

## **Joint Submission by Civil Society Organizations on the Indigenous Peoples Policy of the GCF**

**December 8, 2017**

The undersigned organizations are in full support of the GCF Board decision B.15/01 which calls for the development of an Indigenous Peoples Policy (IP Policy) of the GCF. We submit these proposed edits to the latest draft of the IP Policy in the spirit of such support and with the intention of helping ensure that the policy is fully respectful of and responsive to the situation, needs, and rights of Indigenous Peoples recognized in numerous international and regional instruments. This submission is also aimed at promoting its consistency with other critical GCF policies including but not limited to the gender policy, environmental and social policy, and information disclosure policy. In addition to this submission, we would like to express our full support to the proposals by the Indigenous Peoples' organizations.

We welcome the fact that this latest draft incorporated many of the earlier proposals from CSOs and Indigenous Peoples organizations, thus making it an even stronger document than before. We do note, however, that in some places the language has been changed and the changes have either had a diluting effect or have opened the door for the possibility of exemptions to a stated principle or mandate. Where language has gotten weaker, we urge the GCF to retain the clearer, stronger language from the previous draft. Additionally, in other places, we seek further improvement and strengthening to ensure that indigenous peoples' rights are respected, protected, and promoted.

Rather than providing red-lines and comments on the entire draft Indigenous Peoples Policy, to streamline this submission, we have only included the paragraphs on which we have specific comments or suggested edits. The following section has comments or suggested edits immediately following the paragraphs to which they refer. For example, we have the full text of paragraph 2 and then our suggested edits, then the full text of paragraph 9, followed by our comments related to it and so on. As such this joint submission includes outstanding concerns, and provides specific textual edits and suggestions on the draft policy itself.

### **Proposed Edits to the Indigenous Peoples Policy: Draft for Consultation**

#### **I. Introduction and rationale**

2. The importance of engaging with indigenous peoples in climate change policies and actions has been recognized by the Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC), including in the Cancun Agreement (Decision 1/CP.16). The preamble of the Paris Agreement also acknowledges that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on, inter alia, the rights of

indigenous people. The COP decision adopting the Paris Agreement (Decision 1/CP.21) recognizes the need to strengthen practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change. The COP has further requested the GCF consider a recommendation “to enhance [its] consideration of local, indigenous and traditional knowledge and practices and their integration into adaptation planning and practices, as well as procedures for monitoring, evaluation and reporting.”

*We appreciate the expansion in paragraph 2 to reference decisions of the UNFCCC as the GCF is a financial mechanism of the UNFCCC. At the recent COP23, the parties operationalized the Local Communities and Indigenous Peoples Platform. As such, this paragraph should also reference the LCIP Platform and its ongoing development.*

## II. Policy objectives

9. The overall objective of this policy is to provide a structure for ensuring that activities of the GCF are developed and implemented in such a way that fosters full respect for and promotion of indigenous peoples’ dignity, rights as recognized by national laws and obligations of the country directly applicable to the activities under relevant international treaties and agreements, identity, aspirations, natural resource-based livelihoods, autonomy, protagonism and cultural uniqueness so that they (a) benefit from GCF activities and projects in a culturally appropriate manner; and (b) do not suffer adverse effects from the design and implementation of GCF-financed activities. The policy will allow the GCF to promote its approach in a consistent way and improve outcomes over time.

*This paragraph should*

- 1) *Be modified to say “fosters full respect for and **active protection** and promotion...”*
- 2) *Specify that indigenous peoples shall be included in decision-making processes of projects and programmes, and this engagement should begin with the project/programme design phase and continue throughout the project/programme development and implementation.*

10 (f) To enable and ensure the full respect for the human and territorial rights, dignity, aspirations, identity, culture, lifestyle, autonomy, protagonism, natural resource-based livelihoods of indigenous peoples and territory management in the whole spectrum of activities and initiatives of the GCF, guided by the applicable international and regional principles such as International Labour Organization (ILO) Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP);

*This paragraph should be amended to say*

*“... guided by the applicable international and regional instruments ~~principles~~ such as the International Labour Organization (ILO) Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), among others;”. ILO Convention 169 and UNDRIP, as well as regional instruments like the American Declaration on the Rights of Indigenous Peoples are “instruments” or “agreements” that contain principles, but they referring to the entire instrument as “principles” is confusing.*

### III. Scope of application

11. This policy will apply to all prospective and approved GCF-financed activities, ~~to the extent reasonably possible~~ and to both public and private sector entities. The activities supported by the GCF include programmes, projects and subprojects and the financial instruments may vary and may include grants, concessional loans, guarantees and equity investments.

