Recommendations to the Green Climate Fund’s 8th Board meeting

In advance of the eight meeting of the Board of the Green Climate Fund to be held in Bridgetown, Barbados from 14th – 17th October 2014, Transparency International submits the following recommendations:

Agenda item 6(b): Assessment, including gap analysis, of institutions accredited by other funds

Transparency International notes the proposal to pursue a fast-track accreditation of institutions accredited under the Adaptation Fund, the Global Environment Facility and Directorate-General Development and Cooperation – EuropeAid of the European Commission. This may be a reasonable approach to expediting the Green Climate Fund’s operations (GCF/B.08.03) since the standard accreditation process to ensure that full due diligence is exercised can be time-consuming. Generally, these institutions employ superior fiduciary standards in their accreditation policies. The analysis which the Green Climate Fund has conducted further identifies particular “fiduciary gaps” where organisations accredited under such institutions may be deficient in relation to the Fund’s own nascent accreditation standards. The approach to assign risks to organisations having fiduciary gaps should enable appropriate monitoring and evaluation of fast-track accredited entities.

However, while TI recognises the practicality of this approach, we recommend that the Green Climate Fund Board:

- Exercise caution in adopting the fast-track accreditation method and take note that neither the Global Environment Facility nor the Adaptation Fund have conducted a review of their national or multinational implementing entities to date. While the accreditation criteria from an anti-corruption, fiduciary perspective, are generally robust, the transparency, accountability and integrity of accredited agencies has not been evaluated nor is it visibility demonstrated for all accredited institutions;
- Consider the Fund’s policy in how cases are dealt with where entities accredited under the fast-track approach are later disaccredited by the Global Environment facility the Adaptation Fund or the EU DEVCO;
- Ensure, if fast track accreditation is agreed, that a review of accredited entities takes place within a reasonable time frame to ensure compliance with Green Climate Fund standards
- Ensure that procedures to accredit implementing entities apply appropriate due diligence even if such an approach will involve greater time and resources.

Agenda item 6(e): Applications for Accreditation (Criteria)

Transparency International welcomes the inclusion of “basic fiduciary criteria” and “applicable specialized fiduciary criteria” in accreditation approval processes (GCF/B.08/06 §2 para 6(d)(e)). In particular, criteria regarding transparency and accountability at § 6 para 19, and criteria listed in § 6
paras 20\(^1\) and 21\(^2\) and § 7 paras 24, 25 and 26. We take note of the fact that specific reference to anti-corruption policies are not presently included within the present criteria listing. To address this potential gap and further strengthen the scope of accreditation requirements, we recommend the following revisions (presented in *italics*) to GCF/B.08/06: Application Documents for Submissions of Applications for Accreditation.

- § 6 (21) should include the requirement: *Zero tolerance of corruption commitment and policy*
- § 6 (21)(c) should be amended as follows
  Prevention or handling of financial mismanagement and other forms of malpractice, *including but not limited to providing for the availability of*
  (i) an independent mechanism to handle complaints and allegations of corruption and fraud, and
  (ii) sanctions to be imposed to address cases of corruption or fraud.

- § 6 (20) and (21) should include the requirement: *A monitoring and review programme to ensure completion of mitigation actions; this should facilitate learning and include reporting on the effectiveness of key administrative and financial capabilities, and transparency and accountability.*

- § 6(25)(c) should be amended to read: *Public access to information on institutional transparency and accountability policies, beneficiaries, contractual terms with beneficiaries regarding contract suspension, termination and repayment of finances following misuse of grants or loans, and results;*

**Agenda item 11: Financial Terms and Conditions of Grants and Concessional Loans**

Transparency International further welcomes document GCF/B.08/11: Financial Terms and Conditions of Grants and Concessional Loans. In particular, we acknowledge the requirement that grants should be repaid “in cases of corruption or other non-compliance with fiduciary standards” (§ 4(14), Annex II, Table 1). In this regard, we recommend that:

- In §4 (12), the statement “All grants will be repaid by the responsible party in the event that disbursements were obtained due to corruption or fraudulent action, or other unforeseen circumstances” be clarified further to encompass the notion that corrupt misuse of grant finance also constitutes a reason for repayment. Suggested working may be: *All grants will be repaid by the responsible party in the event that grant disbursements are obtained or misused due to corruption or fraudulent action, or other unforeseen circumstances involving the misuse of Fund resources.*

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\(^1\) (a) General management and administration; (b) financial management and accounting; (c) Internal and external auditing; (d) Control frameworks; (e) Procurement.

