

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

Thank you for the opportunity to comment on the revised draft Environmental and Social Management System (ESMS) and specifically the revised draft Environmental and Social Policy (ESP). As organizations¹ that actively engage in the Green Climate Fund (GCF) and that have previously commented on the prior draft ESMS (as well as other policies), we are pleased to see that the GCF is making progress on developing its ESMS² in line with Decision B.07/02.

We have elaborated this joint response following the GCF Secretariat's request for public inputs on the revised GCF ESMS, including the draft ESP.³ The comments elaborate on previous civil society comments,⁴ including continuing overarching concerns and specific textual edits and suggestions on the revised draft ESP.

Overarching Comments

We appreciate that the GCF Secretariat has released a new draft of the ESP and that it incorporates a number of our recommendations from the previous round, including the addition of important new provisions such as those related to equality and non-discrimination, as well as the elimination of several caveats that would have undermined the implementation of the policy. A robust environmental and social management system with a strong accountability mechanism is critical to ensuring that the GCF's projects and programmes not only do no harm, but also do good, and that when there are harms adequate remedy is available. We appreciate the recognition in the draft of the need to "do good and improve environmental and social outcomes." However, several concerns remain.

First, we remain concerned that the GCF has not yet begun the process of establishing its own Environmental and Social Safeguards (ESSs) through a fully participatory, gender-responsive, culturally aware, and comprehensive public consultation process with an adequate timeframe that allows for multiple phases. The process the GCF has used to develop the ESP is a good model for creating the draft ESSs, as these comments are part of a third round of calls for input on the ESMS and second round and call for inputs on the draft ESP. While we appreciate this opportunity, developing the GCF's ESP without creating its underlying ESSs could lead to policy incoherence and inconsistencies and require further updating of the ESP to correct these. Additionally, the current draft ESP makes reference to important features and principles in the GCF's ESSs that the "interim" ESSs (the IFC Performance Standards) do not have.

¹ 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.

² 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>.

³ Call for Inputs: Green Climate Fund Environmental and Social Management System (ESMS) – Draft for Consultation (released Oct. 27, 2017).

⁴ See "Joint Response from a Number of Civil Society Organizations on the Draft Environmental and Social Management System (ESMS) of the Green Climate Fund" (Feb. 24, 2017), https://us.boell.org/sites/default/files/uploads/2012/10/cso_comments_on_esms_-_final_with_annex.pdf.

The proposed provisions for indigenous peoples' rights are a clear example of this potential for incoherence. While we welcome that the draft ESP is being created alongside the Indigenous Peoples' Policy and that the ESP references the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) as well as free, prior, and informed consent (FPIC), a key concern is that until the interim ESSs are replaced, the FPIC requirements contained therein do not align with international standards, including UNDRIP. We also wish to reiterate that UNDRIP should not only be related to FPIC, but to all policy aspects related to indigenous peoples.

Given these concerns, we appreciate that the next steps in the draft ESMS include developing the GCF's own underlying ESSs, an ESMS manual, and guidance for the Accredited Entities (AEs). All of these documents will be crucial to establish a robust ESMS and to ensure that the GCF projects not only do no harm, but also do good. As noted above, these documents should all be developed through a comprehensive consultation process with outside stakeholders, as there is considerable expertise available on these issues from which the GCF could benefit. The ESP should also be consistent with other policies, including, but not limited to, a revised Gender Policy and Action Plan, the Indigenous Peoples' Policy, and the yet to be developed ESSs. Further, in drafting its own ESSs (as well as this ESP), the GCF should harmonize upwards to the highest levels of protection internationally.

Implementing a comprehensive ESMS with multiple related policies, including, but not limited to the Indigenous Peoples' Policy and a revised Gender Policy, will require adequate budget and staffing, including for the training of staff on these policies. We appreciate that the recognition of this is included in paragraph 10 of the section on the ESMS. Additionally, the GCF must ensure that it has the capacity to properly assess AEs and projects/programmes to ensure their compliance with the ESP, ESSs, and other relevant policies. Furthermore, the GCF should always ensure that the AEs' policies and procedures actually meet and are equivalent or better than the GCF standards, as it is not enough to merely require AEs to have such policies. A lack of Secretariat capacity has been a hindrance to date for all of the aforementioned activities. To that end, we have grown increasingly concerned about the shortfalls in due diligence, for example in the accreditation process, and want to preempt possible scenarios in which ESMS and ESP procedures and policies on paper are not fully translated into practice.