*As noted above in the paragraph, the phrase “to the extent reasonably possible” should be deleted. This leaves too much discretion and jeopardizes the application of the IP policy to all GCF-financed activities. The IP policy should apply to all GCF projects and programmes “whenever indigenous peoples are present in, have, or had a collective attachment to areas where GCF-financed activities will be implemented” as this is also consistent with subsequent paragraphs in this policy.*

16. This policy applies whenever indigenous peoples are present in, have, or had a collective attachment to areas where GCF-financed activities will be implemented.

*There should be greater clarity about how the presence or collective attachment of Indigenous Peoples is determined, including who does this determination and the process for doing so. Further, this determination should be made in consultation with communities in the GCF project/programme area and should take into consideration inputs from them and indigenous peoples.*

18. The application of this Policy will not be limited by the absence of legal recognition or identification of indigenous peoples by a country.

*This paragraph is critically important and should be retained. Additionally, it would be important to ensure that application of the policy is also not limited by the absence of legal titling related to land. As such the following sentence should be added: **It should also not be limited by the legal status of titling of indigenous lands, resources and territories.***

### IV. Guiding principles

21. In addition, the guiding principles for this policy will also include:

(g) Facilitate access to GCF resources for indigenous peoples. The GCF shall encourage National Designated Authorities and accredited entities to engage with and be inclusive of indigenous peoples. As appropriate, the GCF may consider taking actions to better meet the needs and priorities to support their initiatives and efforts for climate change mitigation and adaptation actions; and

*The phrase “As appropriate,” should be deleted from the third sentence of paragraph 21(g). “As appropriate” is ambiguous and provides a level of discretion that could serve as a disincentive for the GCF how it could better facilitate access to GCF resources by indigenous peoples and the GCF should be striving to do this.*

## V. Overview of roles and responsibilities

### 5.2 Overview of roles and responsibilities of the accredited entities

30. The accredited entities are responsible for:

(a) In the case of activities proposed for GCF financing:

(i) Ensuring FPIC has been properly obtained and meaningful consultation has been undertaken in line with the requirements of this policy;

*Paragraph 30(a)(i) should also reference the UNDRIP. As such the phrase “and the UNDRIP” should be added so the sentence reads “....in line with the requirements of this policy **and the UNDRIP**.”*

## VI. Requirements

### 6.1 General

35. A key purpose of this policy is to ensure that indigenous peoples present in, or with collective attachment, be it present or past, to the areas where the GCF-financed activities are implemented (or activities proposed for GCF-financing will be implemented) are fully informed, consulted about and provided adequate and legitimate opportunities to actively participate in, project design and the determination of project implementation arrangements, operation and decommissioning. Consultations and subsequent project planning and documentation processes will address potential risks and impacts as these may affect indigenous peoples. The scope and scale of consultations, as well as subsequent project planning and documentation processes, will be proportionate to the scope and scale of potential risks and impacts as these may affect indigenous peoples.

*This paragraph seems to make the scope of efforts to protect and promote indigenous peoples’ rights dependent on the risk categorization, here, for example, efforts related to consultation. Clarity is needed on what this implies for category C projects in terms of due diligence as it relates to indigenous peoples. Further it needs to be made clear that due diligence on projects that affect indigenous peoples require consultation and participation in project design and beyond among other obligations regardless of the project’s categorization.*

36. The accredited entities, in consultation with potentially affected indigenous peoples and the host government(s), will assess the nature and degree of the expected direct and indirect economic, social, cultural (including cultural heritage) and environmental impacts on indigenous peoples who are present in, or have a collective attachment to, the project area. The accredited entities with the participation of the potentially affected indigenous peoples and the host government will prepare a consultation strategy and identify the means by which affected indigenous peoples will participate in the design and implementation of GCF-financed activities as well as share equitably in the benefits.

