



SUBMISSION ON THE GREEN CLIMATE FUND ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM (ESMS)

February 2015

Tebtebba and the Forest Peoples Programme ¹ welcome the opportunity provided to submit a note on key elements to be included in the Environmental and Social Management System (ESMS) for its operations.

We believe that a robust, effective, transparent, participatory and rights-based ESMS is key to ensuring that the GCF deliver its potential contribution to climate change adaptation and mitigation while preventing possible impacts on communities and bolstering participatory approaches to achieving climate change solutions.

Therefore, an ESMS needs to be anchored on a solid human rights based approach that acknowledges the relevant risks and opportunities for indigenous peoples and indigenous peoples' vulnerabilities and positive contributions to the achievement of the Fund's goals and purposes.

The joint Civil Society Organizations submission on the ESMS contains a set of proposals for procedures aimed at identifying, assessing and managing social and environmental risks, while defining roles and responsibilities of the various actors and guidelines for monitoring and reporting. In this context we draw the attention of the Green Climate Fund to ensure that the Fund's ESMS include the following elements

A. A SOCIAL AND ENVIRONMENTAL POLICY AND ASSOCIATED ENVIRONMENTAL AND SOCIAL STANDARDS ALIGNED TO THE HIGHEST STANDARDS

The adoption of a social and environmental policy is urgent, considering that the Fund intends to significantly step up its funding portfolio in the coming years. As the GCF prepares to develop its own ESF and move away from the interim use of the International Finance Corporation's Performance Standards, it is important that the GCF use this opportunity to establish the highest standards for the assessment and management of environmental and social risks. This requires alignment with the relevant international standards, including the human rights obligations that borrower states have undertaken to fulfil.

In this context it is worth noting that the Green Climate Fund is a UN-established body intended to support the implementation of commitments made by UN Member States. As such,

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it is essential that the GCF recognizes and respects relevant UN commitments and standards, ensuring that environmental and social risks are addressed within the framework of international human rights law and standards. Alignment to the highest standards, for a UN body, does not mean adoption of the current status quo among international finance institutions, but leading by example and adoption of the highest international standards found in the UN system.

B. A SOCIAL AND ENVIRONMENTAL POLICY, INCLUDING THE DEVELOPMENT AND ADOPTION OF A ROBUST SOCIAL AND ENVIRONMENTAL SAFEGUARD SYSTEM BASED ON THE HIGHEST STANDARDS AND BEST PRACTICE AND THE AN INDIGENOUS PEOPLES' POLICY

In that context, indigenous peoples propose that the GCF also develops and adopts an Indigenous Peoples policy, that would clearly spell out the legal framework, including applicable international human rights standards and obligations as well as criteria and principles that the GCF will follow when dealing with projects and programmes that would have relevance for indigenous peoples. Furthermore the GCF should commit to contribute to develop the capacity of Accredited or Implementing Agencies to fulfil the highest standards in accordance to international human rights obligations and related safeguards, including the rights of indigenous peoples as stated among others, in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO 169. Other climate funds and international organizations (for instance the EU, or the UN Development Group with its Indigenous Peoples guidelines) have already adopted indigenous peoples' policies that are aligned to higher standards and the UNDRIP and these are potentially useful precedents to build on.

The Adaptation Fund principle on Indigenous Peoples, for instance, clearly specifies that the Fund should not *“support projects/programmes that are inconsistent with the rights and responsibilities set forth in the UN Declaration on the Rights of Indigenous Peoples and other applicable international instruments relating to indigenous peoples.”*

We believe this is a key prerequisite that the GCF can also adopt, as initially recommended by the GCF secretariat when developing the initial social and environmental safeguards.²

The need for the adoption of a specific indigenous peoples' policy has been clearly substantiated in a joint FPP-Tebtebba letter to the Board of the GCF, that has been signed by dozens of Indigenous Peoples' organizations and support groups³ and further reiterated in Tebtebba's submission on the GCF Strategic Plan.

A GCF policy on Indigenous Peoples should include the following key elements:

- *A requirement for all GCF programmes and projects to follow a human rights based approach, ensuring that they respect and fulfil obligations and requirements deriving from applicable international human rights obligations and standards relevant to indigenous peoples such as the UNDRIP and ILO Convention 169. Such an approach would require particular attention to Indigenous Peoples' rights to land, territories*

²http://gcfund.net/fileadmin/00_customer/documents/pdf/GCF_B06_09_Guiding_Framework_for_Accreditation_fin_20140211.pdf.