In addition to adequate Secretariat capacity, we are concerned about the lack of clarity of the roles and responsibilities within the Secretariat. In whichever vehicle is most appropriate - whether in the ESMS, an accompanying manual, or elsewhere - the responsibilities of different units and positions within the Secretariat for all aspects of the ESMS should be clearly spelled out. This is necessary for the sake of both clarity and accountability.

Further, as the GCF is responsible for ensuring that GCF-financed projects and programmes comply with the ESMS and other relevant GCF policies, the ESP should clarify the GCF's role in regards to AEs acting in intermediary functions. Currently, the ESP requires AEs acting as intermediaries to ensure that executing entities engaged in implementing GCF-financed projects and programmes meet the requirements of all GCF policies and procedures. However, an AE should not have the sole responsibility for ensuring that its executing entities comply with GCF policies. As such, the ESP should further specify that as part of its due diligence, the GCF

will assess and evaluate the reporting of the AEs on their executing entities' implementation of GCF policies, procedures, and activities in order to ensure compliance and facilitate remedial measures as necessary.

As the draft ESP and Indigenous Peoples' Policy are being developed on the same timeframe, we wanted to note specific concerns related to indigenous peoples in this draft policy. The draft ESP states that AEs will screen activities for any potential impacts on indigenous peoples; however, it is unclear what categories of impacts on indigenous peoples would trigger the requirement to prepare an Indigenous Peoples' Development Plan or an Indigenous Peoples' Planning Framework. An Indigenous Peoples' Development Plan or Planning Framework should be developed regardless of the category of impact of the project on Indigenous Peoples. Further, when indigenous peoples are potentially affected, the ESMS should always align to other relevant policies of the GCF, including the Indigenous Peoples' Policy, and stakeholder engagement should always include full and effective participation and consent. Further, when indigenous peoples are potentially impacted, indigenous peoples' rights should always be applied, including FPIC as set forth in the UNDRIP.

A robust ESMS also requires ensuring access to information and public participation in environmental decision-making.⁵ To guarantee that all potentially affected people have the right to participate, information disclosure and stakeholder engagement should always be done in a way that is gender responsive and culturally aware, taking into account all relevant languages, including local languages in the area.

Further, it should be accompanied by an accountability system that allows affected people to obtain remedy for harms suffered due to GCF-funded projects/programmes. As such, the draft ESP should ensure that harms from GCF-funded projects/programmes can be adequately remedied. While the draft ESP has improved and is now consistent with the Terms of Reference of the GCF's Independent Redress Mechanism (IRM), it still indicates that it is preferable that affected people should use local or project-level grievance mechanisms. The draft ESP should include references to and requirements for project-level grievance mechanisms and for AEs' grievance redress mechanisms, but it should not include language suggesting that these mechanisms be used prior to accessing the IRM. It should be clear that all grievance redress mechanisms are equally available to affected and potentially affected communities and people at any time and they can choose which option to pursue.

Lastly, the GCF should develop an Exclusions and Prohibited Activities List. Providing a specific list of exclusions and prohibited activities will provide clear parameters on what the GCF can fund, which will help accredited entities, the GCF Board, the Secretariat, and the public. Such a list will also safeguard and strengthen the reputation of the Fund. This will then help the GCF achieve its mandate to support mitigation and adaptation projects/programmes that create transformational paradigm shifts in developing countries and help ensure that environmentally detrimental activities are not financed by the GCF.

⁵ See Rio Declaration on Environment and Development, principle 10, June 13, 1992, 31 I.L.M. 874 (emphasizing the importance of participation in environmental decision-making and the right to information, participation, and access to justice on environmental matters).

Specific comments⁶ on Section IV. Environmental and Social Management System (ESMS):

The majority of comments provided in this submission focus on the draft ESP, which is provided in Annex I. However, given that the call for inputs provides an overview of the ESMS in pages 1-7), we have included specific comments related to it as well.

