery mechanisms involving financial intermediation are divided into the following three levels of risk:
 - (a) High level of intermediation, I1. An intermediary's existing or proposed portfolio includes,

Comment [EL 47]: The IFC Performance Standards are interim safeguards for the GCF and should not be considered permanent, but merely as placeholders until the GCF develops its environmental and social safeguards. If necessary, a footnote could be inserted that says "Until the GCF develops its own environmental and social safeguards, the IFC Performance Standards 1 to 8 are the applicable safeguards."

Comment [EL 48]: Where reference to specific characteristics are made, this should include both the physical characteristics of the area as well as the social and legal characteristics in the country/area, i.e. the risks for environmental and human rights defenders, openness of spaces for civil society, etc.

Comment [KO49]: Who at the GCF does this? Need more specificity to make sure it gets done and the public knows who does it.

or is expected to include, financial exposure to activities with potential significant adverse environmental and social risks and impacts that, individually or cumulatively, are diverse, irreversible or unprecedented;

²⁸ Associated facilities are those that are not funded as part of the project, and that would not have been constructed or expanded if the project did not exist and without which the project would not be viable (refer to IFC Performance Standard 1, paragraph 8).

²⁹ Cumulative impacts result from the incremental impact, on areas or resources used or directly affected by the project, from other existing, planned or reasonably defined developments at the time the risks and impacts are identified (IFC Performance Standard 1, paragraph 8).

- (b) Medium level of intermediation, I2. An intermediary's existing or proposed portfolio includes, or is expected to include, substantial financial exposure to activities with potential limited adverse environmental or social risks and impacts that are few, generally site-specific, largely reversible and readily addressed through mitigation measures; and includes no activities with potential significant adverse environmental and social risks and impacts that, individually or cumulatively, are diverse, irreversible or unprecedented;
 - (c) Low level of intermediation, I3. An intermediary's existing or proposed portfolio includes financial exposure to activities that predominantly have minimal or negligible adverse environmental and social impacts.
32. The accreditation of the entities is based on the definitions of risk categories A, B and C for projects and I1, I2 and I3 for intermediaries. Entities and intermediaries accredited to category A or I1 can propose for funding programmes, projects and activities with assessed environmental and social risk categories of up to category A or I1. Entities and intermediaries accredited to category B or I2 can propose programmes, projects and activities with assessed risk categories of up to category B or I2 only. Entities accredited to category C or I3, however, can propose for funding only category C or I3 activities.
33. In screening activities, the entities determine the applicability of specific ESS standards and identify actions sufficient to meet the requirements of each applicable ESS standard. The screening of the activities will benefit from an integrated assessment that brings together the perspectives of environmental, human rights, and social risks and the impacts of the projects on the communities and the receiving environment.
34. The entities will ensure that all GCF-financed activities meet applicable laws related to managing environmental and social risks and impacts, including national laws, regulations and standards, and obligations of the country or countries directly applicable to the project or programme under relevant international treaties and agreements. The compliance with applicable laws and relevant international obligations and standards, will be reflected in the screening process indicating these national and international requirements and how these will be met through the management programmes and plans.
35. The GCF will require the entities to ensure that associated facilities meet the requirements of the ESS standards of the GCF ~~to the extent that the entities have the control and influence over these associated facilities~~. Where the associated facilities are financed by other funding agencies, the GCF and its entities may rely on the environmental and social requirements of these funding agencies provided that these are at a minimum, equivalent to aligned with the ESS standards of the GCF.

Comment [LS50]: "Aligned" is too weak a standard. Should be replaced by "equivalent to"

5.4 Environmental and social due diligence

36. The GCF will conduct its environmental and social due diligence for activities proposed for funding consideration. The purpose of the due diligence is to understand and evaluate how the environmental and social risks and impacts are screened, assessed and planned to be mitigated and managed by the entities. The due diligence of the GCF will verify the consistency of the assessments and proposed management measures by the accredited entities with the ESS standards of the GCF and recommend to the Board for GCF financing only those proposed activities that with satisfactory approaches to managing environmental and social risks and impacts, consistent with the ESS standards.

