

Co-Chairs and members of the Board of the Green Climate Fund
Via GCF Interim Secretariat

March 12, 2013

Dear Co-Chairs and members of the Board,

We, the undersigned organizations from developing and developed countries, wish to express our concern about the current practices and proposed rules for civil society participation in the Green Climate Fund. We urge the Board to adopt permanent observer and stakeholder accreditation and participation procedures to enable members of civil society to be effective advocates for the Fund.

The active and engaged participation of civil society at the Board and country level is essential for creating an effective, equitable and environmentally sound Fund that can be responsive to the differentiated needs of men and women, minorities and indigenous peoples increasingly impacted by climate change.

When civil society organizations (CSO) are engaged in planning, implementing, monitoring and evaluating programs and projects, it is more likely that these will meet local needs, respond to current conditions and accomplish the Fund's objectives. In addition, civil society organizations can serve as advocates for multilateral climate finance in their countries, and are critical for shaping positive public opinion of and national support for the Green Climate Fund.

The Board and the Fund can only benefit from the expertise, experience and support of civil society if our engagement is meaningful. Limiting CSO access and participation risks undercutting public confidence in the GCF.

To guarantee effective engagement, the GCF must meet the principles and legal obligations of public participation stipulated in international agreements such as Principle 10 of the Rio Declaration, the Rio+20 outcome document, the Aarhus Convention, the Almaty guidelines, and Articles 4 and 6 of the UNFCCC. The fund should also build on existing best practices of public participation - including those used by the Global Environment Facility, the World Bank's Climate Investment Funds and the Global Fund to Fight AIDS, TB and Malaria – rather than permitting a retreat to operations that are less transparent and accountable, as is currently the case.

To enhance transparency and participation in accordance with other successful models of civil society engagement and stakeholder participation, the GCF's Additional Rules of Procedure must:

- Make documents publicly available in a manner to permit adequate time to review and submit comments;
- Provide that Board meetings will be webcast;
- Allow active observers to propose agenda items, propose expert input and make interventions as issues arise in the agenda;
- Allow active observers to participate in all Board and committee meetings, absent special circumstances requiring their closure;
- Permit civil society active observers to have alternates; the alternate would be able to make interventions only in the absence of the active observer.

- Permit civil society active observers from developing countries to rotate, and sufficient financial resources to be made available to support their effective participation. Allowing rotation and financial support ensures that civil society from developing countries is represented.
- Create a formal transparent and open self-selection process for active observers that is fully funded, similar to that of the Climate Investment Funds (CIFs);
- Allow all registered observers in the Board meeting room, with an overflow room only used when there is genuine lack of space;
- Instruct Board members to hold meaningful consultations with civil society observers before each meeting; and.
- Formalize a mechanism by which written submissions from civil society can be received and considered in the decision-making process, allowing adequate time for review and preparation of comments.

Several of these issues have been at least partially addressed in the newest 20 February draft of the Additional Rules of Procedure, and we urge that these changes be retained or further improved in the final version. To this effect, we have proposed a number of additional textual revisions to further increase transparency and facilitate meaningful public participation, which we have included as an Annex to this letter.

Enabling the rapid and effective implementation of the Fund is a goal we share with members of the GCF Board. It is with a sense of mutual responsibility that we urge you to adopt rules of civil society participation/stakeholder engagement in Berlin that enable our organizations to help build a Green Climate Fund that meets the needs of the countries and communities most impacted by climate change.

Respectfully,

- Accountability Counsel (United States)
- ActionAid (International)
- Beyond Copenhagen collective (India)
- Biosfera Foundation (Argentina)
- BirdLife International (International)
- Both ENDS (The Netherlands)
- Campaign for Climate Justice (Nepal)
- Caucasus Environmental NGO Network (Georgia)
- Catholic Agency for Overseas Development (United Kingdom)
- Centre for 21st century Issues -C21st (Nigeria)
- Center for Biological Diversity (United States)
- Center for International Environmental Law (United States)
- Center for Law, Justice and Society -Dejusticia (Colombia)
- Centre National de Coopération au Développement (Belgium)
- Climate Action Network Australia
- Climate Action Network Europe
- Climate Action Network Latin America
- Climate Action Network United States
- CTS-EMBARQ (Mexico)
- Derecho Ambiente y Recursos Naturales- DAR (Peru)
- Earth Peoples (International)
- Earth in Bracket (United States)