- Para. 8 on page 2: As mentioned above, we appreciate that the ESMS provides “an overarching framework for achieving improvements in environmental and social outcomes” and that it is committed to doing good, in addition to not doing harm. However, “doing good” is often seen as providing benefits to people and communities and overlooks their ability to contribute positively to solutions. As such we recommend that the second sentence of this paragraph to be modified to say “... but also identify opportunities to ‘do good’ and improve environmental and social outcomes *while supporting indigenous peoples’ and communities’ programmes and projects based on traditional knowledge and livelihood systems.*”
- Para. 9(b) on page 3: This paragraph references the ESS standards. As noted above, the GCF is overdue for developing its own ESS standards and it should begin the process of doing so. As this paragraph likely will help to guide the development of the GCF’s own ESSs, it should include that when potential environmental and social risks and impacts from GCF-financed activities cannot be avoided, in addition to being minimized and mitigated, there may be instances in which they should be adequately and equitably compensated for when the impacts are unavoidable and cannot be mitigated, remedied, or restored otherwise.
- Para. 9(e) on page 3: When referring to stakeholder engagement and participation, “local communities” should be included in the list of groups who will be consulted and whose views will be taken into account. Additionally, this paragraph refers to the Independent Redress Mechanism (IRM) and grievance mechanisms of accredited entities, but incorrectly implies that stakeholder engagement “supports” these mechanisms. The IRM and other grievance mechanisms should not be seen as part of or as mechanisms that promote stakeholder engagement. Instead they are mechanisms that provide affected and potentially affected people and communities with the ability to seek redress and obtain remedy for impacts caused by GCF-financed projects and programmes. A strong accountability mechanism and system is an important part of a robust ESMS, but it should be referenced in its own sub-paragraph and not part of the paragraph on stakeholder engagement.

⁶ The sections of this submission with specific comments on sections of the draft ESMS and ESP occasionally include recommendations for textual edits to paragraphs. In those instances, the suggested language additions are in italics. Additionally, we have indicated specific deletions by using the “strikethrough” function so that the word(s) appear crossed out.

Specific comments on Section V. Links with existing frameworks and policies:

This section, which is paragraph 14 on pages 5-7, does not mention the Indigenous Peoples' Policy, and it should be explicitly listed as one of the policies that is linked to the ESMS even though it has yet to be adopted by the GCF Board. Given that the Indigenous Peoples' Policy is in a similar drafting state and expected to be adopted soon, it should be referenced here.

Specific comments on Annex I: Environmental and Social Policy (ESP):

Below are comments on specific paragraphs and provisions that highlight where changes should be made to ensure a robust ESP that will ensure the GCF not only does not harm people and the environment, but also promotes rights-compatible sustainable development. As such all the paragraph references are to paragraphs in the ESP, which is contained in Annex 1 of this draft for consultation.

- Para. 1: In this introductory paragraph, it should be clear that the ESP provides the environmental and social standards that must be met by GCF financed projects and programmes. It should not merely say that the ESP articulates how the GCF integrates environmental and social considerations into its decision-making. While, paragraph 2 does state that “[t]he policy presents the commitments of the GCF and articulates the principles and standards to which the GCF will hold itself accountable[.]” which is good, the opening paragraph should indicate that the ESP has standards that must be met.
- Para. 2(a): It is good that the ESP specifies that when potential environmental and social risks and impacts from GCF-financed activities cannot be avoided, they should be minimized and mitigated. Additionally, this paragraph should state that in certain instances, impacts should be adequately and equitably compensated for when they are unavoidable and cannot be mitigated or remedied or restored otherwise.
- Para. 3(a): The policy should not elaborate merely “its intention” to integrate environmental and social issues into its processes and activities, but should actually and properly integrate them.
- Para. 4(b): It is of critical importance that the ESP applies to all GCF-financed projects and programmes as paragraph 4 indicates. Along those lines, paragraph 4(b) should be amended to say that the AEs shall not only ensure that the ESMS is complied with for sub-projects where they have “full legal responsibilities,” but for all sub-projects.
- Para. 5: With regard to the possibility of the GCF adopting a “common approach” for activities jointly implemented with non-GCF institutions, we appreciate the positive changes to the policy that the common approach must meet the principles and requirements that achieve the highest level of protection and, at a minimum, the GCF’s ESP and ESS standards. However, it should be clear that the GCF is responsible for

determining the common approach and ensuring that the common approach agreed to meets GCF standards. Thus, we suggest the following edit: “The GCF *will determine the use of* ~~can agree to~~ a common approach for GCF-financed activities, provided that the common approach is consistent with this policy, the ESS standards...”