Comment [K051]: Need more specificity about who at the GCF Secretariat will be doing the due diligence

36-37. In the case of approved I1 and I2 programmes, proposed category A and category B [sub]projects will undergo equivalent due diligence processes by the GCF individually.

Comment [K052]: Why add 'satisfactory approach'? Activities should just be consistent with the ESS standards.

37-38. When accredited entities bring investment projects or programmes to the GCF for consideration, the GCF will review the environmental and social assessment of the activities and related documents to determine the

consistency of the project/programme risk categories with the accreditation of the entities and the alignment of the proposed approach to environmental and social risks and impacts with the requirements of the ESS standards of the GCF. The GCF will use third party information in order to make such assessment. With the review, a set of actions will be agreed upon with the entities to fill remaining gaps with the ESS standards, if any.

Comment [K053]: Third party information, including from affected people and communities, must be taken into account beyond AEs self-categorization and be part of the due diligence review by the Secretariat.

38-39. The environmental and social due diligence of the GCF includes:

- (a) Supporting decision-making related to accreditation as well as to the consideration of funding proposals;
- (b) Assessing the ESMS of the entities and their application to the projects, including the safeguards instruments that describe the set of actions to assess, avoid, minimize, mitigate and /or compensate for offset environmental and social risks and impacts, the effectiveness and independence of the grievance redress mechanism of the accredited and implementing entities, the ability of the accredited and implementing entities to conform to the information disclosure policy of the GCF, and the capacity to conduct meaningful and timely consultations with all stakeholders; and
- (c) Providing guidance to entities in developing and implementing measures to manage the risks and impacts. The responsibilities of the entities include ensuring that all the necessary assessments of risks and impacts are conducted, management plans developed and implemented, information provided and necessary stakeholder engagement and communications conducted.

39. The GCF will undertake initial due diligence based on the available information at the time the process is undertaken. Where information on the activities is limited, for example in the case of programmatic approaches, the risks and impacts inherent to the type of activity, sector or industry, the specific context with which the project or programme will be developed and implemented, and the capacity of the entities to implement the activity following the requirements of the ESS will be assessed and reviewed subsequently during implementation. If compliance with the GCF's ESS standards cannot be properly assessed or guaranteed, Board

consideration of the programme should be delayed until all necessary information to make that determination is made publicly available. As part of this information gathering, the GCF will also consider and include information obtained through participatory monitoring in line with the monitoring and accountability framework mandate. Where assessments have already been done and the permits obtained, the due diligence for the activities will consist of gap analysis to understand whether there is a need for any additional studies or measures to meet the ESS requirements. The significance of the gaps (including time elapsed), the extent of information provided and the potential risks these present to achieving the objectives of the ESS will be reflected in the relevant review documents.

40. In the case of approved I1 and I2 programmes, proposed category A and category B [sub]projects will undergo equivalent due diligence processes by the GCF individually.

5.5 Environmental and social assessment

41. The interim ESS Standard on the assessment and management of environmental and social risks and impacts requires accredited entities to ensure that each of the activities proposed for GCF financing is designed to meet the requirements of the ESS standards. If the accredited entity is acting in an intermediary function, it will require the executing entity to fulfil the project-level assessment requirements discussed in this section and will conduct the necessary due diligence and oversight to ensure that these requirements are fulfilled. Accredited entities are responsible for appropriate implementation of GCF-funded activities. For approved I1 and I2 programmes, proposed category A and category B [sub]projects will undergo equivalent due diligence processes by the GCF individually.

- 40-42. The assessment of the activities will be in a manner that follows best industry practices internationally and allows for an integrated and balanced view of the environmental and social risks and impacts.