*We appreciate the positive changes to this paragraph from the prior policy to say that it is not the accredited entities alone who will develop the consultation strategy, but that they should consult with indigenous peoples. However, this could be strengthened by, in the first sentence, replacing the phrase “in consultation with” with the phrase “in collaboration with”. Further, it should be clear that the*

*consultation strategy must be developed prior to project approval and the GCF Secretariat should ensure that it is. Further, the GCF Board should consider whether this has been done in compliance with this policy when it is assessing the project for approval. If this has not been complied with, the Board should require the accredited entity to comply with this as a condition and funds should not be dispersed until it has done so.*

37. The accredited entities proposed measures and actions will be developed in consultation with the potentially affected indigenous peoples and contained in a time-bound plan that is culturally appropriate. Where there are potential impacts on indigenous peoples, accredited entities with indigenous peoples shall prepare an Indigenous Peoples Plan or, if specific activities or locations have not yet been determined an Indigenous Peoples Planning Framework. The scope and scale of the IPP or IPPF will be proportionate to the potential risks and impacts of the project. The IPPF will include a description of the processes and plans so that specific activities meet the requirements of this policy and the GCF ESS standards including provisions for the development and implementation of site-specific IPP that meet the requirements of this policy. The IPPF and IPP will complement the social assessments of the project and programmes proposed for GCF financing and provide guidance on specific issues related to addressing the needs of the affected indigenous peoples. The format and title of the IPP or IPPF will be adjusted as appropriate to the project or country context and will reflect any alternative terminology for the indigenous peoples.

*We appreciate the change in this paragraph to say that the IPPF will meet the requirements of this policy and the GCF ESS standards rather than the interim ESS standards. This underscores the urgent need for the GCF to develop its ESS standards. Additionally, this paragraph should also specify that the IPPF will meet the requirements of the GCF's ESP as well.*

38. An IPP should include the following elements:

- (a) Baseline information (from independent and participatory environmental and social risks and impacts assessment process);
- (b) Key findings and analysis of impacts, risks and opportunities;
- (c) Measures to avoid, minimize and mitigate negative impacts and enhance positive impacts and opportunities;
- (d) Community-based natural resource management;
- (e) Result of consultations (during environmental and social risks and impacts assessment process), the free, prior and informed consent and future engagement plans;

*Paragraph 38(e) should specify that the “result of the consultations” should include a list of people and organizations who participated. Additionally, an element should be added to paragraph 38 as an IPP should include “A timetable for the consultation process, indicating who is responsible for each activity.”*

#### **6.1.2 Activities where indigenous peoples are not the sole beneficiaries**

43. When indigenous peoples are not the only beneficiaries of the activities proposed for GCF financing, the planning documents and procedures may vary in form and presentation and will meet the requirements of this policy regardless of form and presentation. The accredited entities will design and

implement the GCF-financed activities in a manner that provides affected indigenous peoples with equitable access to project benefits. The concerns or preferences of indigenous peoples will be addressed through meaningful consultation, including a process to request and obtain their free, prior and informed consent and design, and documentation shall summarize the consultation results and describe how indigenous peoples' issues have been addressed in the design of the GCF-financed activities. Arrangements for on- going consultations during implementation and monitoring will also be described.

*In the third sentence of this paragraph, the word "request" should be replaced with the word "seek" so the sentence says "... including a process to ~~request~~ seek and obtain their free, prior and informed consent ..."*

### 6.1.3 Avoidance of adverse impacts

45. Adverse impacts on indigenous peoples will be avoided where possible. Where alternatives have been systematically explored to consider feasible alternative project designs to avoid adverse impacts, and adverse impacts are unavoidable, the accredited entities will minimize and compensate for these impacts in a culturally appropriate manner proportionate to the nature and scale of such impacts and the form and degree of vulnerability of the affected indigenous peoples. The appropriate mitigation measures to minimize impacts and for appropriate compensation shall be determined with the full and effective participation of affected indigenous peoples including indigenous women, youth, elderly and disabled people.