- Ecological Society of the Philippines (Philippines)
- Equity and Justice Working Group Bangladesh –EquityBD (Bangladesh)
- Environmental Education and Communication. S.A. (Mexico)
- Freedom from Debt Coalition (Philippines)
- Friends of the Earth (Canada)
- Friends of the Earth (Curacao)
- Friends of the Earth (Ghana)
- Friends of the Earth (Malaysia)
- Friends of the Earth (England, Wales and Northern Ireland)
- Friends of the Earth U.S. (United States)
- Friends World Committee for Consultation – Quakers (International)
- Foundation for GAIA (United Kingdom)
- Fundar, Center for Analysis and Investigation (Mexico)
- Greenovation Hub (China)
- Global Environment Centre (Malaysia)
- Global Alliance for Incinerator Alternatives (International)
- Heinrich Böll Foundation North America (United States)
- Heinrich Böll Foundation Mexico, Central America and the Caribbean (Mexico)
- Humboldt Center (Nicaragua)
- IBON International (International)
- Indigenous Organizations of the Amazon Basin – COICA (Regional)
- Indonesian Civil Society Forum for Climate Justice-CSF-CJI (Indonesia)
- Institute for Transportation and Development Policy-ITDP (Mexico)
- Institute for Policy Studies, Sustainable Energy & Economy Network (United States)
- Institute for Strategic Research and Development Studies (Philippines)
- International Trade Union Confederation (International)
- Interamerican Association for Environmental Defense-AIDA (Regional)
- Jamaa Resource Initiatives (Kenya)
- Jeunes Volontaires pour l'Environnement (Nepal)
- Jubilee South - Asia/Pacific Movement on Debt and Development (International)
- Korean Federation for Environmental Movement/Friends of the Earth Korea (South Korea)
- Labor Network for Sustainability (United States)
- LDC Watch (International)
- Mexican Center for Environmental Law –CEMDA (Mexico)
- Mexican Civil Council for sustainable forestry (Mexico)
- National Forum for Advocacy-NAFAN (Nepal)
- Nature Code (Austria)
- Oxfam (International)
- Pan African Climate Justice Alliance -PACJA (International)
- Planetary Association for Clean Energy (Canada)
- Rural Reconstruction RRN (Nepal)
- Sierra Club (United States)
- South Asia Alliance for Poverty Eradication –SAAPE (Regional)
- Sustainlabour (International)

- Tearfund (United Kingdom)
- Transparency International (Germany)
- Third World Network (International)
- The People's Movement on Climate Change (International)
- Ulu Foundation (United States)
- VOICE (Bangladesh)
- Worldview-The Gambia (Gambia)
- World Council of Churches (International)
- Zambia Climate Change Network (Zambia)

Comments on Selected Provisions of Additional Rules of Procedure of the Board (GCF/B.01-13/02, 20 February 2013)

Annex III: Additional Rules of Procedure relating to observer participation in meetings

Terms of participation of active observers, (page 5, para 1).

Proposed Edits

The Co-Chairs, acting jointly, and in consultation with the Board will invite to participate as active observers, two civil society representatives, one each from developing and developed countries; and two private sector representatives, one each from developing and developed countries. Active observers may:

- a) Request the floor to make verbal interventions,*
- b) Request the Co-Chairs to add agenda items to the provisional agenda, and*
- c) Recommend to the Board or the Co-Chairs external experts to speak on a specific agenda item.*

Comments

In order for the comments of active observers to be useful to the Board in its deliberations, active observers should be able to offer comments on agenda items as they arise. Under the current language, however, this would only occur at the discretion of the Co-Chairs and could be at the closing of a discussion on a specific agenda item, rather than as an active part of the discussion.

Instead, we would propose that the GCF Board adopt the language used by the World Bank Climate Investment Funds, paraphrased above. The CIF language (1) defines what active observer participation entails, and (2) makes clear that observers may request the floor, without specific invitation from the co-chairs.¹

Definition of non-active CSO observers (page 5, para 2(b) (ii)).

Proposed Edits

(ii) Accredited non-governmental organizations (NGOs) comprised of:

- Civil society organizations (CSOs): any independent non-profit organizations of individuals actively involved in climate-related policy, programme or project activities, including international as well as national and community-based organizations;*

Comments

Limiting CSO observers to members of organizations that implement programs in developing countries is too restrictive, as it would needlessly exclude representatives of CSOs, academic institutions, charitable

¹ *Guidelines for Inviting Representatives of Civil Society to Observe Meetings of the CIF Trust Fund Committees*, <http://www.climateinvestmentfunds.org/cif/sites/climateinvestmentfunds.org/files/Guidelines%20for%20Inviting%20Reps%20of%20Civil%20Society...pdf>

foundations, etc. who have important policy knowledge and relevant experience in implementing programs.

Annex III, Appendix

II. Accreditation of observer organizations (page 6, para 6.)

Proposed Edits

6. Applications will be reviewed by the Secretariat, which should accredit any organization that (a) is accredited to the UNFCCC or the GEF, or (b) has established its competence and relevance to the work of the GCF. In advance of each Board meeting, the Secretariat will provide the Board with a list of observer organizations that are accredited to participate.