- Para. 6: This should be amended to say “Additional country requirements on environmental and social safeguards and sustainability may be integrated with GCF requirements at the activity level, provided that the accredited entities establish ~~the consistency of~~ that the additional requirements *are consistent with and at least as rigorous as* the ESS standards of the GCF and this policy.”
- Para. 7(a): We appreciate the explicit mention that the ESMS and ESP provide not only environmental and social standards to “do no harm” but also that “improve environmental and social outcomes and generate co-benefits to the environment and the people that depend on it.” However, the ESMS and ESP should not be seen as “an opportunity for the GCF to incorporate environmental and social considerations,” but as a clear and definite commitment that these considerations are included in the GCF’s operations. Additionally, this should also be translated in performance measurement frameworks centered on sustainable development benefits provided to people (e.g. GCF needs to focus energy-related indicators on addressing energy poverty with equitable and gender-responsive access to renewable energy service delivery instead of sole focus on a supply perspective measuring installed capacity and connected households). Further, “doing good” is often seen as directly related to providing benefits to people and communities, including indigenous peoples, and does not always include recognition that indigenous peoples and local communities can provide solutions. Thus, we recommend amending the second sentence to say “and generate co-benefits to the environment and the people that depend on it *while harnessing the potential deriving from indigenous peoples’ and local communities’ traditional knowledge and livelihood systems.*”
- Para. 7(d): As noted in the overarching comments, we welcome the inclusion of this paragraph and the GCF’s commitment to “equality and non-discrimination.”
- Para. 7(h): Stakeholder engagement should include development of measures to mitigate environmental and social risks and impacts to people and the environment. As such, it should say “The ESMS requires that there is broad multi-stakeholder support and participation in the planning, development and implementation of GCF-financed activities, including measures to manage, *mitigate*, and monitor” Additionally, there should be specific mention that robust stakeholder engagement and participation shall continue throughout the project lifecycle. The term “culturally appropriate” should be replaced with “culturally aware”, as culturally appropriate might imply an acceptance of cultural practices that could be discriminatory as well as contrary to GCF policy.
- Para. 7(p): When referring to indigenous peoples in this policy, the ESP should explicitly reference the Indigenous Peoples’ Policy of the GCF, which, like the ESP, should be approved soon.

- Para. 7(r): Appreciate that there is no longer a mention of biodiversity offsets. However, the ESP should explicitly say that the GCF will not fund projects in critical habitats or programmes that impact critical habitats. The GCF should prioritize financing projects that protect and enhance natural ecosystems.
- Para. 9: As the ESP applies to all GCF-financed projects and programmes, it should explicitly reference both. As such this paragraph should be edited to say that environmental and social risks should be managed throughout the “project *and programme* cycle.”
- Para. 9(c)(d): These paragraphs say that the GCF is responsible for conducting ESS due diligence and will recommend to the board project proposals with “satisfactory” and “adequate” approaches to managing environmental and social risks. These terms are too discretionary. What is satisfactory? What is adequate? We recommend tightening the language as not doing so could lead to the GCF financing harmful projects, which would present reputational risks to the GCF, and, more concerning, increased risks to people and the environment.
- Para. 10(b): We appreciate the attempt to include FPIC in this paragraph, however, we are concerned that there is a typo and that referring to “free, prior and informed *consultation*” (emphasis added) rather than “consent” is inconsistent with other parts of this policy, the Indigenous Peoples’ Policy, and indigenous peoples’ rights. As such, it should state: “Confirming that persons and communities affected or potentially affected by the activities are consulted, and where required that free, prior and informed *consent* ~~consultation~~ of indigenous peoples is obtained,”
- Para. 11: Where the AEs are not complying with the safeguard requirements, the GCF should work with them not only to bring them into compliance, but also to ***remedy the harms caused***. We appreciate that the draft ESP now says that “the GCF will work with accredited entities to develop and implement corrective and remedial actions that will also bring the activities back into compliance,” however “remedial actions” should be designed to remedy harms that occurred not merely to bring the project/programme back into compliance. As such it would be better to separate these concepts and in addition to discussing bringing the project/programme back into compliance, explicitly say that “the GCF will work with accredited entities and the affected people to develop and implement remedial actions to remedy the harms that occurred.” Also, the paragraph should specify that the project or programme could be put on hold and that if the AEs fail to re-establish compliance, the GCF can refuse dispersals or revoke accreditation. Additionally, there seems to be a word missing after “accreditation” in the following sentence: “The GCF will require accredited entities to comply with their environmental and social obligations specified in their accreditation, the activities’ safeguards plans and frameworks,” This sentence should be amended accordingly.
- Para. 12(a)(v): Providing remedy for harm and a way for affected and potentially affected communities to submit grievances should be considered on its own and not merely a part

of “ongoing stakeholder engagement.” As such this paragraph should be amended and instead of saying “... stakeholder engagement, including entity-level ...” it should say “... stakeholder engagement, *as well as* entity-level and activity level grievance mechanisms”