³ <http://www.forestpeoples.org/topics/un-framework-convention-climate-change-unfccc/news/2015/11/ipo-letter-gcf-board>.

and resources, resource use and customary rights and would need a specific provision regarding the Fund's approach to indigenous peoples living in voluntary isolation;

- *A commitment to fully respect and adhere to Free Prior Informed Consent as an essential element to ensure full and effective participation of indigenous peoples, requiring that such consent is sought and obtained at every stage of a funding cycle.*
- *Recognition of the need to ensure full and effective participation, engagement and representation of indigenous peoples, at all stages of GCF activities, including in oversight and monitoring;*
- *Acknowledgement of Indigenous Peoples' traditional knowledge and traditional ecosystem management systems' and the positive contribution that these make to achieving the goals and purposes of the Green Climate Fund and the ensuing commitment to establish tailored modalities for support of these systems.*
- *Provision of capacity building opportunities and tools for the GCF Secretariat and NDAs, to enhance understanding of indigenous peoples' perspectives and capacity to comply with international standards and obligations on the rights of indigenous peoples.*

C. A ROBUST SOCIAL AND ENVIRONMENTAL SAFEGUARD SYSTEM BASED ON HIGHEST STANDARDS AND BEST PRACTICE

In order to ensure full compliance with Environmental and Social safeguards, in addition to the measures already envisaged, the Green Climate Fund should:

- *Establish a dedicated and properly resourced social and environmental unit*
- *Ensure that the current peer review carried out by Independent Technical and Advisory Panel (ITAP) is transparent, and that potentially affected communities can access ITAP and be consulted in turn to ensure independent safeguard peer review; the establishment of an Indigenous Peoples Advisory body should also be considered.*
- *Set up a system of incentives for GCF staff and IEs to apply safeguards and design and implement capacity building activities to support and develop capacity to ensure the proper application and compliance to safeguard, and include these in readiness programmes;*
- *Establish a process of regular review of safeguards implementation and guidance for improved application and due diligence*
- *Require self-reporting by IE be accompanied by information on compliance with safeguards and independent verification supplied by means of participatory local monitoring systems*
- *Ensure that the mandate of grievance and complaint mechanisms established both at GCF and country level include indicators to assess safeguard compliance and include avenues to mediation to address harms suffered.*
- *Ensure full and effective participation of communities in monitoring and assessment, while envisaging opportunities for stakeholders to produce parallel reporting on safeguards application and compliance*

D. A GUIDANCE FOR THE FULL AND EFFECTIVE CONSULTATION AND PARTICIPATION OF INDIGENOUS PEOPLES IN GCF ACTIVITIES AND PROJECTS AT ALL LEVELS AND AN OPERATIONAL PROTOCOL FOR THE EFFECTIVE APPLICATION OF THE PRINCIPLE OF FREE PRIOR INFORMED CONSENT

Such guidance should acknowledge the key relevance of indigenous peoples own processes organizations and institutions and right of indigenous peoples to participate through representatives chosen by themselves, in accordance to own procedures and decision-making processes and criteria.

Special emphasis should be put on Free Prior Informed Consent (FPIC). In this context it should be noted that the interim GCF ES taken from IFC PS do not align to higher standards on FPIC nor to international obligations and standards as defined - among others - in the UNDRIP. As a matter of fact, IFC PS on FPIC requires FPIC to be obtained in 3 limited and specific circumstances: a) impacts on land and natural resources subject to traditional ownership or under customary use; b) relocation of IPs from lands and natural resources subject to traditional ownership or under customary use; and c) use of cultural resources for commercial purposes. This is an unnecessary and damaging restriction of the requirement to obtain FPIC and should not be repeated in the GCF's own ES standards.

Furthermore, there is a risk that FPIC be defined by the clients' interpretation, and that its application is restricted only to "adverse impacts", that can be expected on lands and/or natural resources of Indigenous Peoples. IFC PS also does not require for involvement of IPs in social and environmental impact assessments to identify whether there are indigenous peoples present, a step that is needed to establish a trusted relationship necessary for a FPIC process. Confusion between FPIC and Broad Community Support also persists.