*All efforts should be made to avoid adverse impacts on indigenous peoples and this should not just be done "where possible" as this seems to imply that little effort should be made to avoid impacts. Thus, in the first sentence, replace the phrase "where possible" with the phrase "to the maximum extent possible" so that the sentence says "Adverse impacts on indigenous peoples will be avoided to the maximum extent possible." Additionally, this paragraph refers to "form and degree of vulnerability of the affected indigenous peoples." However, it does not define what makes one vulnerable or how "degrees of vulnerability" will be determined. Hence, the GCF should provide guidance on how that "vulnerability" will be determined by the Accredited Entity so as to avoid deliberate "lowballing" of vulnerabilities.*

### 6.1.4 Mitigation and development benefits

47. The accredited entities and the indigenous peoples will identify measures to mitigate environmental and social risks and impacts in alignment with the mitigation hierarchy that sets prioritized steps for limiting adverse impacts through avoidance, minimization, restoration and compensation as well as opportunities for culturally appropriate and sustainable development benefits. The scope of the environmental and social assessments and mitigation will include cultural impacts as well as physical impacts. The accredited entities will ensure the timely delivery of agreed measures to indigenous peoples.

*The term "mitigation hierarchy" is ambiguous and needs further clarification. In addition, any aspects of the mitigation hierarchy related to measures taken to mitigate or compensate for impacts should be developed with the full and effective participation of the affected indigenous peoples. As such the first*

*sentence should be changed in the following way: “The accredited entities ~~and~~ with the full and effective participation of the indigenous peoples will identify measures to mitigate environmental and social risks and impacts in alignment with the mitigation hierarchy as defined in the GCF’s Environmental and Social Policy ...”*

### 6.1.5 Meaningful consultation tailored to indigenous peoples

50. To promote the effective design of GCF-financed activities, to build local project support or ownership or buy-in, and to reduce the risk of delays or controversies, the accredited entities will undertake an engagement process with indigenous peoples. This engagement process shall commence as soon as feasible and prior to the commencement of any activities that may affect their rights or interests and will include stakeholder analysis and engagement planning, the disclosure of information and meaningful consultation, in local language and in a culturally appropriate and gender and inter-generationally inclusive manner in accordance with the customs, norms and values of the affected people and through their chosen representatives.

*This paragraph should be amended to say local language(s), where language is plural as there may be multiple local languages in a project or programme area and the information disclosed and consultation should not just be in one local language, but in all the local languages of the potentially affected people.*

51. For indigenous peoples the process of meaningful consultation will also:

(d) Take into account the interests of these segments in the community that are particularly affected especially women, youth, indigenous persons with disabilities and the elderly, including being cognizant of traditional cultural approaches that may exclude segments of the community from the decision-making process. Additionally, spaces should be created to allow for their direct participation in consultation and in the decision-making process; and

*This sentence should be modified to include the phrase “and marginalized” as it should recognize that additionally efforts should be made to reach traditionally marginalized segments of the community that are often not consulted or part of decision making processes. As such the sentence should say: “Take into account the interests of these segments in the community that are particular affected and marginalized especially women, youth ....”*

### 6.2 Circumstances requiring free, prior and informed consent

55. As part of the operational guidelines of this policy, the GCF Secretariat, in consultation with indigenous peoples will develop and maintain guidance on the application of free, prior and informed consent. This guidance shall be developed in a timely manner, and the Secretariat shall ensure that it is followed by all relevant parties.

*The guidelines should apply retroactively to projects and programmes approved before the adoption of the guidelines. The application of this IP policy should not be conditioned on the approval of the operational guidelines of this policy.*



### 6.2.1 Impacts on lands and natural resources subject to traditional ownership or under customary use or occupation

57. Where the activities proposed to be financed by the GCF are located on, or develop natural resources on land traditionally owned by, or under the customary use or occupation of, indigenous peoples and potential create adverse impacts, including loss of access to assets or resources or restrictions on land use can be expected, the accredited entity will take the following steps and seek their free, prior and informed consent and prepare indigenous peoples engagement plan and/or IPP:

*Given the unique relationship of indigenous peoples with ancestral lands, this paragraph should explicitly refer to collective ownership and tenure of land and so it should be amended to say: "... resources on land subject to traditional ownership **or tenure, including but not limited to collective ownership**, or under the customary use ...."*