- Para. 16: This paragraph should include “local communities” in the list of people and communities affected or potentially affected. Further, when providing details on information and participation obligations, the ESP should explicitly mention the importance of facilitating the inclusion of local knowledge in the design of project and programmes, as it can improve them greatly. In addition, it should be explicitly pointed out that information disclosure and participation opportunities should be done in a timely manner, should be part of an iterative process throughout the project/programme cycle, and should begin during the design phase of the project or programme. This is crucial to ensure effective participation and the inclusion of local knowledge and community perspectives in the design of potential GCF-funded activities. Lastly, this paragraph should say that when necessary AEs will obtain the free, prior, and informed consent (FPIC) of indigenous peoples, both men and women, in a manner that is consistent with UNDRIP, and not merely consult them, provide a way for them to express views, and respond to their concerns.
- Para. 18: In addition to directly referencing the ESS standards and all applicable GCF policies, this paragraph should explicitly reference this ESP. Further, during accreditation, the GCF should ensure the AE has an appropriate grievance redress mechanism.
- Para. 19: Specify that the AEs’ environmental and social management system must be equivalent or better than the GCF’s.
- Para. 23: This should specifically include that risks and impacts of sub-projects have to be considered when assessing social and environmental risks of activities. Additionally, in the last sentence, “should” should be changed to “shall” and thus should read, “The risks and impacts will be assessed at the pre-mitigation stage and the accredited entities *shall* ~~should~~ consider the most serious potential impacts of all activities including associated facilities.”
- Para. 27: The GCF is responsible for ensuring that its ESP and ESS standards are met. As such, if a project or programme is going to rely on the standards of other entities, the GCF, not its accredited entities nor the co-financing institution, should be making the determination regarding whether those standards are equivalent or stringent enough. Thus, the final sentence should be amended and “as determined by the GCF” should be added at the end so it reads “... that these are more stringent or equivalent to the ESS standards of the GCF *as determined by the GCF.*”
- Para. 31: Including “however” in the final sentence of this paragraph does not make sense as it sets up a contrast to the other risk categories describe in the previous sentences and

implies that Category C/I-3 activities are getting different treatment even though they are not. As such “however” should be deleted from the final sentence.

- Para. 32: A reference to “satisfactory approaches” to managing environmental and social risk and impacts in assessing consistency with ESS standards by the GCF is vague as it is not clear who or which criteria determine a “satisfactory approach.” Further, “satisfactory” also implies room for improvement. The GCF’s due diligence should not strive for a passing grade but for the best possible approach.
- Para. 34(b): In assessing the AEs’ ESMSs, the GCF should ensure that it assesses information regarding existing social standards, legislation, and the enforcement mechanism of the countries and also information regarding the people and communities who potentially will be affected, including, but not limited to, information related to the environment, Indigenous Peoples, land acquisition, vulnerable people and communities, gender, and workers. This should then inform the development of the plans including consultation and stakeholder engagement plans, the gender action plan, the environmental and social management plan (ESMP), resettlement action plan, and indigenous peoples’ development plan or indigenous peoples’ planning framework, among others.
- Para. 35: This paragraph should include more specific details on sub-projects and programmatic approaches. The GCF’s due diligence should require all relevant information about sub-projects to be made available before the GCF makes a decision about whether to fund the project or programme that includes such sub-projects. The GCF Board should delay voting on a project or programme until they have necessary information about all sub-projects and programmatic approaches.
- Para. 38: This should specify that the environmental and social assessment of activities should also include cumulative impacts.
- Para. 39: This should be amended to specify that it “describes the potential *environmental, social, and human rights* impacts, ...” Additionally, the final sentence of the paragraph should be amended to say: “Category C activities *should have* ~~having~~ no expected significant environmental and social impacts *and therefore* may not require any assessments, although a pre-assessment or screening should confirm that the activities are indeed in Category C.”
- Para. 40: The list of assessment tools should include human rights impact assessments.
- Para. 43: This should be amended to include that existing gaps in the capacity of AEs to implement mitigation measures should be addressed before the activities necessitating such mitigation measures are going to be implemented.
- Para. 44: The GCF should not finance 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, such the Bui Dam in Ghana (2011) or the Kandadji Dam in Niger (2016), shows that most schemes still fail to achieve their objective. The GCF should learn from the past mistakes of other financial institutions and should not continue these practices 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." Additionally, further clarification is needed to define "limited involuntary resettlement" as even the resettlement of a small group of people might be unacceptable given specific cultural, historical, or legal circumstances.