A joint analysis of the first project funded by the Green Climate Fund involving indigenous peoples in Peru undertaken by FPP and Tebtebba confirmed some of these concerns advising that the GCF develop and adopt a clear set of procedures to be adopted by the GCF and used as guidance for proper application of FPIC by Accredited Entities.⁴

The Adaptation Fund has defined the conditions and criteria for application of FPIC. We believe these could be good precedents and examples to take into due account in developing a FPIC protocol for mitigation and adaptation projects and programmes supported by the GCF.

Specifically, the Adaptation Fund requires that the Implementing Entity will:

- 1. "Describe how the project/programme will be consistent with UNDRIP, and particularly with regard to Free, Prior, Informed Consent (FPIC) during project/programme design, implementation and expected outcomes related to the impacts affecting the communities of indigenous peoples.*
- 2. Describe the involvement of indigenous peoples in the design and the implementation of the project/programme, and provide detailed outcomes of the consultation process of the indigenous peoples.*
- 3. Provide documented evidence of the mutually accepted process between the project/programme and the affected communities and evidence of agreement between the parties as the outcome of the negotiations. FPIC does not necessarily*

⁴ http://www.forestpeoples.org/sites/fpp/files/publication/2015/12/briefingpaper-fpic-ippolicy_0.pdf

require unanimity and may be achieved even when individuals or groups within the community explicitly disagree.

The UNREDD has also adopted specific guidelines on FPIC that usefully define important constituent elements of FPIC, including what is required of country partners, when is FPIC required, at what level, who seeks FPIC and who gives FPIC as well as guidance on possible FPIC outcomes and subsequent considerations.

D. AN EFFECTIVE, PARTICIPATORY AND ROBUST MONITORING AND ACCOUNTABILITY / COMPLIANCE FRAMEWORK THAT WOULD INCLUDE PARTICIPATORY APPROACHES SUCH AS COMMUNITY BASED MONITORING AND INFORMATION SYSTEMS (CBMIS)

In its decision B.11/10 the Board of the Green Climate Fund adopted an “Initial Monitoring and Accountability Framework for accredited entities” with the purpose of “ensuring compliance of accredited entities (AEs) with accreditation standards and effective implementation of GCF projects and programs”. The decision also allocates the responsibility of implementing projects in compliance with social and environmental safeguards to the Accredited Entity while the Secretariat is responsible for implementing the monitoring and accountability framework.

An effective, participatory M&A framework is essential to ensure that the GCF properly pursues its stated goals, while preventing potential social and environmental harm to the most vulnerable groups and at the same time harness the potential that communities can deliver in contributing to adaptation and mitigation goals.

The initial framework adopted by the Board needs to be further strengthened to ensure full and effective verification of compliance by Accredited Entities which currently relies only on self-reporting by the Accredited Entities. Rather, the Fund should develop guidelines to ensure independent monitoring and verification.

In this context, it is worth recalling that the Initial Monitoring and Accountability Framework for Accredited Entities envisages the possibility of civil society and local communities providing additional data, information and alerts on the implementation of Environmental and Social safeguards.⁵

Currently the AE is asked to include participatory monitoring involving communities and local stakeholders, while the NDA is encouraged to organize an annual participatory review for project affected communities. This is not sufficient to ensure a truly effective and independent third party and community monitoring that rather should be fostered by envisaging the possibility of indigenous peoples’ organizations to directly access a small grant window specifically established by the GCF secretariat, to support the development and implementation of Community Based Monitoring and Information Systems (CBMIS) by

⁵ “In addition to these specific inputs, they (civil society and local communities) can provide additional data, information and alerts on the implementation of the Fund’s fiduciary standards, ESS and gender policy by the AEs. In this regard, the Secretariat will try to innovate and experiment locally with the use of modern tools like mobile-based technologies. This process will also take into account the up coming development of the Fund’s environmental and social management system”

[http://www.gcfund.org/fileadmin/00_customer/documents/MOB201507-10th/Inf.11 - Initial Monitoring and Accountability Framework for Accredited Entities 20150621 fin.pdf](http://www.gcfund.org/fileadmin/00_customer/documents/MOB201507-10th/Inf.11_-_Initial_Monitoring_and_Accountability_Framework_for_Accredited_Entities_20150621_fin.pdf).

indigenous peoples. CBMIS is process where indigenous peoples are able to generate information for the analysis, monitoring, and use of the community. It is geared towards community organizing, community empowerment and the realization of indigenous peoples' sustainable, self-determined development.

