

## **CSO Comments on the Environmental and Social Policy/ESP (BM18, October 2017)**

*(delivered during the Informal Sessions prior to BM18)*

- We welcome the new draft of the Environmental and Social Policy and pleased to see that a number of our recommendations in the previous round have been incorporated into this new draft of the ESP and important new provisions (i.e. related to equality and non-discrimination) have been added. A robust environmental and social management system with a strong accountability mechanism is critical to ensuring that the GCF's projects not only do no harm, but do good and that when there are harms adequate remedy is available. However, several concerns remain.
- First and foremost, we remain concerned that the GCF has not yet established its own Environmental and Social Safeguards (ESSs) through a fully participatory, gender-responsive, and comprehensive public consultation process with an adequate timeframe that allows for multiple phases. The GCF continues to rely on "interim" ESSs (the IFC Performance Standards) despite the fact that it should have already begun the process to establish its own. Furthermore, while we welcome the reference to UNDRIP and FPIC, a key concern is that until the Interim ESS are replaced, the FPIC requirements contained therein do not align with international standards, including UNDRIP. We also wish to reiterate that UNDRIP should not only be related to FPIC but to all policy aspects related to indigenous peoples.
- Developing the ESP without its accompanying ESSs could create policy inconsistencies and require further updating of the ESP. Further, the current draft makes references to things in the GCF's ESSs that the interim ESSs do not have. In doing so the GCF should harmonize upwards and look to highest levels of protection internationally.
- We appreciate the next steps in the document including developing the ESSs, an ESMS manual, and guidance for AEs. These documents should all be developed through a comprehensive consultation process with outside stakeholders as there is considerable expertise on these issues and the GCF could benefit from this.
- We are pleased a comprehensive ESMS with multiple policies is being developed and this will require adequate budget and staffing, including for training staff on these policies. Implementation cannot depend on whether the staff has capacities, as is implied in the policy, and the GCF must ensure that it has the capacity to properly assess entities and projects/programmes to ensure their compliance with the ESP, ESSs, and other relevant policies.
- Relatedly, the GCF should always ensure that the AEs' policies and procedures actually meet the GCF standards not just require them to have them.
- The draft states that AE's will screen activities for any potential impacts on indigenous peoples, however it is unclear what the categories of impacts are on IPs that would trigger the requirement to prepare an IP Development Plan or a IP Planning Framework. We recommend that an IP development Plan or Planning Framework should be developed regardless of the category of impact of the project on IPs.
- The ESP must be consistent with other policies, including but not limited to the gender policy and action plan, indigenous peoples policy, and yet to be developed ESSs.

- Information Disclosure and Stakeholder engagement should always be done in a way that is gender responsive and culturally aware taking into account local languages in the area.
- When indigenous peoples are potentially affected, the ESMS should always align to other relevant policies of the GCF, including the Indigenous Peoples Policy and stakeholder engagement should always include full and effective participation. Free Prior and Informed Consent should always be applied as set forth in the United Nations Declaration on the Rights of Indigenous Peoples, not only “in certain circumstances” as referenced in paragraph 45.
- There should be no sequencing of grievance mechanisms and they should be available to people who have been or may be harmed by GCF-funded projects regardless of policy compliance.
- The GCF should develop an Exclusions and Prohibited Activities List.
- The draft ESP should ensure that harms from GCF-funded projects are remedied.

### **Specific comments on Provisions:**

- Para. 1: the ESP should not just articulate how the GCF integrates environmental and social considerations, but should articulate the standards that must be met by GCF projects and programmes
- Para. 2(c): “local communities” should be included in this paragraph in the list
- Para. 4(b): The AEs should not only ensure that the ESMS is complied with for subprojects where they have “full legal responsibilities,” but should just be for all subprojects.
- Para. 5: the “Common approach” should not merely “intend” to meet the principles and requirements that provide the highest level of environmental and social protection, they *must* meet them
- Para. 7: should ensure that the principles are met not that they will meet
- Para. 7(a): appreciate explicit mentioning of not only ‘do no harm’ but also working on ‘do good’. However, should not be ‘identify opportunities to improve’, but just ‘improve environmental and social outcomes and generate co-benefits. 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)
- Para. 7(d): we welcome the inclusion of this paragraph and note that it should also include local communities
- Para. 7(e)(iv): better to provide remedy and restoration before compensation
- Para. 7(h): stakeholder engagement should include development of measures to mitigate environmental and social risks and impacts to. Specify that stakeholder engagement is throughout the project lifecycle.
- Para. 7(q): Appreciate that there are no biodiversity offsets. However, the ESP should explicitly say that the GCF will not fund projects in critical habitats
- Para. 8: the phrase “where capacities exist” should be eliminated as the GCF must always assess the system and approach used by the entities wanting to be accredited
- Para. 9(g): should also ensure the measures align with other GCF policies
- Para. 10(b): should include that where required that free, prior, and informed consent of indigenous peoples is obtained.