- Para. 45: It should explicitly reference the Indigenous Peoples' Policy. When AEs screen activities for any potential impacts on indigenous peoples it is unclear what the categories of impacts are on indigenous peoples that would trigger the requirement to prepare an Indigenous Peoples' Development Plan or an Indigenous Peoples' Planning Framework. Further, these documents should be prepared with the participation of indigenous peoples. Additionally, this paragraph should say that AEs' "shall" screen projects and programmes rather than that they "will." Additionally, a sentence should be added to the end of this paragraph indicating that supporting and mitigating actions are to be described *and costed* as part of the consideration for GCF funding, as is rightly the case for paragraph 47 describing gender-related concerns.
- Para. 46: Overall this paragraph is good. However, the final sentence should say that "The GCF will not finance activities *that have adverse human rights impacts*." rather than saying "where planned mitigation is inadequate." Also, human rights due diligence should not be where the AE deems it relevant, but where the circumstances/activities do. Additionally, a sentence should be added to the end of this paragraph indicating that supporting and mitigating actions are to be described *and costed* as part of the consideration for GCF funding, as is rightly the case for paragraph 47 describing gender-related concerns.
- Para. 47: As activity-specific gender action plans are currently not mandatory and frequently not costed (although this is considered in the review of the current Gender Action Plan), the last sentence should say that "Supporting and *mitigation* actions are to be described and costed in the activity-specific gender actions plans *and/or the ESMPs*, as a *mandatory* part of the consideration for GCF funding. "
- Para. 48: Biodiversity offsets should NOT be used. We vigorously oppose offsets. If impacts cannot be avoided or mitigated then the project should not be approved. Additionally, activities in critical habitat should be explicitly prohibited. Further, a sentence should be added to the end of this paragraph indicating that supporting and mitigating actions are to be described *and costed* as part of the consideration for GCF funding, as is rightly the case for paragraph 47 describing gender-related concerns.
- Paras. 50-53 (Section 5.7 on "Operational changes"): A reference or paragraph should be added to this section outlining the public disclosure and information sharing requirements related to operational changes to projects or programmes. When operational changes are made, there should be a requirement to "notify the GCF and the public" and this should be explicitly clear in the ESP. Any revised ESMP or other necessary changes should be transparently disclosed on both the GCF's and the AE's website in all appropriate

languages, including local languages, as well as disclosed in other ways that are culturally appropriate.

- Para. 50: Clarification is needed as to what constitutes “material changes” in “activity design and execution, policy and regulatory setting, receiving environment and community, unanticipated environmental risks and impacts, or other circumstances” so that the determination of a “material change” is not determined solely by the AE.
- Para. 51: There should also be participatory monitoring by third parties including affected communities and workers, among others. Participatory monitoring should be mentioned explicitly as part of the “effective due diligence processes, *including participatory monitoring approaches*, to address unanticipated developments in activities.”
- Para. 52: We welcome that the GCF will ensure that the AEs will make appropriate revisions in the ESMS or project-specific ESMP. However, this paragraph should include that information will be disclosed to the public regarding such changes and/or that the updated ESMP will be disclosed. Additionally, we want to mention that this paragraph has a typo in the final sentence where it says “abd” instead of “and”.
- Para. 55: The GCF should require that assessments are made publicly available and posted on the GCF’s and AE’s website, as well as in other ways that are culturally appropriate and should include an explicit reference to the GCF information disclosure policy. Additional clarity is needed with regard to the due diligence role of the GCF Secretariat in terms of the AEs’ annual self-assessments as it is the role of the GCF to ensure that its AEs are complying with GCF policies and standards. What happens if an AE’s self-assessment is inconsistent with what is actually happening on the ground?
- Para. 57: As the GCF is responsible for ensuring that all GCF financed projects and programmes comply with its policies and standards, a final sentence should be added to this paragraph that says “*The GCF will conduct due diligence related to the monitoring and reporting information provided to it by accredited entities acting as intermediaries about the activities of the executing entities.*”
- Para. 59: This should say that all the relevant information should be disclosed proactively and that it should be disclosed in all relevant languages, including local languages, and in a manner that is culturally appropriate.
- Para. 60: It is unclear what “environmental and social reports” are. This should be specified and should be broad so as to include drafts and final ESIA, ESMP, HRIA, ESMS, etc. Additionally, the information should be in local languages (plural) because there may be more than one local language.
- Para. 61: It is welcome to see reference to the required disclosure periods for Category A and Category B projects and programmes also applying to sub-projects of GCF-funded programmes and investments through I1 and I2-Intermediation. This information should also be made available in the form of electronic links on the GCF website under the respective programme/investment subpage, and not just be disclosed via the Secretariat to the Board and the active observers (commensurate with the requirements under para. 60).

