

CSO Comments on the Draft Environmental and Social Management System: Environmental and Social Policy

Overarching Comments

We welcome the new draft Environmental and Social Policy (ESP) and are pleased to see the positive changes that have been made to clarify and strengthen it and to ensure that the policy is aimed both at doing good and preventing harm. Having a robust ESP and ESMS in place is vital to ensuring that the GCF is able to promote the transformational paradigm shift in developing countries that it seeks. As representatives of civil societies, who have been following on the development of the ESP since its gestation, we urge the Board to adopt this final draft during BM 19 and continue to make progress on adopting a comprehensive ESMS. The same goes for the Indigenous Peoples' Policy, which promisingly could be adopted together with the ESP of the ESMS. However, we believe there are still modifications to be made to the ESP that could benefit the final product immensely, and we appreciate the opportunity to provide our suggestions, together with our general comments. The following document presents our final comments and suggestions in this regard:

As we have long-stated, the GCF also needs to develop its own environmental and social safeguards to replace the interim safeguards it is currently using. It is encouraging to see the plan for development of the long overdue GCF ESSs in the draft decision, beginning with a proposed approach during the 21st Board Meeting. We urge the Board to approve it and to ensure that it is developed through a fully participatory, gender-responsive, culturally aware, and comprehensive public consultation process, with an adequate timeframe that allows for multiple phases.

Access to Information & Public Participation: A robust ESMS also requires ensuring access to information and public participation. 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 (plural) in the area.

Accountability (paragraphs 75-76): While critical improvements have been made, and we appreciate reference to qualities of effective accountability mechanisms, concerns remain. A robust accountability system, including a strong IRM, is a critical part of a robust ESMS. This requires that communities have access to the IRM and/or an AE's grievance mechanism if they are or think they will be harmed by a GCF financed project or programme. Concerningly, the draft continues to imply that accessing the IRM or an AE's grievance mechanism can be done only by communities when there is a violation of the GCF's or the AE's policies and procedures (para. 75-76). An effective and world-class accountability mechanism should be available for affected people whenever they have been or may be harmed by a GCF-financed project or program. Implying otherwise potentially denies harmed communities from access to remedy and

is inconsistent with the IRM's TOR. We also appreciate that the draft explicitly states that affected people can access the IRM directly. However, we remain concerned that the GCF encourages the use of local and project level grievance mechanisms (para. 76). While they can be appropriate, they are not always, for example, when there is fear of retaliation or severe human rights abuses. 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.

As we have been pointing out since the beginning of the process of developing the ESMS, the GCF should develop an *Exclusions and Prohibited Activities List* to provide clear parameters on what the GCF can fund. This would help accredited entities, the GCF Board, the Secretariat, and the public, while safeguarding and strengthening 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, ensuring that environmentally detrimental activities are not financed by the GCF. This list should include dams; no-go areas, such as areas of critical habitat; projects and programmes that lead to involuntary resettlement; and projects and programmes that are carbon intensive, among others.

Sub-projects, programmatic approaches, and cumulative impacts: The ESP needs more specific details on sub-projects and programmatic approaches (paragraph 37). 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. Additionally, the ESP in paragraph 40 should specify that the environmental and social assessment of activities should also include cumulative impacts, especially since these were included in the newly added definitions in this last draft.

Finally, as a suggestion to improve the efficiency of our collaboration with developing an ESMS of the highest standards, it would be very much appreciated if the Secretariat could share with stakeholders who wish to participate in public consultations new drafts with tracked changes of the modifications that have followed the last revisions. This would provide observers who wish to contribute to the process with a clearer view of the evolution of the text, which would translate into more useful inputs. This suggestion goes for all policies under construction and the ones that will follow.