The scope and depth of environmental and social assessment will be proportional to the level of risks and impacts and address the specific requirements of applicable ESS standards. The specific focus of the assessment will be determined by the requirements of the applicable ESS standards. For category A projects that are expected to have significant environmental and social impacts, a full and comprehensive environmental and social impacts assessment (ESIA) as well as a Human Rights Impact Assessment (HRIA) is required. For category B projects with limited impacts and with well-developed mitigation and monitoring measures, a limited focus environmental and social impacts assessment, taking into account human rights implications, and ESMP will suffice. Category C projects having no expected significant environmental and social impacts may not require any assessments although a pre-assessment should confirm that the project is indeed in category C.

- 41-43. The entities may use a variety of tools and studies to complement and strengthen further the assessment of projects and programmes. These form part of commonly accepted assessment tools such as strategic impacts assessment, regional impacts assessment, cumulative impacts assessment, human rights impact assessment, and other specialized studies as may be required under specific ESS standards. The GCF may recommend additional tools and

Comment [EL 54]: In regards to programmatic approaches and programmes with undefined sub-projects, it is necessary to ensure that before the Board considers the project it is given all the information necessary to determine that compliance with the GCF's standards can be guaranteed.

Comment [KO55]: The ESP should include a special paragraph/section on clarifying obligations in the case of sub-projects implemented via FIs.

Comment [KO56]: What if the mitigation and monitoring measures aren't well developed?

planning instruments as may be necessary to meet the national requirements and international commitments of countries.

5.6 Environmental and social management plan

42-44. The GCF requires the entities to develop ESMPs that contain the measures to manage and mitigate the identified risks and impacts. If the accredited entity is acting in an intermediary function, it will require the executing entity to fulfil the project-level ESMP requirements discussed in this section and will conduct the necessary due diligence and oversight to ensure that these requirements are fulfilled.

43-45. Based on the results of the assessment, the ESMP will be designed such that the measures are adequately described, roles defined and the corresponding timelines and resources identified. Where the project/programme involves existing facilities, an environmental and social audit may be required, and the corresponding ESMP may include remediation, recompense or management of any residual environmental and social issues.

44-46. The ESMP will be integrated into the overall planning, design, resourcing and execution of the GCF- financed activities as well as being reflected in the ESMS. Where gaps in the capacity of entities to implement the mitigation measures exist, the GCF will work with the entities to explore how the institutional capacity can be built or enhanced, and how the gap-filling measures ~~may~~ will be integrated into the project.

45-47. The entities will screen projects for potential involuntary resettlement impacts, consistent with the objectives and requirements of the GCF's ESS standard on land acquisition and involuntary resettlement. Where there is potential involuntary resettlement, the GCF will require the entities to prepare a resettlement action plan with participation of affected people or communities, or, if specific activities or locations have not yet been determined, a resettlement policy framework proportional to the extent of physical and economic displacement and the vulnerability of the people and communities. A resettlement framework will include provisions for the development and implementation of site-specific resettlement action plans and will comply with national and international law. These plans or frameworks will complement the social assessment of the project and provide guidance on specific issues related to involuntary resettlement, including land acquisition, compensation for assets, livelihood loss and restoration, transition allowances, facilities and resettlement sites, and displacement.

46. The entities will screen the projects for any potential impacts on indigenous peoples, consistent with the objectives and requirements of ~~the ESS standard on indigenous peoples~~ the GCF's Indigenous Peoples Policy. Where there are potential impacts on indigenous peoples, the GCF will require the entities to prepare an indigenous peoples development plan or, if specific activities or locations have not yet been determined, an indigenous peoples planning framework. The framework should be developed with the close collaboration and consent of indigenous peoples affected by the project or programme, through an appropriate process to ensure the free, prior informed consent of the affected peoples. The scope and extent of such plans will be proportional to the vulnerability of the indigenous peoples and the extent of the impacts on the customary rights of use and access to land and natural resources, socioeconomic status, cultural integrity, indigenous knowledge and skills, and overall welfare. An indigenous peoples planning framework will include provisions for the development and implementation of site-specific indigenous peoples plans. These plans and frameworks will complement the social assessment of

Comment [EL 57]: When they are developed, the GCF's own ESSs should include a policy on displacement and resettlement. It should not rely on the IFC Performance Standard on this.