- Para. 62: This should specify that all documents should be made available on the GCF's and AE's websites in all relevant languages.
- Para. 63: This should require information to be disclosed in a manner that is culturally appropriate and gender responsive and in local languages. Additionally it should be posted on AE's and the GCF's websites. Lastly, "including who the intended beneficiaries are" should be added to para. 63(a) so that it says "The purpose, nature, and scale of the activities, *including who the intended beneficiaries are*;"
- Para. 64: In addition to the executing entities disclosing information on their websites, the AEs themselves should also disclose the information the executing entities are required to disclose via their own platforms, i.e., on the AEs' websites to ensure that it reaches all the stakeholders.
- Para. 65: This paragraph should specify that information disclosure, meaningful consultation, and informed participation should be done starting with project/programme design and continue throughout the project/programme cycle and in a timeframe that allows for meaningful participation and the inclusion of local knowledge in the design of projects/programmes. Also, it should explicitly state that information must be disclosed in all appropriate languages, including all local languages.
- Para. 66: The GCF should also have a process in place to help AEs implement their processes for meaningful consultation. Thus, "and implement" should be added so that the sentence says: "The GCF, working with the national designated authorities and focal points of countries, will describe the process and set guidance to assist the accredited entities to put in place *and implement* a process for meaningful consultation" Additionally, "international" should be added before the reference to "best practice options" so that it says "... and consistent with *international* best practice options for country coordination and multi-stakeholder engagement."
- Para. 67: This paragraph should explicitly mention that for activities potentially impacting indigenous peoples that it will "be supported by the objectives and requirements of the GCF ESS standards and relevant GCF policies, *including, but not limited to, the GCF's Indigenous Peoples' Policy*, including with respect to FPIC." As do other paragraphs, this paragraph highlights the need for the GCF to create its own ESS standards as soon as possible.
- Para. 69: Documents should be disclosed as early as possible (no later than 120 days prior to appraisal) as 30 days is not long enough for meaningful consultation and participation.
- Para. 71: We welcome the GCF's approach to ensuring that grievances can be made and redress sought at all levels and the fact that the GCF will require the AEs to provide information about the grievance and redress mechanisms available at all levels, including at the GCF, AE, and activity level. Additionally, the information about how to submit complaints should be made available on the AEs', Executing Entities' (EEs'), and GCF's websites, as well as being disseminated in other appropriate ways. The websites of the AEs, EEs, and GCF should contain information about how to submit complaints not only

at that respective institution, but also at the other involved institutions (e.g. the EE's website should contain information about its own grievance mechanism as well as that of the AE and GCF). This is critical to ensuring that affected and potentially affected people and communities easily know how and where to submit grievances and obtain remedy. Lastly, there is a typo in the second sentence; it should say "and" not "an" so that it reads "understandable format *and* in all relevant languages."