Specific Comments

Environmental and Social Management System (ESMS)

- Para. 10 (on pg. 2): 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.*”

Annex II: Environmental and Social policy

- 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 3 does state that “[t]he policy presents the commitments of 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. 3(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. 6: 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. 8(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. We are happy to see that paragraph 18, within the section outlining the roles and responsibilities of accredited entities, does take into consideration the opportunity to include local knowledge when consulting affected and potentially affected communities, so we trust paragraph 8(a) can be updated accordingly. 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. 8(d): We welcome the GCF’s commitment to equality and non-discrimination and the requirement that adverse impacts should not disproportionately fall on disadvantaged, marginalized, and vulnerable populations. However, we are concerned that the paragraph has shifted from saying “risks” to “impacts.” Instead we think the paragraph should say “In meeting the ESS standards, all activities financed by GCF will require that *adverse and potential risks and*, where they are unavoidable, adverse impacts do not fall ...” While it is critical that adverse impacts are considered, the risks of impacts involved in projects and programmes also should not fall disproportionately on disadvantaged groups.
- Para 8(o): This paragraph on labour and working conditions was changed from requiring that working conditions *meet* the standards of the International Labour Organization to requiring that they be *guided* by such standards. The provision will be stronger and yield better results if the mentioned core labour standards are required to be met. The requirement to be “guided” is too weak to be useful for workers who turn to the GCF’s ESMS for protection of their rights.
- Para. 8(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 8(q): This paragraph is critical and we appreciate the GCF ensuring that human rights will be protected and promoted. However, the addition of “recognized by the United Nations” has made the first sentence confusing, as such it should be modified to say “... human rights for all *as* recognized by the United Nations.”
- Para. 13: We appreciate that the draft ESP says not only that the GCF will work to bring activities back into compliance, but also that the GCF will work with the AEs and communities to remedy the harms caused. We also appreciate that the paragraph says that the GCF can “exercise its remedies under its legal agreement with the accredited entities” when the AEs fail to re-establish compliance. However, it should also 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.

- Para. 18: This paragraph should explicitly reference that information disclosure and participation opportunities should be done in a timely manner, should be part of an integrative 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. Additionally, 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, but provide a way for them to express views, and respond to their concerns.
- Para. 20: 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. 29: This should specifically include that risks and impacts of sub-projects have to be considered when assessing social and environmental risks of activities.
- Para. 36(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. 37: 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. 40: This paragraph got weaker with the last modifications. It no longer specifies that the environmental and social assessment of activities must consider risks and rights related to human rights, gender, indigenous peoples, involuntary resettlement and acquisition of land and land rights, health and safety, labour, cultural heritage and the environment, which were considered in paragraph 38 of the previous version of the ESMS. Additionally, this paragraph should also mention the need to evaluate cumulative impacts, especially since these were included in the newly added definitions in this last draft.

- Para. 41: The sentence on Category B projects should be amended to specify that it “describes the potential *environmental, social, and human rights* impacts,”
- Para. 46: 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. 48: 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 only take place when the AE deems it relevant. Instead the circumstances/activities should dictate when human rights due diligence should be performed.
- Para. 50: 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.
- Para. 54: 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.
- Para. 57: The GCF should require that the self-assessments provided by the AEs are made publicly available and posted on the GCF’s and AE’s website, as well as in other ways that are culturally appropriate (an explicit reference to the GCF information disclosure policy should be included). Additional clarity is needed with regard to the due diligence role of the GCF Secretariat in terms of the review of compliance performance 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. 61: 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. 62: 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. There also seems to be a mistake with this paragraph, as it mentions “additional documents described in paragraph 62”, which will be provided through electronic links to the websites of the accredited entities and of GCF. But paragraph 62 does not mention any specific documents.

- Para. 63: 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. 62).
- Para. 64: This should specify that all documents should be made available on the GCF’s and AE’s websites in all relevant languages.
- Para. 65: 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.
- Para. 66: 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. 67: it should explicitly state that information must be disclosed in all appropriate languages, including all local languages.
- Para. 71: 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. 75: 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. 76: We appreciate the changes made to this paragraph to explicitly state that there is no sequencing of grievance mechanisms. 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. Also, similar to our concerns on paragraph 75, 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. 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. 80: 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. 82: 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."