Comment [KO58]: How does this work with an Indigenous Peoples Policy?

the project and provide guidance on specific issues related to addressing the needs of the affected indigenous peoples. Indigenous peoples' contributions in risk assessment will also be facilitated.

48. The entities will screen the projects and programmes for any potential negative impacts on the promotion, protection, respect for, and fulfilment of human rights. For projects or programmes that have potential negative impacts on human rights, the GCF will require the entities to prepare an action plan that describes the mitigation measures that will be taken to ensure compliance with international and national human rights laws. If compliance with human rights laws cannot be guaranteed, entities will be required to suspend such activities.

47. The entities will screen the projects and programmes for any potential negative impacts on the promotion, protection and respect for gender equality and women's empowerment in accordance with the GCF Gender policy and in compliance with international and national gender rights laws and obligations through a gender impact and risk analysis. Supporting and mitigating actions ("do good" as well as "do no harm") are to be spelled out in a project/programme specific gender action plan. Projects/programme proposals without a supporting gender action plan should not be funded.

48-49. The entities will screen the projects for any potential impacts on biodiversity, consistent with the objectives and requirements of the ESS standard on biodiversity conservation and sustainable management of living natural resources. The entities will strive to avoid impacts on biodiversity and ecosystem services, and if avoidance of impacts is not possible, measures to minimize impacts and restore biodiversity and ecosystem services will be implemented. ~~The mitigation hierarchy may include biodiversity offsets, which may be considered only after appropriate avoidance, minimization and restoration measures have been applied; they are supported by sound science, and long term management and funding are secure. For projects that have potential negative impacts on critical habitats should not be financed by the GCF, the GCF will require the entities to prepare a biodiversity action plan that describes the long-term mitigation, conservation outcomes, monitoring and evaluation programme.~~

49-50. For activities requiring financial intermediation, the ESS standards of the GCF require the accredited entity in an intermediary function to develop an ESMS to identify and manage the risks associated with its portfolio on an ongoing basis. The complexity of the ESMS will vary according to the risk exposure that the intermediary is expected to manage. ~~The ESMS will be designed and operated to meet the needs of the intermediaries and can be integrated into its an intermediary's existing risk management system provided this can be done in a manner that is consistent and ensures compliance with the ESS standards of the GCF within the intermediary. The GCF will provide support and guidance and guarantee that this is done in a way that complies with GCF standards and policies.~~

Comment [LS59]: Suggested addition to spell out the relationship of obligations of the gender policy with the ESP requirements.

Comment [LS60]: Shouldn't the ESMS be designed so as to support the implementation of the GCF ESSs? Not quite sure why this sentence seems to go out of its way to give intermediaries leeway with respect to their ESMS.

Comment [OR61]: Sentence should be added about GCF Secretariat offering some guidelines/support to ensure that it's done properly.

5.7 Operational changes

50-51. The accredited entities will notify the GCF when there are material changes in the project design and execution, policy and regulatory setting, receiving environment and community, unanticipated environmental risks and impacts, or other circumstances that elevate the risk levels of the project and required associated mitigation measures. The GCF will require and ensure that the accredited entities ~~to~~ undertake a due diligence process appropriate to the new risk level of

the project and revise the ESMP or ESMS to meet the requirements of the ESS standards.

51-52. The accredited entities will also notify the GCF when changes to the ESMP or other management plans are required. In the context of adaptive risk management, accredited entities will ensure that the implementation of the ESMP is responsive to changing conditions and the results of monitoring, including participatory monitoring, throughout the project's lifecycle. The GCF requires the entities to maintain effective due diligence processes to address unanticipated developments in the activities or to reflect improved techniques and technologies for addressing environmental and social risks and impacts, to meet the requirements of the ESS standards.