- Para. 10(c): "as appropriate" should be eliminated as people should always have access to the IRM
- Para. 11: Where the AEs are not complying with the safeguard requirements, the GCF should work with them not only to bring them into compliance, but also to *remedy the harms caused*. Also, the paragraph should specify that the project could be put on hold and that if the AEs fail to re-establish compliance, the GCF can refuse dispersals or revoke accreditation
- Para. 12(a)(i): please include "local communities" in the list of vulnerable groups and populations
- Para. 18: should include that the GCF will examine entities based on all relevant policies and should ensure it has an appropriate grievance redress mechanism.
- Para 19: Specify that the AEs' environmental and social management system must be equivalent or better than the GCF's
- Para. 23: should specify that they consider risks and impacts of sub-projects
- Para 24: in looking at the "specific characteristics" of the area of influence for a project, it should specify that this includes environmental, social , and legal contexts
- Para. 34(b): in assessing the AEs' ESMS, the GCF should ensure that it assesses information regarding existing social standards, legislations and enforcement mechanism of the countries and also on the vulnerable people and communities concerned - related to environment, IPs, land acquisition, vulnerable communities, gender, and workers. This should then inform the development of the plans including consultation and stakeholder engagement plans, gender action plan, ESMP, resettlement action plan, indigenous peoples' development plan or IP planning framework, etc.
- Para. 35: This paragraph should include more specific details on sub-projects and programmatic approaches because the GCF's due diligence should require it to have the necessary information about sub-projects before making a decision about whether to fund.
- Para. 45: should explicitly reference the Indigenous Peoples' Policy. Additionally it should say "full and effective participation of indigenous peoples" not close collaboration. When indigenous Peoples are affected, FPIC should always be applied, not only "in certain circumstances". When AEs screen activities for any potential impacts on indigenous peoples it is unclear what the categories of impacts are on IPs that would trigger the requirement to prepare an IP Development Plan or a IP Planning Framework.
- Para. 46: Overall is good. But should say that "The GCF will not finance activities that have adverse human rights impacts" rather than "where planned mitigation is inadequate." Also, human rights due diligence should not be where the AE deems it relevant, but where circumstances/activities do.
- Para. 47: Overall is good. But should say that "The accredited entity will screen [...] through a comprehensive gender risk and impact assessment. Supporting and mitigating actions are to be described and [costed][budgeted] in the activity –specific gender action plan."
- Para. 48: Biodiversity offsets should not be used. If impacts cannot be mitigated than the project should not be approved. Additionally, activities in critical habitat should be explicitly prohibited
- Para. 50 and 52: GCF should not just require it should "ensure"
- Para. 51: There should also be participatory monitoring by third parties including affected communities and workers, among others.
- Para. 55: the GCF should require that assessments are made publicly available and posted on the GCF's and AE's website
- Para. 59: Should say that all the relevant information should be disclosed proactively
- Para. 60: It is unclear what "environmental and social reports" are. This should be specified and should be broad so as to include drafts and final ESIA, ESMP, HRIA, ESMS, etc. Additionally, the information should be in local languages (plural) because there may be more than one local language

- Para 61: These disclosure periods should apply to Intermediation-1 and Intermediation-2 projects in addition to category A and B
- Para. 62: should include the gender action plan in its list of things to disclose. Should specify that it is on the GCF and AEs website and in relevant languages
- Para 63: Should say that information is disclosed in a manner that is culturally appropriate and gender responsive and in local languages. Additionally it should be on AEs and GCF websites.
- Para. 64: The AEs should also make sure to disclose the information the executing entities disclose to ensure that it reaches all the stakeholders
- Para. 65: it should specify that information disclosure, meaningful consultation and informed participation should be in a culturally appropriate and gender responsive manner and that information is disclosed in local languages
- Para. 67: should say that the information is disclosed in appropriate local languages. Also, it says that it will meet the requirements of the "performance standard on indigenous peoples" this should be deleted and it should meet the GCF's ESSs and the Indigenous Peoples Policy.
- Para. 69: Documents should be disclosed as early as possible (no later than 120 days prior to appraisal) as 30 days is not long enough for meaningful consultation and participation
- Para. 71: We welcome that it says that information about grievance mechanisms at all levels, including the project level and the IRM, should be disclosed, but it should also specify that it is done so in an understandable format and in all relevant languages. Additionally, information should be on AEs, EEs, and GCF website
- Para. 73: References policies that do not exist yet as the interim ESS standards do not include principles and requirements for establishing project-level grievance mechanisms. Also 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.
- Para. 74: There are major problems. There should be no sequencing of grievance mechanisms and it should not say that the AEs' own mechanism or project-level grievance mechanism should be used before the IRM. This is inconsistent with the TOR of the IRM and with para. 76 of this policy. The mechanisms should work together when relevant, but there should be no sequencing. 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. The AEs grievance mechanisms should, in addition to the qualities listed, also be accessible, equitable, predictable, and transparent. GCF should evaluate the AEs grievance mechanisms for adequacy.
- Para. 77: the implementation of this policy should not depend on the capacity of the GCF. The GCF should train people and should have the adequate staffing and budget to implement this policy.
- Para. 78: delete applicable provisions as the whole policy should apply to ongoing activities and those initiated after the effective date of this policy.
- Para. 80: Should explicitly include that the review of the policy will include public consultation with stakeholders, including civil society.