- (a) Document efforts to avoid and otherwise minimize the area of land proposed for the activities;
- (b) Document efforts to avoid and otherwise minimize impacts on natural resources subject to traditional ownership, use or occupation;
- (c) Identify and review all property interests, tenure arrangements and traditional resource usage prior to purchasing, leasing or, as a last resort, undertaking land acquisition;
- (d) Assess and document indigenous peoples' land and resource use without prejudicing any indigenous peoples' land claims. The assessment of land and natural resource use will be gender inclusive and specifically consider women's roles in the management and use of these resources;
- (e) Ensure that affected indigenous peoples are informed of and understand: (i) their land rights under applicable law; (ii) the scope and nature of the activities proposed for GCF- financing; and (iii) the potential impacts of the activities proposed for GCF-financing; and

*We appreciate the reference to applicable law, however, sub-section (e) of this paragraph should be amended to reference both national and international law, as such it should be amended to say "... their land rights under applicable **national and international** law..."*

(f) Where the activities promote commercial development of their land or natural resources, afford due process and offer compensation together with culturally appropriate sustainable development opportunities to indigenous peoples, at least equivalent to that to which any landowner with full legal title to the land would be entitled, including:

- (i) Providing fair lease arrangements or, where land acquisition is necessary and unavoidable, providing land-based compensation of land that is comparable to the land acquired from the indigenous peoples or compensation in kind in lieu of cash compensation where feasible;

*Given the significant impact of losing land, it is critical that where compensation, which should be a last option, is going to be provided that the compensation not merely be what the AE thinks is adequate, but*



is what the indigenous peoples think is adequate and equitable. As such the following sentence should be added to sub-paragraph (f)(i): *“The amount and quality of the compensation must be coordinated, consulted and consented to by indigenous peoples.”*

(ii) Ensuring continued access to natural resources, identifying the equivalent replacement resources, or, as the last option, providing compensation and identifying alternative livelihoods if project development results in the loss of access to and the loss of natural resources independent of project land acquisition;

(iii) Enabling indigenous peoples to have equitable access to the benefits to be derived from the commercial development of the land or natural resources where the entity intends to utilize land or natural resources; and

(iv) Providing affected indigenous peoples with access, usage and transit on land the GCF-financed activities are developing subject to overriding health, safety and security considerations.

*The phrase “subject to overriding health, safety, and security considerations” is very vague. It is not clear who sets these considerations in the case of commercial land development. Thus, this phrase should be deleted.*

58. Any reference to free, prior and informed consent in the GCF (e.g., Board decisions, policies, GCF ESS standards) shall have the meaning described in this policy.

*References to FPIC should also reference the UNDRIP and so the phrase “and the UNDRIP” should be added at the end of the paragraph so that it reads “...shall have the meaning described in this policy and the UNDRIP.”*

### **6.2.2 Relocation of indigenous peoples from lands and natural resources subject to traditional ownership or under customary use or occupation**

59. Wherever practicable the GCF will not finance activities that would result in the involuntary resettlement of indigenous peoples except as permitted by paragraph [60]. The GCF will avoid funding activities that may involve physical displacement (i.e. relocation, including relocation needed as a result of loss of shelter), whether full or partial and permanent or temporary, or economic and occupational displacement (i.e. loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of the activities.

*The GCF should avoid financing the types of projects and programmes that lead to involuntary resettlement. Involuntary resettlement should be avoided given that any involuntary might be unacceptable given specific cultural, historical, or legal circumstances. As such, the phrase “Wherever practicable...” should be deleted.*

### **6.2.3 Cultural heritage**

63. Where the activities proposed for GCF financing propose to use the cultural heritage of indigenous peoples for commercial purposes, the accredited entities will inform the affected indigenous peoples in an accessible local language, culturally-appropriate manner and that ensures understanding

of the affected indigenous peoples of (a) their rights under applicable law; (b) the scope and nature of the proposed commercial development and use; and (c) the potential consequences of such development and use; and (d) seek and obtain their free, prior and informed consent. The accredited entities shall ensure that the indigenous peoples have equitable access to benefits derived from the commercial development of such cultural heritage, consistent with the customs and traditions of the indigenous peoples.