52-53. The accredited entities will also notify the GCF of any changes in their ESMS that may adversely affect the planning, design, implementation and monitoring of GCF-financed activities. Where the changes render the project's ESMP or the entity's ESMS inconsistent with the ESS standards of the GCF, the GCF will require and ensure that the accredited entities ~~to~~ make appropriate revisions of the project's ESMP; adjust the accredited entity's ESMS; or undertake other necessary actions to meet the ESS standards requirements.

53-54. If the accredited entity is acting in an intermediary function, it will require and ensure that the executing entity ~~to~~ inform it of the operational changes discussed in this section and, in turn, inform the GCF. It will collaborate with the GCF and executing entity to ensure that any further required measures are implemented.

5.8 Monitoring and reporting

54-55. The GCF, through its Secretariat, will carry out monitoring and reporting functions related to the environmental and social performance of the accredited entities and the supported projects, and programmes as required in the MAF.³⁰ The monitoring will be a continuous process, and the extent of monitoring will be based on the type and level of risks identified, including environmental and social risks.

Comment [K062]: Who at the Secretariat?

55-56. The accredited entities are responsible for monitoring and reporting to the GCF on the GCF-financed activities. If the accredited entity is acting in an intermediary function, it will require and ensure that the executing entity ~~to~~ fulfil the project/programme-level monitoring and reporting requirements discussed in this section and will, in turn, provide the requisite monitoring and reporting information to the GCF. This may include both project-specific and aggregated monitoring and reporting.

56-57. The reporting requirements will include annual performance reports and interim evaluation and final evaluation reports specifying the projects' consistency with the ESS standards, the ESMS of the GCF, and any other applicable environmental and social provisions in the legal agreement. If needed, the GCF may require more frequent or ad hoc monitoring and reporting or audits on specific environmental and social issues, which may also include site visits and consultations with beneficiaries, communities, and national designated authorities. The Secretariat will then report to the Board on the performance of the accredited entities in relation to their GCF-financed activities, providing information related to implementation progress, issues, risks, and lessons learned, including those affecting environmental and social safeguards.

57-58. In monitoring a project's or programme's environmental and social performance, the accredited entities will ~~obtain~~ guarantee participatory monitoring through the involvement of communities, local stakeholders, indigenous peoples, and civil society organizations in all the

stages, starting with project or programme design, of the project/programme cycle, consistent with the monitoring and accountability framework. This participatory monitoring approach will also encourage the national designated authorities or focal points to organize country portfolio reviews participated in by project-affected people and other local stakeholders.

58-59. The GCF will monitor the compliance of accredited entities with the GCF's ESS standards requirements. On an annual basis, the accredited entities will provide the GCF with a self-assessment of their compliance with the ESS standards, among other issues. The self-assessment shall be published on the website of the GCF and the accredited entity, in relevant languages. Half-way through the five-year accreditation, the Secretariat will undertake a mid-term review of compliance performance of the accredited entities. The mid-term review shall be published on the website of the GCF and the accredited entity, in relevant languages. The Secretariat will report annually to the Board the consolidated results of the annual self-assessments, mid-term reviews, and any ad hoc reviews that were conducted, all of which shall be published on the website of the GCF and the relevant accredited entity, in relevant languages.

Comment [KO63]: "This participatory monitoring approach" makes it sounds like participatory monitoring was described earlier, but this is the first time the term was used in the draft.

Comment [KO64]: Is this only in relation to particular projects, or for the AE more generally? What if an AE is ok for a GCF project but commits extraordinary violations in its other financing initiatives?