- Para. 72: This paragraph references policies that do not exist yet, as the interim ESS standards do not include principles and requirements for establishing project-level grievance mechanisms. This once again highlights the need for the GCF to adopt its own ESS standards.
- Para. 73: The IRM should address grievances and complaints of people who have been or who may be harmed by GCF projects regardless of whether it relates to failure of implementation or compliance with policies and procedures. As such the first sentence should be modified to say: "At the GCF level, the IRM will address the grievances and complaints made by people and communities who may *be* or have been affected by the adverse impacts in connection to the potential failures of the *with* GCF-financed activities ~~to implement measures pursuant to the operational policies and procedures of the GCF, including its ESS standards.~~" This change will make it consistent with the IRM's TOR as it allows for harms to be remedied apart from there being a compliance review.
- Para. 74: We appreciate the changes made to this paragraph to reflect that there is no sequencing of grievance mechanisms (i.e. that you have to go to the AE's own mechanism prior to the IRM) as that was inconsistent with the IRM's TOR and paragraph 76 of this draft ESP. However, it remains problematic that the first sentence says "and encourages the use of such mechanisms whenever possible." While we recognize that some problems can be remedied through local or project level grievance mechanisms and that achieving adequate (in the minds of the complainants) remedies quickly and at the project-level is good, these mechanisms may not be appropriate or there may be reasons why complainants do not want to use them, for example, for fear of retaliation. As such, the GCF ESP should not make any reference to using these or encouraging use of these prior to or instead of the IRM, but rather should just require that they exist. The AEs' mechanisms should address grievances and complaints of people who have been or who may be harmed by GCF projects regardless of whether it relates to failure of implementation or compliance with policies and procedures. As such, "that do not comply with the accredited entities' own policies and procedures" should be deleted from the third sentence. Further, the AEs' grievance mechanisms should, in addition to the qualities listed, also be legitimate, accessible, equitable, predictable, transparent, rights-based, and a source of continuous learning. Thus the third sentence of the paragraph should be split in two and the newly created fourth sentence should say "It is the responsibility of the accredited entities to require and ensure that their grievance mechanisms and the activities' grievance mechanisms are functioning effectively,

efficiently, *legitimately*, and independently *in a manner that is accessible, equitable, predictable, transparent, rights-based, and that allows for continuous learning.*” Lastly, the AE alone should not be responsible for ensuring that its grievance mechanism and those at the activity level are functioning properly, but the GCF should evaluate the AEs’ grievance mechanisms for adequacy.

- Para. 76: In the fourth sentence the “i” of “Independent Redress Mechanism” should be capitalized.
- Para. 78: Once effective, the policy should apply to all ongoing GCF-funded activities and those initiated after the effective date of this policy. Thus, “to the extent reasonably possible” should be deleted.
- Para. 80: We appreciate that the review of the ESP will include stakeholder consultation and suggest that it should explicitly reference civil society and affected communities, as such the phrase, “including civil society and affected people and communities” should be added after “stakeholder consultation.”

Thank you for your consideration of our proposals. We welcome any questions you have, and we would be happy to discuss this submission with you further.

Submitted by:

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This submission was compiled and written by Erika Lennon based on input and contributions provided by the following civil society organizations (CSOs) in support of this submission (in alphabetical order) and in consultation with Liane Schalatek, Active Observer for the Developed Countries:

- Asia Pacific Forum on Women, Law and Development
- Friends of the Earth US

- Interamerican Association for Environmental Defense (AIDA)
- Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education)
- Rainforest Foundation Norway
- Zambia Institute of Environmental Management

Finally, the following civil society organizations (CSO) have signed on in support of this submission (in alphabetical order):

- African Women Network in Community Forest Management (REFACOF) (Cameroon)
- Aksi! For gender, social and ecological justice, Indonesia
- All Nepal Peasants Federation
- Alliance for Tax and Financial Justice (Nepal)
- Asian-Pacific Resource and Research Centre for Women (ARROW), Malaysia
- Asian Peoples Movement on Debt and Development
- Both ENDS (the Netherlands)
- CARE International – Climate Change and Resilience Platform
- Confederation of Indonesian People Movement (KPRI)
- European Association of Geographers (Belgium)
- Forest Peoples Programme (United Kingdom)
- Global Forest Coalition
- Human Rights Foundation Aotearoa New Zealand
- Institute for Policy Studies (USA)
- International Climate Development Institute (Taiwan)
- International Accountability Project (USA)
- International-Lawyers.Org (Switzerland)
- International Movement ATD Fourth World (France)
- International Work Group for Indigenous Affairs (IWGIA) (Denmark)
- Labour, Health and Human Rights Development Centre (Nigeria)
- National Alliance of Right to Food Networks (Nepal)
- Transparency International (TI) Korea Chapter
- Ulu Foundation