

Response to the Call for Public Inputs: Monitoring and Accountability Framework

Submitted by:

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Transparency International submits the following inputs in response to the GCF's public call of the 30th July 2015 on Monitoring and Accountability (M&A) framework. The initial period for consultation was inadequate to provide complete feedback; TI thus urges the GCF to plan to allow more time for future consultations. Full and effective participation of all stakeholders in the development and operation of the GCF is key for its success and requires adequate time to be provided for consultation.

This submission was prepared in consultation with TI National Chapters and experts. As such, it primarily concerns accountability and monitoring with respect to anti-corruption and fiduciary standard compliance. A number of responses are based on TI's anti-corruption assessments of the [Climate Investment Funds](#), the [UN-REDD Programme](#), the [Forest Carbon Partnership Facility](#), the Global Environment Facility's [Least Developed Countries Fund and Special Climate Change Fund](#), and the [Adaptation Fund](#). Responses to points (iv) to (ix) are based partly on the feasibility report on the [Strengthening of Citizen-Based Complaint Review and Referral Mechanisms under the GCF](#) which was submitted to the GCF Board and Secretariat in advance of the 10th GCF Board meeting.

The key recommendations are summarized hereafter and elaborated upon in the next pages:

- The first and most efficient incentive for performance is the accreditation process: the GCF should ensure a participatory accreditation process and a formal consultative role for civil society.
- The GCF should clearly describe and disclose its sanctions system, with a scale from minor cases (requiring a warning) to serious cases (requiring suspension and then possibly termination).
- Each entity should be required to pro-actively disclose a set of project design and implementation data and indicators; the GCF could consider giving priority to the best performing entities.
- Annual review, ad-hoc and mid-term checks have to cover each safeguard and contain a protocol to incorporate the views and information shared by concerned stakeholders.
- A citizen-based complaint and referral system, possibly in the form of an Independent Ancillary GCF Civil Society Information Facility, would be an important addition to the M&A framework.
- The GCF should establish permanent spaces and mechanisms for a formalised and systematic participation of civil society in project monitoring throughout the project cycle.

(i) Which corrective actions and remedies can be implemented in cases of non-compliance of the Fund’s accredited entities with the accreditation fiduciary standards, environmental and social safeguards and gender policy set by the Fund

Corrective actions and remedies must be commensurate with the type and impact of non-compliance evidenced. The type of non-compliance can range from administrative or procedural failures to intentionally wrongful acts or behaviours such as participating in, condoning, failing to address or investigate corrupt practices. The impact would entail the scope of environmental, social or individual human harm and financial loss resulting from the non-compliance. As the major multilateral development banks, the GCF should clearly describe and disclose its [sanctions system](#); important to note are two principles: temporary suspensions are envisaged pending the determination of the final sanctions decision and allegations are proven by a “more probable than not” standard.

Corrective actions concerning a potential act of non-compliance should comprise investigations, fair hearings and applicable penalties. Access to an independent complaints mechanism is key in this regard as well as contractual clauses with implementing entities related to corruption, environmental and human rights standards. Of the funding mechanisms which TI has assessed, only the Adaptation Fund has an accreditation policy which includes this range of corrective actions applicable to its accredited agencies and contains terms for suspending and cancelling accreditation. Other Funds incorporate legal arrangements stipulating financial penalties and provisions for termination of contracts. The GCF may wish to reference the Adaptation Fund’s policy in determining its own policy on corrective actions. In doing so, the GCF is urged to further ensure that such an approach more assures that corrective actions are implemented in time-bound stages; in cooperation with the legal prosecution bodies of the country when appropriate; and that could lead in certain cases to an eventual decision by the GCF Board to permanently disaccredit the entity.

TI further suggests that the GCF distinguish between minor and more serious non-compliance cases in delineating its own policy. Minor cases would generally involve administrative or procedural failures with relatively low harmful impacts and financial losses. An example would be a repeated failure to submit audited reports according to schedule. A minor case may become serious if the non-compliance persists and is not addressed. In contrast, a serious case of non-compliance would be deliberately falsifying financial data and transactions or directly and wrongly misusing the funds or acting corruptly or negligently in the administration of the funds (which would require the entity to repayment of funds as the case may require). Applicable penalties should encompass:

- ◇ Official warning: For minor non-compliance, a warning should describe the act of non-compliance and stipulate what actions should be taken to resolve the stated problem within a specific, reasonable time period limited to no more than 60 days. The entity may request an extension of up to 60 days to correct the problem if a strong justification can be provided. The warning should indicate the next stage of consequences if the act of non-compliance is not addressed. The GCF may provide administrative or financial support to the entity to assist in its efforts to address the non-compliance. An overview of the cases and their status should be regularly presented to the Board.
- ◇ Temporary suspension of accreditation and finance: Should the accredited entity fail to remedy the act of minor non-compliance in accordance with the terms outlined in the initial warning letter or in case of serious non-compliance, the entity’s accreditation should be temporarily suspended for an agreed period of up to 180 days. All GCF payment to the entity

and all spending of GCF funds should be frozen during this time period. Should the entity remedy the non-compliance matter during the suspension period, its accreditation should be reinstated and funding should be released accordingly.