*Given the significant impacts of using indigenous peoples' cultural heritage for commercial purposes it is vital that indigenous peoples' rights are upheld and that steps are taken to ensure this. As such, several changes should be made to this paragraph. First, it should say that '... the accredited entities will inform the affected indigenous peoples in accessible local language(s) ....' As there may be more than one local language spoken or understood by affected indigenous peoples, language should be made plural in this paragraph. Additionally, we appreciate the reference to applicable law, but this should further specify that the law referenced should be "national and international" as such this reference should be added so that it says: "... (a) their rights under applicable national and international law..."*

### 6.3 Grievance redress mechanism

65. All GCF-financed activities affecting indigenous peoples shall establish an effective grievance redress mechanism at the project level, in order to address indigenous peoples' project-related concerns. The mechanism will be designed in consultation with the affected or potentially affected communities of indigenous peoples. The mechanism will facilitate the resolution of grievances promptly through an accessible, fair, transparent and constructive process. It will also be culturally appropriate and readily accessible, at no cost to the affected communities and without retribution to the individuals, groups or communities that raised issues or concerns. Where feasible and suitable for the project, the grievance mechanism will utilize existing formal or informal grievance mechanisms, supplemented as needed with project-specific arrangements. The mechanism will not prejudice 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. The mechanism will take into account the "effectiveness criteria" for non-judicial grievance mechanisms outlined in Article 31 of the United Nations Guiding Principles on Business and Human Rights in order to maximize effectiveness.

*The GCF's Independent Redress Mechanism (IRM) should always be available to people and communities impacted by GCF-financed projects and programmes. To be consistent with the IRM's Terms of Reference and to reflect this availability, the IP Policy should specify that project-level grievance mechanisms do not replace nor impede access to the IRM. As such the following sentence should be added as the second to last sentence of this paragraph; "It will also not impede access to the GCF's Independent Redress Mechanism or the accredited or executing entities' grievance redress mechanism."*

66. The scope, scale and type of grievance redress mechanism required for the project- and programme-level will be proportionate to the nature and scale of the potential risks and impacts of the project or activity. The grievance redress mechanism should include the following:

*“Shall” should replace “should” in the final sentence of this paragraph, so that it says “The grievance redress mechanism shall include the following;”.*

- (a) Different ways in which indigenous peoples can submit their grievances and taking into account language barriers/limitations and anonymously if a complainant fears retaliation or submission by an authorized representative or civil society organization.
- (b) Provision to keep complainants’ identities confidential especially in instances where the complainants fear retaliation;
- (c) Provision for interpretation/translation to overcome language barriers/limitations;
- (d) A log where grievances are registered in writing and maintained as a database;

*Transparency is crucial for ensuring that project-level grievance mechanisms are effective and legitimate. As such, this paragraph should be modified to add “publicly-available” to make sure that the database and log of grievances is transparent, thus the sentence should be “... and maintained as a publicly-available database.” It should also state that the database should include information about the complaint and the resolution of the complaint, including remedy provided, taking into consideration that complainants’ identities can be kept anonymous if requested. This database should also be shared with the GCF’s IRM.*

- (e) Publicly advertised procedures, identifying the means for submitting grievances, setting out the length of time users can expect to wait for acknowledgment, response and resolution of their grievances, description of the transparency of the procedures and the governing and decision-making structures;
- (f) An appeals process to which unsatisfied grievances may be referred when the resolution of grievance has not been achieved; and
- (g) Information about other available grievance mechanisms, including the GCF's IRM and the accredited and implementing entities' grievance mechanisms.

*We appreciate the changes to this paragraph to make it more comprehensive and clear. However, given the increasingly shrinking civil society space in many countries and increasing threats to environment and human rights defenders, this paragraph should also include that the project-level grievance mechanisms should have measures to protect complainants from any form of retaliation. As such it should include the following additional clause: “(h) Measures in place to protect complainants from retaliation.”*

67. The project or activity shall provide mediation as an option where users are not satisfied with the proposed resolution.

