

Joint CSO Submission on the Terms of Reference for the Comprehensive Review of the Participation of Observers in the Activities of the GCF Board

Introduction – Background and Urgent Need for a Comprehensive Review

The Governing Instrument of the GCF addresses observer participation in the GCF Board (para. 16) and highlights the importance of wider stakeholder input and participation in all processes at the Secretariat, Board and country levels (para. 71), mandating the Board to develop mechanisms for such broader engagement. A set of comprehensive stakeholder engagement procedures and guidelines covering all GCF activities is still missing.

At its third meeting, the Board approved the guidelines relating to the participation and accreditation of observer organizations and participation of active observers. (Annex XII to decision B.01-13/03). The Board agreed that a comprehensive review of observer participation, including the selection process of active observers, would be undertaken after two years, and would include a wide range of stakeholders. (Annex XII to decision B.01-13/03, para. 17).

At its fifth meeting, the Board requested the Secretariat to prepare a document on the participation of observers in Board meetings for the consideration of the Board at its first meeting in 2014 (decision B.05/23). However, the Board did not address the issue of observer participation in 2014 or 2015.

At its most recent 12th meeting, the Board initiated the process of developing terms of reference (TOR) for the review mandated in decision B.01-13/03. The Board requested the Co-Chairs to “consult with fellow Board members and alternate Board members, active observers and accredited observer organizations in relation to the comprehensive review of the participation of observers in the activities of the Board, with a view to presenting, for consideration by the Board, the terms of reference for this review no later than the thirteenth meeting of the Board.” (Decision 12/14).

Towards this end, the Board invited observer organizations to submit views on the terms of reference for the review by 10 April.

In response to this call for inputs, a group of CSO observer organizations¹ jointly recommends that the review focus on strengthening and improving the existing procedures, with a view to (1) addressing shortcomings that have emerged during the 3 years that the existing observer participation guidelines have been in place, and (2) bringing them in line with international best practice.

Joint CSO observer organizations’ suggestions on what should be included in the TOR of the review are elaborated further in the following sections. These focus explicitly on how the engagement and participation of civil society actors in Board and GCF proceedings more broadly could be strengthened.²

¹ GCF accredited CSO observer organization that contributed to this joint submission: **Action Aid International USA; Aksil for Gender, Social and Ecological Justice; Asian Peoples Movement on Debt and Development; Freedom from Debt Coalition; Friends of the Earth US; Germanwatch; Heinrich Böll Stiftung North America; Indigenous Peoples’ International Centre for Policy Research and Development (Tebtebba) ; Interamerican Association for Environmental Defense (Aida); Pan African Climate Justice Alliance (PACJA); Philippine Movement for Climate Justice; Sierra Club.**

² The meaning of 'observers' in the GCF context is of course much broader and also includes Parties and observer states to the UNFCCC; GCF implementing entities; UN and other international organizations and private sector organizations, which were likewise invited to submit their views directly.

1. CSO Engagement at the Board

- **Constituency representation** – The review should address whether the current allocation of active observers enables them to effectively represent their diverse constituencies. While the GCF only recognizes two observer constituencies -- civil society and private sector -- the UNFCCC recognizes nine. However, it should be noted that the UNFCCC initially started out with just two constituencies – business and industry, and environmental NGOs. Because of the recognition of the diversity of concerns represented, UNFCCC constituencies now also include local government and municipal authorities, Indigenous Peoples Organizations (IPO), research and independent NGOs, trade union NGOs, farmers and agricultural NGOs, women and gender NGOs, and youth NGOs. The review should consider possible expansion of GCF constituency representation, with consideration of active observers for Indigenous Peoples given priority consideration.

The review should also consider how the role of alternate active observers could be strengthened to better support the representation of diverse constituencies, including by formally recognizing alternative active observers and allowing them into the Board room.

- **Broaden Active Observer Engagement in Board Committees and “Between Meeting” Decisions.**–The review should explore ways to make the work of committees and “between meeting” decisions more transparent, including through timely access to information, and more open to civil society inputs. The current practice that limits active observer participation to Board meetings does not give full effect to the Board’s Rules of Procedure (para. 37) that articulates that active observers may participate in the proceedings of the Board, which would also include work in committees and between meeting decisions.

In particular, the review should consider:

- (1) how CSO participation in the work of committees and between meeting decisions could be facilitated through the participation of active observers or their alternates. For example, in line with the Rules of Procedure (para. 41), active observers should receive copies of the proposed between meeting decision, ideally at the same time as Board members, to allow them to share CSO concerns and recommendations on such matters with Board members for their consideration when deciding on a no-objection basis; and
 - (2) how the work of the committees could be made more transparent by, for example, posting more information on the work of the committees, and including their up-to-date composition and timely Chair summaries of committee discussions on the GCF website.
- **Physical accommodations** -- The review should consider the impact on observer participation of the physical accommodations of the Board meetings. What is the impact of having the active observers sit at a separate table from the Board, at the back of the room, instead of at the same table also visibly designated as an integral part of Board proceedings, as is the case in existing best practice examples (e.g.. in the CIFs)?
 - **Active observer participation in Board discussions** – The review should consider whether existing constraints on active observer participation in Board discussions promote effective engagement. The informal practices that active observers are usually invited to speak only when the discussion of an agenda item is otherwise completed, and often are not invited to

comment on new draft decision text, are worth reconsidering. Likewise, the review should look at whether other best practices for active observer engagement in Board discussions, such as giving active observers the right to request adding agenda items or request expert presentations, could be emulated.