VI. Information disclosure, stakeholder engagement and grievance redress

6.1 Information disclosure

59-60. The Governing Instrument affirms that the GCF will operate in a transparent and accountable manner guided by the principles of efficiency and effectiveness. The GCF information disclosure policy operationalizes this commitment by ensuring transparency, public access to information and stakeholder participation in all its activities. The policy requires that relevant information, including with respect to environmental and social issues, is made available to the affected and potentially affected communities and external stakeholders in a proactive manner.

³⁰ Decision B.11/10.

60-61. This information is made available in accordance with the provisions of the information disclosure policy, allowing the stakeholders time to review, seek further information and provide inputs on a proposed activity, including ways to improve the design and implementation of its environmental and social safeguards. The information in the form of environmental and social reports, including ESIA's, ESMPs, HRIAs, and ESMSs, will be provided through electronic links on the websites of both the accredited entity and the GCF (in the case of the GCF website, upon submission of the funding proposal to the Secretariat), as well as in locations convenient to affected peoples. The information will be available in both English and the local language(s) (if not English) to foster adequate understanding by the affected communities, stakeholders, and the general public.

Comment [KO65]: What's an environmental and social report?

61-62. The information disclosure policy of the GCF requires the accredited entities to disclose to the public and, via the Secretariat, to the Board and active observers, the necessary documentation relevant to the environmental and social safeguards of the activities, and meet the required disclosure period. The required disclosure periods also apply to all I1, I2, category A and category B sub-projects of GCF-funded programmes.

Comment [KO66]: How can it be assured that this is done in practice? Our general impression is that this hasn't been fully implemented thus far.

Comment [OR67]: Just to be clear... this means the sub-projects of activities that have an I1 or I2 level of overall risk?

62-63. The GCF requires, where relevant, that additional environmental and social safeguards documents be disclosed. These documents include a suite of assessment and management

Comment [KO68]: This strongly argues for public release of all project proposal documents.

instruments, such as resettlement action plans and policy frameworks, indigenous peoples plans and planning frameworks, and due diligence and audit reports as well as project/programme-specific gender action plans. These documents complement the core safeguards instruments required in all cases – ESIA, ESMP, and/or ESMS – and will be disclosed in the same manner and time frame as the core instruments, including on the GCF website and the website of the accredited entity, in all relevant languages.

63-64. Entities will also disclose a project/programme summary in a manner that is culturally appropriate and gender-responsive and in the local language(s) including on the GCF website and the website of the accredited entity, alongside the environmental/social information, including the following at a minimum:

- (i) The purpose, nature and scale of the project/programme, including details on its intended beneficiaries;
- (ii) The duration of proposed project/programme activities;
- (iii) The envisaged stakeholder engagement process; and
- (iv) The available grievance mechanism(s).

64-65. If the accredited entity is acting in an intermediary function, it will require and ensure that the executing entity to fulfil the project-level information disclosure requirements discussed in this section and will conduct the necessary due diligence and oversight to ensure that these requirements are fulfilled. Accredited entities are not precluded from fulfilling the project/programme level information disclosure requirements. Such efforts should be conducted by both entities.

Comment [KO69]: FI concerns, etc.

Comment [Aa70]: The ESP needs to clarify that the AE also takes on this responsibility even when they are only acting as intermediaries because outside observers will not know who the executing entities (EEs) are and EEs are after all not the legally responsible party vis-à-vis the GCF.

6.2 Stakeholder engagement

65-66. The GCF will require accredited entities, including intermediaries, to ensure the effective engagement of communities, vulnerable populations, groups, and individuals affected or likely to be affected by the activities proposed for GCF financing, through the development and implementation of a stakeholder engagement plan that describes the disclosure of information, meaningful, culturally appropriate, and gender-responsive consultation and informed participation, and, in certain circumstances, free, prior and informed consent for indigenous peoples, as required in the ESS standards and any further relevant policy. The engagement will be designed and undertaken in a manner that is commensurate with the risks and impacts of the proposed activities, and will continue to be ensured throughout the project life cycle.