Comments

Accreditation should be granted to any organization that meets the specified eligibility criteria. Accreditation should be an essentially administrative decision, and should not be subject to political review by the Board. Instead, the GCF should adopt the language used by the GEF (quoted above), which directs the GEF staff (in that case, the CEO) to accredit all eligible organizations.²

III. Process and guidelines for participation of active observers

3.1. Representation of active observers (page 7, para. 10).

Proposed Edits

10. Each active observer may have a designated alternate who may take the active observer's place in the event he/she is unable to attend a Board meeting or fails to comply with the requirements set forth in paragraph 11 of the Appendix, to be selected consistent with Section 3.3 of this Appendix and the procedure concerning accreditation of observer organizations.

Comments

A designated alternate would be better positioned to effectively represent civil society views than a replacement that is selected in an *ad hoc* manner, likely at the last minute. In addition, the alternates should be selected by civil society, and may not necessarily come from the same organization as the active observer.

3.2. Roles and responsibilities of active observers (page 7, para 11).

Proposed Edits

² GEF, 1995. *Criteria for Selection of NGOs to Attend/Observe Council Meetings and Information on NGO Consultations*, at 7. (GEF/C.3/5) <http://www.thegef.org/gef/sites/thegef.org/files/documents/GEF.C.3.5.pdf>

11. The active observers may intervene in open segments of the meetings of the Board. They may attend as observers meetings of a Board committee or working group except in special circumstances where such meetings are expressly closed to observers by the Board....

Comments

We propose deleting the phrase “upon invitation of the Co-Chairs” to track the changes we propose in page 5, para. 1 (discussed above). Again, to be useful to the Board in its deliberations, comments from active observers must be provided on agenda items as they are considered. Under the current language, this would only happen at the discretion of the Co-Chairs.

We also propose reversing the presumption that subcommittee and working group meetings will be closed, to a presumption that they will be open. We recognize that there may be sound reasons for closing these meetings in special circumstances, such as where necessary to preserve confidentiality. But a presumption of transparency better accords with best international practice and the transparency principle adopted in the *Governing Instrument* (para. 3), and will better enable the Board to benefit from the substantive inputs of observers at the committee/working group level.

Disclosure of information by observers (page 7, para. 11(e))

Proposed Edits

11. ...The active observers shall:

- (e) Not disclose, both during and after their term of office, information obtained from the Fund and/or project participants that is marked as proprietary and/or confidential, without the written consent of the Fund and/or the provider of the information, except as otherwise required by the law or sanctioned by the GCF's information disclosure policy.*

Comments

This revision would clarify that the active observers will be governed by the GCF’s information disclosure policy, which will determine which information provided to the GCF will be confidential, and which will be publicly available. We anticipate that, following best international practice and the transparency principle established in para. 3 of the *Governing Instrument*, the information disclosure policy will incorporate a presumption of disclosure that will minimize the scope of confidential or otherwise non-disclosable information.

3.3. Selection process of active observers (page 7, para. 13).

Proposed Edits

13. CSOs and PSOs will select their respective active observers and alternates through a formalized, transparent and inclusive facilitated process. The Fund shall, upon request, provide funding for the self-selection process, in such amounts as may be determined by the Board.

Comments

Alternates should be self-selected through the same process as active observers. While the details can be fleshed out later, the basic principles of this process should be established in the *Additional Rules of Procedure*.

Support for the self-selection process (as is provided by the CIFs), if requested, will be essential to ensure a fair and transparent process and equitable representations among constituencies.

Annex IV: Additional rules of procedure relating to composition, selection and term of Board members and alternate members

II. (New section). Participation at Board Meetings (page 9, new para. 2)

Proposed Edits

Alternate members are entitled to participate in the meetings of the Board only through the principal member, without the right to vote, unless they are serving as the member. During the absence of the member from all or part of a meeting of the Board, his or her alternate will serve as the member. (para. 10, Governing Instrument). Board members will be considered absent from part of a meeting where they request that their alternate member participate in their place. In such circumstances, only the Board member or the alternate may speak to any specific agenda item, but the Board member shall retain the right to vote on that agenda item.

Comments

This proposed edit offers a potential compromise on a mechanism for Alternate members to address the Board, within the agreed provisions of the *Governing Instrument*. The first two sentences of this proposal are taken *verbatim* from Paragraph 10 of the *Governing Instrument*. The second two sentences clarify a scenario in which an Alternate can replace his or her member for “part of a meeting,” while the Board member remains physically present in the Board room.