*Mediation or other dispute resolution processes should always be provided as an option as a way of resolving disputes and achieving remedy. However, it should only be used when the complainants agree to the process and complainants should not be forced to accept a proposed resolution nor forced to enter into mediation or a dispute resolution process. In addition, neither the project nor programme or activity provides mediation, but the grievance redress mechanism, which should be independent, does. This paragraph should therefore be modified to say: "The grievance redress mechanism shall provide mediation or other dispute resolution processes as an option where complainants are not satisfied with the proposed resolution and where mediation or another dispute resolution process is appropriate and requested by or agreed to by the indigenous peoples who submitted the complaint".*

68. This mechanism shall consider customary laws, applicable law, dispute resolution mechanisms and justice systems of indigenous peoples as appropriate and be able to use independent indigenous experts. The mechanism will not preclude the option to use the accountability mechanisms of the GCF and those of the accredited entities and executing entities, ensuring that users are provided with the necessary financial and technical support to access such mechanisms.

69. The GCF independent Redress Mechanism and the Secretariat's Indigenous Peoples' focal point shall be available for assistance to all users.

*This paragraph should be amended to capitalize "Independent" when referring to the "Independent Redress Mechanism."*

70. In the event of complaints being filed with the independent Redress Mechanism, the accredited entities and executing entities, relevant national competent authorities and any other relevant parties shall cooperate with the independent Redress Mechanism, including providing all required information. In addition, the accredited entities and executing entities will promptly implement remedial measures stipulated by the Board on the recommendation of the independent Redress Mechanism pursuant to its guidelines and procedures.

*This paragraph should be amended to capitalize "Independent" when referring to the "Independent Redress Mechanism."*

#### **6.4 Indigenous peoples and broader planning**

72. The National Designated Authorities and accredited entities may seek support through readiness and preparatory support proposals and funding proposals for various initiatives including (a) support for the development priorities of indigenous peoples through programs, (such as community-driven development programs) developed by governments in cooperation with indigenous peoples; (b) preparation of participatory profiles of indigenous peoples to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs and resource use patterns; (c) facilitating partnerships among the government, indigenous peoples organizations, civil society organizations and the private sector to promote the climate resiliency of indigenous peoples' communities.

*This paragraph has been changed in a way that weakens it. As such the language from the first draft of the IP Policy should be used as it specified that “Indigenous Peoples may themselves seek support for various initiatives, and these should be taken into consideration by the GCF.”*

## **VII. Implementation arrangements**

### **7.1 Overview of arrangements**

75. If there is any inconsistency between this policy and any applicable provision on the subject-matter in a policy of the GCF, this policy shall prevail to the extent of such inconsistency on the basis that it represents the policy governing a specific subject matter.

*This paragraph is confusing and ambiguous and should be clarified to ensure that accredited entities do not use it to justify implementing projects consistent with some GCF policies and not others. For example, this should not be used to allow an entity to apply this policy and not another GCF policy in the event this Policy had less stringent requirements or vice versa. As such it should be clear that this Policy applies in as much as other policies are inconsistent with it as regards indigenous peoples specifically. Therefore, it should be amended to say “If there is any inconsistency between this policy and any applicable provision in regards to indigenous people ~~on the subject-matter~~ in a policy of the GCF, this policy ....”*

78. The GCF Secretariat shall undertake a periodic assessment of the implementation of this policy, which will require the collection of baseline data, and to (a) determine how the GCF can improve its response to the needs of indigenous peoples; (b) identify the drivers of change in order to achieve adaptation or mitigation goals; (c) identify and design the specific and culturally-appropriate elements to be included in the GCF policies and GCF-financed activities; (d) estimate the resources necessary for the implementation of the policy; (e) select specific output, outcome and impact indicators for indigenous peoples; and (f) design and establish implementation and monitoring arrangements that promote and develop effective participation of indigenous peoples within GCF-financed activities. Accredited entities and executing entities shall assist this assessment. Indigenous peoples and CSOs shall be invited to participate and assist this assessment.