- **Financial support for developing country observers** --The review should consider whether the current practice of not providing financial support for developing country observer participation is a main hindrance to a stronger engagement of developing country CSO observer organizations in Board proceedings and whether it should recommend establishing such support for a selected number of observers under the Secretariat's administrative budget in line with financial support provided for CSO observer participation at the UNFCCC financial mechanism's other operating entity, the GEF. At a minimum the review should consider the option of starting out with financial support for developing country active observers and alternates for the participation in all Board proceedings, including informal Board meetings and relevant committees and expert panel groups with Board participation, such as the PSAG, in line with the GCF's practice of financial support for participation in such meetings for developing country Board members, alternates and their advisors.
- **Restrictions on registration of observers for Board meetings**– The review should consider whether the Secretariat's limit that each accredited observer organization can register only three people, regardless of whether it is a small NGO or a large international CSO network, has discouraged the participation of members of civil society, particularly from developing countries, and whether there is a justification in light of actual attendance numbers for such limitation.

2. CSO Engagement with the Secretariat

Particularly as the GCF Secretariat grows and adds capacity, CSO engagement with secretariat work will become increasingly important. To date, such engagement between Board meetings has been largely ad hoc and limited. There have been a few notable exceptions where the Board mandated robust engagement of stakeholders by the Secretariat, such as in the development of the Fund's gender policy and action plan. This level of engagement should become the norm.

The review should consider:

- **Ability of observers to input on the development of Board policy papers:** As was the case with the gender policy and action plan, CSO and other observer engagement can substantially improve the quality of papers that are presented to the Board. Current practice, including regarding confidentiality of draft papers, severely limits the ability of observers to provide useful input.
- **Ability of observers to input on the accreditation, readiness and project pipelines:** The Secretariat is undertaking a massive amount of work to get entities accredited, push readiness finance out to countries, and consider project proposals. Observers provide input – offering constructive feedback and raising possible red flags around problematic areas – that would be most valuable and useful coming earlier in the process rather than backloaded around Board meetings when decisions are taken.

3. In-country engagement

A guiding principle in the GCF's Governing Instrument is that *"The Fund will pursue a country-driven approach and promote and strengthen engagement at the country level through effective involvement of relevant institutions and stakeholders."* As the Board shifts its focus to consideration of specific funding proposals and accreditation applications, it will become increasingly important that this principle is given full effect. The quality of CSO-Board engagement, and ultimately the quality of the decisions the Board takes on these issues will depend more on the information that comes to the Board through "effective involvement of relevant institutions and stakeholders" at the country level.

For this reason the review also should consider the following issues related to in-country observer participation:

- **Nature and quality of engagement** – both qualitative and quantitative – of NDAs/focal points and accredited entities with stakeholders within developing countries, including affected communities, Indigenous Peoples, women and other marginalized groups, civil society, local private sector, and local government. This should include assessments of proactive comprehensive outreach to stakeholders in-country by NDAs/focal points and accredited entities and explore whether best practices such as the country coordinating mechanisms (CCM) of the Global Fund to Fight AIDS, TB and Malaria could be a model for NDAs/focal points. For example, civil society stakeholders in-country should be informed about project proposals and given a minimum of 30 days for opportunities to provide comments directly to the NDA/FP before the NDA/FP issues a letter of no-objection.
- The review should also consider the development of a GCF toolkit on best-practice country coordination experiences, to help NDAs/FPs move beyond the broad guidelines established by the Board under country ownership.
- **Availability of and ease of access to information in-country** about the GCF, NDAs/focal points, and accredited entities – via electronic and non-electronic mechanisms. Such information should be made available with ample time and in local languages to give room for civil society stakeholders' inputs. English language and outreach primarily via internet are potential obstacles to stakeholder engagement.

4. GCF following International Best Practice and Standards

More broadly, with the GCF as a learning institution committed to international excellence and innovation, we recommend that the TOR consider

- How policy and practice of observer participation at the GCF align with international best practice and standards, including the Aarhus Convention and the Almaty Guidelines.
- How policy and practice of formal stakeholder consultation – at the Board level and in-country – compare with peer institutions and international best practice.
- The adequacy and timeliness (in line with the requirement under the Board's Rules of Procedure and its updated information disclosure policy) of the availability of Board documentation – before, during, and after Board proceedings, including formal and informal Board meetings, Board committee deliberations and between meetings decisions.