Community-based monitoring and information systems can be based on the following principles:

- *Rights to land, territories and resources respected, protected and fulfilled*
- *FPIC*
- *Traditional knowledge, innovation and practices respected, maintained*
- *Security of occupations and livelihoods ensured*
- *Respect of customary government systems*
- *Benefit sharing*
- *Gender and intergenerational dimensions to ensure full and effective participation of women, youth and elders*

Thank you,

Indigenous Peoples' organizations, communities, and NGOS support groups and networks:

1. Adivasi Facilitators Group (AFG), Bangladesh
2. ALMACIGA, Spain
3. Asia Indigenous Peoples Pact (AIPP)
4. Ateneo School of Government, Philippines
5. Affiliated Tribes of Northwest Indians (ATNI)
6. Bangladesh Indigenous Forum
7. Bangladesh Indigenous Peoples Network on Climate Change and Biodiversity (BIPNet-CCBD), Bangladesh
8. Batwa Foundation, Rwanda
9. Borromeo Motin, Romblon State University, Philippines
10. Cambodia Indigenous Youth Association, Cambodia
11. Center for Indigenous People's Research and Development (CIPRED), Nepal
12. Center of Indigenous Cultures of Peru (CHIRAPAQ), Peru
13. Centre for Sustainable Development in Mountainous Areas (CSDM), Vietnam
14. Centre of Research and Development in Upland Area (CERDA), Vietnam
15. Centro para la Autonomia y Pesarollo de los Pueblos Indigenas (CADPI), Nicaragua
16. CHT Indigenous Jumma Association Australia (CHTIJAA)
17. Climate Justice Programme
18. Continental Network of Indigenous Women of Americas (ECMIA)
19. Covalima Youth Centre (CYC), Timor Leste
20. Ecological Society of the Philippines
21. Federation for Self-Determination of Indigenous Peoples (FAPI), Paraguay
22. First Nations Summit (Canada)
23. Forests of the World, Denmark
24. Friends of the Earth Malaysia (SAM)
25. Friends of the Earth, US
26. Fundación Ambiente y Recursos Naturales (FARN) - Argentina

27. Green Community Alliance, Lao PDR
28. Highlanders Association- Ratanakiri, Cambodia
29. Human Rights Foundation, Aotearoa, New Zealand
30. Indigenous Livelihoods Enhancement Partners (ILEPA), Kenya
31. Indigenous Environmental Network
32. Inter-Mountain Peoples' Education and Culture in Thailand Association (IMPECT), Thailand
33. International Council for the Indigenous Peoples of CHT (ICIP-CHT), France
34. International Indian Treaty Council (IITC)
35. International Work Group for Indigenous Affairs (IWGIA)
36. Jharkhandi's Organisation of Human Rights (JOHAR), India
37. Khagrampur Mahila Kalyan Samity (KMKS), Bangladesh
38. La Voix des Jummas, Paris, France
39. Maleya Foundation, Bangladesh
40. National indigenous Women`s Federation (NIWF), Nepal
41. Nationalities Youth Forum, Myanmar
42. Nepal Federation of Indigenous Nationalities (NEFIN), Nepal
43. Network of Indigenous Peoples in Thailand
44. Nga Tirairaka o Ngati Hine, New Zealand
45. NGO-Federation of Nepalese Indigenous Nationalities (NGO FONIN), Nepal
46. Nunavut Tunngavik Inc.
47. Porgera Alliance, Papua New Guinea
48. Promotion of Indigenous and Nature Together, POINT, Myanmar
49. Rainforest Foundation, Norway
50. RECOFTC - The Center for People and Forests
51. Saami Council
52. Samajik Seva Sadan, India
53. Social Justice Connection, Canada
54. Steve Herz, Sierra Club
55. Third World Network
56. Trinamul Unnayan Sangstha, Bangladesh
57. Uganda Land Alliance, Uganda
58. UNANIMA International
59. Union Pour L'émancipation de la Femme Autochtone (UEFA), DRC
60. Urgewald, Germany
61. Vietnamese Thai Network on Indigenous Knowledge (VTIK,) Vietnam
62. William Nicholas Gomes, HR Defender and Freelance Journalist, UK
63. Winnemem Wintu Tribe, US
64. Women Resource Network, Chittagong Hill Tracts, Bangladesh
65. Youth Federation of Indigenous Nationalities (YFIN) Nepal
66. Zabarang Kalyan Samity (ZKS), Bangladesh