*This paragraph should specify the frequency at which the periodic IP policy implementation reports from the Secretariat will occur. To be consistent, it could reference paragraph 105, which mentions annual and mid-term implementation reviews and reports as part of the IP policy review process.*

### **7.7 Reducing emissions from deforestation and forest degradation (REDD-plus) actions**

91. This policy shall apply to GCF-financed activities supporting the REDD-plus actions including readiness phase, results-based payments and to any access and financing modalities, guidance, terms of reference and assessment tools developed by the GCF with respect to REDD-plus actions. Consequently, any REDD-plus activities proposed for GCF financing including results-based payments shall ensure that the requirements of this policy in conjunction with other relevant policies and standards of the GCF, such as the UNFCCC Paris Agreement, the Warsaw Framework for REDD-plus and the Cancun Agreement

(Decision 1/CP.16, Decision 12/CP.17 and Decision 17/CP.21), are addressed emphasizing that references to stakeholders include indigenous people as defined in this policy.

*This paragraph should specify that “In case of conflict between this policy and other GCF guidelines and decisions regarding REDD-plus from the UNFCCC, the norm or guideline with the highest standard in favor of indigenous peoples’ rights will apply.”*

#### **7.10 Knowledge generation and communication**

102. Communicating the commitment of GCF to indigenous peoples engagement, this policy, and its operational guidelines will inform a strategic communications activity and form an integral part of the communications plan of the GCF and the responsibility of the GCF Secretariat. Accredited entities will also be required to assist with this activity. It will be important to communicate to the public not only how the GCF is implementing this policy, but also to seek periodic feedback from stakeholders and partners on the implementation of this policy and on possible improvements.

*As many other funds have indigenous peoples’ policies and experience in implementing them, the GCF could benefit from engaging with them to share information and strive to meet international best practice. As such the following sentence should be added: “The GCF will have regular exchanges with other Funds on experiences and lessons in the formulation and implementation of Indigenous Peoples policies and seek the establishment of an inter-fund Indigenous Peoples working group.”*

#### **VIII. Effective date and review**

104. The GCF will review and evaluate the overall performance of this policy based on the objectives of this policy. Appropriate amendments to this policy will be considered, based on the results of such review and evaluation and changes to the policy will follow the decision-making processes of the GCF. The Independent Evaluation Unit shall conduct an evaluation of the implementation of the IP policy, and that shall be included in the review.

*This paragraph should also provide for public consultations as part of the process of updating and amending the policy. The consultations should include not only a call for inputs but an opportunity for in-person, or at least web-based, consultation with indigenous peoples, affected communities, and other civil society organizations.*

Thank you for the opportunity to comment on the draft Indigenous Peoples Policy. Please do not hesitate to contact us if you have any questions or want further clarification on our proposals. We look forward to engaging with you further on this process.

**Submitted by :**

Center for International Environmental Law (CIEL)  
Erika Lennon (GCF Contact Point)  
Senior Attorney, Climate & Energy Program  
+1-202-742-5856  
[elennon@ciel.org](mailto:elennon@ciel.org)

Heinrich Böll Stiftung North America  
Liane Schalatek (GCF Contact Point)  
CSO Active Observer for Developed Countries  
Associate Director  
+1-202-462-7512, ext. 225  
[liane.schalatek@us.boell.org](mailto:liane.schalatek@us.boell.org)

Interamerican Association for Environmental Defense- AIDA  
Astrid Puentes  
(Co-Executive Director and GCF Contact Point))  
+(52-55) 5212-0141  
[apuentes@aida-americas.org](mailto:apuentes@aida-americas.org)  
Organization's Focal Point: Florencia Ortúzar Greene, Attorney

Jubilee South – Asia Pacific Movement on Debt and Development  
(Asian Peoples Movement on Debt and Development)  
Lidy Nacpil (Coordinator and GCF Contact Point)  
CSO Active Observer for Developing Countries  
[lnacpil@gmail.com](mailto:lnacpil@gmail.com)

Asia Pacific Network for Food Sovereignty  
Arze Glipo (GCF Contact Point)  
+639178576203  
[glipoarze@gmail.com](mailto:glipoarze@gmail.com)

Forest Peoples Programme  
Andy Whitmore (GCF Contact Point)  
+44-7754395597  
[Andrew@forestpeoples.org](mailto:Andrew@forestpeoples.org)

Rainforest Foundation Norway  
Monica Camacho (GCF Contact Point)  
Climate adviser  
+47 41009167  
[Monica@rainforest.no](mailto:Monica@rainforest.no)