66-67. The GCF will describe the process and set guidance to assist the accredited entities to put in place and implement a process for meaningful consultation with project-affected people, guided by the principles of transparency, inclusiveness, non-discrimination, and accountability. This meaningful consultation will be culturally appropriate, undertaken throughout the project life cycle, with information provided and disclosed in a timely manner and in an understandable format and language, gender inclusive and responsive, free from coercion, and incorporate the views of stakeholders in the decision-making process. The process will pay particular attention to including vulnerable groups and to conducting consultations in a manner that does not put vulnerable individuals and groups at risk. For activities affecting indigenous peoples, this engagement will be supported by the objectives and requirements of the ESS standard on indigenous peoples, and any relevant policy that will be adopted by the Fund, including with respect to free, prior and informed consent, as articulated under UNDRIP. There is no universally

Comment [KO71]: This really needs to happen already.

Comment [LS72]: No relativism here with respect to FPIC. It should follow UNDRIP elaborations (referenced earlier) and not allow for weakening (under “equivalency/common approaches”) with respect to the C as “consultation” instead of “consent”.

~~accepted definition of free, prior and informed consent.~~

67-68. The GCF reserves the right to observe and participate in the consultation process or request the documentation of the process to gain a better understanding of the issues and concerns of the affected communities, groups and individuals as well as how such concerns will be addressed by the accredited and implementing entities.

68-69. If the accredited entity is acting in an intermediary function, it will require and ensure that the executing entity ~~to fulfil~~ the project-level stakeholder engagement requirements discussed in this section and will conduct the necessary due diligence and oversight to ensure that these requirements are fulfilled, including by participating in the processes undertaken by the executing entity.

69-70. The GCF undertakes direct stakeholder engagement in processes related to the management by the GCF of environmental and social risks and impacts, including the development of policies, procedures and guidance, and including this ESMS. In such processes, key documents should be disclosed as early as possible (preferably 120 days) and, at are subject to a minimum, 30-business-day public disclosure period.

70-71. Country coordination and multi-stakeholder engagement processes for developing national strategic frameworks and funding proposals are expected to use the best practices referred to in decision B.08/10.³¹

Comment [Aa73]: How does the GCF make sure this happens? There has to be mandatory participation by the AE in such processes.

Comment [K074]: The ESP should follow international best practice on this. These are the time-frames suggested as minimum.

6.3 Grievance redress mechanism

71-72. The accredited entity's own grievance redress mechanism should be the forum first accessed easily accessible by project ~~ed/programme~~-affected peoples and communities, and it is the responsibility of the accredited entity to ensure that its grievance mechanisms and those of the projects are accessible and functioning effectively, efficiently, equitably, predictably, transparently, and independently. The GCF should perform the necessary evaluation to ensure this as well.

Comment [LS75]: See the submission by CSOs on the IRM ToR review in which CSOs make clear that there should be no restriction or hierarchy about which grievance mechanism should be accessed first – the GCF's grievance redress mechanism, the IRM, must always be accessible at any time.

72-73. The approach of the GCF is to provide for grievance and redress at the GCF, entity, and project/programme levels. The accredited entities will inform the communities affected, or likely to be affected, by the GCF- financed activities about the grievance and redress mechanisms at all three levels and in all relevant languages, as part of the stakeholder engagement process. The details for sending complaints containing the contact information and the appropriate modes by which these will be received will be provided by the entities to the communities and will also be made available in relevant languages on the entities' and GCF's websites.

73-74. The still to be developed GCF ESS standards will ~~ESS standards~~ establish the principles and requirements for setting up a grievance redress mechanism at the project/programme level, to receive and facilitate the resolution of concerns and grievances related to about the environmental and social performance of the projects and programmes. The ESS standards require accredited entities to ensure that all environmental and social issues arising or that may potentially arise from projects or programmes are reported and addressed in a manner that is satisfactory to the affected peoples and communities, the GCF, the entities, and the host countries. To this end, the GCF will require accredited entities to identify, where this already exists, or establish and maintain appropriate and effective mechanisms to receive complaints and facilitate the resolution of such complaints in connection with the projects and activities financed by the GCF.