\(^2\) (a) Disclosure of conflicts of interest; (b) Code of ethics; (c) Prevention or handling of financial mismanagement and other forms of malpractice; (d) Investigations; (e) Anti-money laundering and anti-terrorist financing.
Agenda item 19: Legal and Formal Arrangements with Intermediaries and Implementing Entities

Regarding document GCF/B.08/23 “Legal and Formal Arrangements with Intermediaries and Implementing Entities,” § 2.4 concerns the specific contents of framework agreements. This section provides for “events of default” (§ 2.4(p)) and “remedies in the event of default, inc. suspension of payments, termination of contract, liability for costs and damages and repayment of funds” (§ 2.4(q)). We appreciate that this aims to address agreements regarding loan financing. However, we recommend that similar stipulations regarding grant financing agreements be included which refer directly to repayment conditions and other penalties in the event of “corruption or other non-compliance with fiduciary standards.” Accordingly, we recommend the following revisions:

§ 2.4(p) Events of default, corruption or other non-compliance with fiduciary standards.

§ 2.4(q) Remedies in the event of default, corruption or other non-compliance with fiduciary standards inc. suspension of payments, termination of contract, liability for costs and damages and repayment of funds.

Agenda item 28: Corporate Procurement

Transparency International welcomes the proposed Administrative Guidelines on Procurement (GCF/B.08/31). The document elaborates a strong commitment of the Green Climate Fund to ensure that its corporate procurement of consultants, goods and services is insulated from conflicts of interest, fraud and corruption.

Concerning the procurement of consultancies, the proposed guidelines underscore that transparency, anti-corruption, ethics and avoidance of conflicts of interest are key considerations (Annex II(B) § 1.3 (f)(g)(h)). The proposed guidelines appear comprehensive in addressing conflicts of interest (Annex II (D) § 1.8 and 1.9) and fraud and corruption (Annex II (I) § 1.15 and 1.16). The latter allows for award proposals to be rejected and for firms, individuals or successor actors to be declared ineligible temporarily or indefinitely insofar as such firms, individuals or their agents have been found to have been “engaged in corrupt, fraudulent, collusive, coercive or other prohibited practices” (Annex II (I) § 1.16 (b)(c)). The guidelines further propose a cross-debarment policy whereby individuals or organisations debarred by the World Bank would be ineligible for procurement at the Fund (Annex II (K) § 1.18 (b)).

Guidelines concerning the corporate procurement of goods and services (Annex III) also address conflicts of interest (Annex III §2.4, Appendix I §1.4 and 1.5, § 5.2.2 (a) ) as well as “integrity violations” (Annex III §2.12). The latter refers to “any act that includes corrupt practice, coercive or collusive practice, abuse, conflict of interest, bribery and obstructive practices” (Id.). The Fund establishes an Institutional Procurement Committee (IPC) to provide oversight for “institutional procurement of goods and services” (Annex III §2.11).

Particularly salient are the Fund’s “Guidelines on External Gifts, Benefits, Favours or Recognition Given to Fund Personnel.” Comprehensive rules for Fund staff, their family members and Fund
consultants to report any favour, benefit, gift or other recognition e.g. award or medal and to reject any items valued over USD$ 50 are proposed (Appendix 5).

Transparency International supports these significant advances in the Green Climate Fund’s procurement policy. To strengthen these guidelines, TI further recommends that the Board:

- Ensures that the Fund’s Integrity Principles and Guidelines and the Anti-Corruption Policy are developed and adopted with expediency;
- Ensures that there is clear policy guidance on how the Independent Integrity Unit will engage to investigate allegations of conflicts of interest, corruption, fraud, collusion, coercion and other integrity violations in procurement undertakings;
- Clarifies the procedures for the endorsement and approval of “independent members or observers” to the Institutional Procurement Committee (Appendix 1 § 3.2).

The Independent Integrity Unit

Transparency International welcomes the Terms of Reference of the Independent Evaluation Unit, the Independent Integrity Unit, and the Independent Redress Mechanism (GCF/B.06/06) which were adopted provisionally at the Sixth Board Meeting in February 2014. At that meeting, the Board had proposed that detailed operational procedures Units and Mechanism would be considered by the Board at its October 2014 meeting. However, neither the agenda or the documentation for the 8th Board meeting state that such operational procedures have been proposed or will be adopted. To this end, Transparency International recommends that The Green Climate Fund Board:

- Ensure that the operational procedures are developed and adopted with expediency