By enabling Board members to transfer the right to speak to their Alternates, this language would allow Alternate members the opportunity to participate on matters of particular importance to them. At the same time, it would promote efficiency of deliberations by ensuring that no more than 24 individuals -- whether members or Alternates -- have the opportunity to speak on any specific agenda item.

Annex VI: Additional rules of procedure relating to meetings-Part A

IV. Transmittal of documents (page 12, paras. 9, 10, 11).

Proposed Edits

9. Comments of Board members and active observers on Board documents shall be transmitted promptly by the Secretariat to all Board members, alternate members and active observers.

10. Active observers will receive, in accordance with applicable rules and procedures, copies of all Board documents at the same time as Board members and alternate members, except documents classified as

confidential as defined in the Information Disclosure Policy. 11. All documents and materials provided to the Board will be posted on the website of the Fund on the same day they are released to Board members, except for Board documents classified as confidential, as defined in the Information Disclosure Policy. Comments

These paragraphs properly create a presumption of disclosure, in accordance with best international practice and the *Governing Instrument's* directive that the Fund “will operate in a transparent and accountable manner....” (para. 3). Paragraph 11 should make clear that this applies to of all documents and materials under consideration by the Board, including drafts. Exceptions to the presumption of disclosure should be defined in a separate “Information Disclosure” policy, as is the practice at the World Bank and other international financial institutions, and not left to the *ad hoc* discretion of the Board.

V. Attendance (page 13, new para. 14).

Proposed Edits

14.To facilitate broad participation and engagement amongst observers, advisors, representatives of implementing entities, and other interested parties, meetings of the Board, other than executive sessions, will be webcast live on the Fund website and archived for public on-demand access within two calendar days.

Comments

Public webcasting of meetings is technically feasible and cost effective, and has become a best practice tool for promoting transparency and broad participation. It particularly benefits observers from developing countries, who may be most impeded by the significant time and transportation costs of physical participation. Thus, it helps level the playing field for interested observers who lack the resources to attend in person. The Adaptation Fund, CDM Executive Board, and the UNFCCC (including, for example, the work program on long-term finance) all use webcasting to great effect.

Annex VII: Additional rules of procedure relating to meetings – Part B

III. Committees, panels, groups and subsidiary bodies (page 14, para 7)

7. The Board may establish, on permanent or temporary basis, technical and expert panels to assist it in the performance of its functions. Technical or expert panels may include but need not be limited to Board members, alternate members, and active observers. They generally shall have advisory functions only.

Annex VIII: Additional rules of procedure relating to meetings – Part C

I. Travel and compensation (page 15, para. 5)

5. The Board will provide full or partial funding to cover travel expenses and daily subsistence allowance to active observers and/or their alternates from eligible developing countries in such cases and on such terms and conditions as may be established by the Board.

Comment

In many cases, financial support will be essential for the participation of active observers from developing countries.

Annex IX: Additional Rules of Procedure relating to decision-making and voting

III. Decisions between meetings of the Board (page 16, paras. 3, 5, 6)

Proposed Edits

3. Notwithstanding the provisions set forth in paragraph 4 of Annex VII, in between Board meetings, the Secretariat, after approval of the Co-Chairs, may transmit to Board members a proposed decision with an invitation to approve the decision within a prescribed period (generally 21 days but in urgent cases no less than one week), on a no-objection basis. Copies of such proposal shall be posted on the GCF website and provided to the active observers, who shall be given the opportunity to comment, unless otherwise determined by the Board.

5. At the expiration of the period prescribed for replies, the decision will be deemed approved unless there is an objection. If an objection has been received, Co-Chairs will work through the objection with the Board member directly. If the objecting Board member upholds his/her objection following discussion with the Co-Chairs, the proposed decision will be considered by the Board at the following meeting. The Secretariat shall circulate all written comments and objections to Board members, alternate members and active observers, and notify all the Board members, alternate members and active observers of the action taken pursuant to this paragraph and post a process note on the GCF website.

6. Decisions approved in-between meetings shall be posted on the GCF website and recorded in the report of the following Board meeting.

Comments

All proposed decisions between meetings should be made available for public comment. This would allow the Board to benefit from a wider range of public input, and is in accord with best international practice and the transparency requirements of the *Governing Instrument*. Similarly, decisions taken between meetings on a no-objection basis by the Board should be publicly announced immediately. Likewise, notification should be given on the status of proposed decisions where a Board objection was received. Notifying the public of the results of these proposed decisions by including them in the report of the following Board meeting would mean that decisions may not be publicly announced for months after they are taken by the Board.

Annex X: Additional rules of procedure relating to confidentiality and conflict of interest

(Page 17, para. 4)

4. Active observers and alternate active observers who participate in Board meetings shall also disclose any conflict of interest they may have in relation to any items on the agenda and recuse themselves from participating in the proceedings of that item.