Comment [EL 76]: This paragraph as written in the draft indicates that the ESS Standards provide principles and requirements for project level grievance mechanisms. However, the IFC Performance Standards, which are the current interim ESS Standards, do not do so. In fact, the IFC Compliance Advisor/Ombudsman (CAO), seeing this as a gap, has provided a toolkit for developing project level grievance mechanisms. Thus, the GCF should include principles and requirements for project level grievance mechanisms in its own ESS standards when they are developed.

³¹ Decision B.08/10, annex XIV.

74-75. If the accredited entity is acting in an intermediary function, it will require the executing entity to fulfil the project-level grievance mechanism requirements discussed in this section and will conduct the necessary due diligence and oversight to ensure that these requirements are fulfilled. Additionally, the accredited entity's grievance mechanism should be available to persons and communities affected or potentially affected by the activities of the executing entity in line with the project or programme financed by the GCF.

75-76. The accredited entity's mechanism should be scaled to the risks and impacts of the projects and activities. The mechanism will incorporate the criteria outlined in the United Nations Guiding Principles on Business and Human Rights unanimously approved by the United Nations Human Rights Council. The mechanism will facilitate the resolution of grievances promptly through an accessible, fair, transparent, and constructive process. It will also be culturally appropriate, gender-responsive, and readily accessible, in all relevant languages, at no cost to the public, and without retribution to the individuals, groups, or communities that raised the issue or concern. The mechanism will not impede the access to judicial or administrative remedies that may be available through the country systems, acknowledging that these localized systems may provide more robust information and better reflect the context of the issues on the ground.

76-77. At the GCF level, the independent Redress Mechanism will address the grievances and complaints by people and communities who may be or have been affected by ~~the adverse impacts through the failure of the~~ GCF-financed activities ~~funded by the GCF to implement its operational policies and procedures, including the ESS standards of the GCF~~. In the event of a complaint being filed with the independent Redress Mechanism, the accredited entity will cooperate with the independent Redress Mechanism, provide all required information and explanations requested by the mechanism, and will promptly implement remedial measures stipulated by the Board on the recommendation of the mechanism-IRM in keeping with its guidelines and procedures.

VII. Implementation arrangements and resource provision

77-78. The policy is an essential component of the overall management process described as the GCF ESMS. The implementation of this policy will be through the processes and procedures developed as part of the ESMS, taking into account other relevant policies and the ESS standards of the GCF, including the gender policy and action plan as a complement to the ESP, and will include relevant training for GCF staff. The GCF will have staff with appropriate expertise and will allocate responsibilities, and adequate resources to support the effective implementation of this policy.

VIII. Effective date and review

78-79. The policy will become effective upon its approval by the Board. ~~Applicable provisions of the policy~~ will apply to ongoing projects and activities and those that will be initiated after the effective date.

79-80. The GCF will review and evaluate the overall environmental and social performance based on the objectives of this policy and the ESS standards of the GCF as discussed in paragraph 81 below.

DRAFT FOR CONSULTATION

15 December 2016

Appropriate amendments to this policy and ESS standards will be considered, based on the results of such review and evaluation and changes to the policy and ESS standards will follow the normal decision-making processes of the GCF.

80-81. A review of the policy will be undertaken five (5) years after the effective date to assess the effectiveness of the GCF in achieving the objectives of the policy. [This review will include opportunity for public comment and consultation.](#) This review will be supplemented by annual and mid-term operational reviews and reporting, which may lead to improvements in the ESMS, as required. [All reporting will be made publicly available on the GCF website in all relevant languages.](#)

Comment [EL 77]: The GCF is currently using interim ESS standards and those should be replaced by the GCF's own ESS standards, which should be developed in a transparent and participatory manner, prior to the 5 year review called for in the following paragraph.