- ◇ Termination of accreditation: If the entity fails to rectify the act of serious non-compliance and take corrective actions, its accreditation along with all legal agreements with the GCF should be terminated. The GCF Board would need to determine whether the termination is permanent or if the entity can re-apply for accreditation. It is suggested that permanent termination should be determined where the type and impact of the non-compliance are legally egregious. The World Bank rules on debarment can provide guidance here.

(ii) How to provide the right incentives to the Fund's accredited entities to ensure quality and performance in project and programme implementation

In order for an entity to be accredited, it should demonstrate during the accreditation process that it is committed to ensuring quality and performance in project and programme implementation. The first incentive is thus at the accreditation stage, where the GCF should ensure a participatory accreditation process to this effect. A formal consultative role for CSOs (specifically those at the national level for NIEs) in the accreditation process should allow a check on additionality, relevance, and performance. This has been stressed at the 9th and 10th Board meetings by a range of CSOs. The names and public available information in the application of accredited entities should be disclosed prior to Board accreditation decisions. Additionally, the Secretariat's assessment of the aptitude of applicants should be presented in a clear and thorough manner against each application criteria (thus creating a baseline to monitor progress). At the 10th Board meeting, GCF/B.10/03 did not mention the capacities of any of the applicants regarding whistle-blower protection or provide sufficient evidence of a zero tolerance policy on corruption. Provisions on procurement and anti-money laundering were not assessed across all applicants. Policies on information disclosure were also not apparent. Addressing this weakness would establish a more solid M&A framework.

At the Fund level, the GCF Secretariat can incentivise optimum quality and performance by requiring each entity to pro-actively disclose a set of project design and implementation data and indicators by which stakeholders can monitor performance (this will also contribute to the participatory monitoring and early warning systems). The GCF will then be capable of highlighting best practices and communicate them on the Fund's website and outreach. The Fund's Evaluation unit could produce and disclose reports and rating assessments of entities' performance; the Fund's Independent Redress Mechanism should also disclose some information on the cases it is handling. This in turn could create an incentive amongst entities to demonstrate best practices; the GCF could consider giving priority to the best performing entities, taking this into account when deciding on which projects to select. The GCF should also offer support and guidance to the entities and enhance best practices exchange between entities with a view to facilitating capacity-building: a framework for an international peer learning programme could thus be developed by the GCF.

In addition to this top-down approach, each entity should be transparent beyond publishing what is required under the Fund's M&A framework. Specifically, each entity should pro-actively disclose the actions it committed to take during the accreditation process (including information regarding the anti-corruption rules and safeguards) as well as a set of project design and implementation data by

which stakeholders can monitor performance and progress. Continuous monitoring by stakeholders will be key to the accountability of the Fund as it is an important compliment to the current Fund driven approach as envisioned by the present call of inputs. Monitoring by all parties involved would provide the best "incentive" to the accredited entities to achieve the highest quality results, in all respects. Especially a system for participatory community planning, monitoring and evaluation (PME) is an important instrument to ensure that projects indeed have the results they intend to have.

Ultimately, visible quality and performance should attract stakeholder support as well as additional financial resources. Achieving both should be a natural incentive for accredited entities.

(iii) How to implement compliance checks in the areas listed below:

Annual self-reporting of the accredited entity with regard to the Fund's fiduciary standards, environmental and social safeguards, and gender policy (and any time there is an important change in the capacity or any other material aspect of the accredited entity).

All reporting should be transparent and easily accessible to the public: they should be published on the GCF website and on the entity website as soon as they are drafted (in English as well as in the appropriate the local languages), and proactively disseminated to affected stakeholders. They as well as civil society should be consulted in a meaningful manner in the preparation of the report and should have access to relevant documents sufficiently in advance and be allowed to comment on the final report to ensure their views have been reflected sufficiently in the report. The GCF thus needs to design a formal procedure to take into account the views of stakeholders.

The self-reporting has to cover each safeguard, including policies on whistle-blower protection, anti-corruption, procurement, anti-money laundering and information disclosure. Where weaknesses exist the entity should set out its plans to improve performance. Similarly, any change which impacts on the initial accreditation review of an entity should be reported and publicly disclosed.

Ad-hoc checks by the Secretariat at the level of the accredited entity and/or at the level of the project/programme, when any significant concern arises of potential non-compliance.

Ad-hoc or mid-term checks by the Secretariat should include meetings and interviews with stakeholders, affected communities and engaged CSOs. The report or review of the non-compliance issue should duly reflect the views and information shared by such concerned stakeholders and the way in which this is taken into account in the accredited or executing entity's response.

Annual review on a given proportion by number of projects, of the Fund's portfolio of projects and programmes, where projects and programmes to be reviewed are selected inter alia with consideration of the risk category of the project/programme.

The approach may focus on projects assessed as high risk. Projects or programme being implemented in environments perceived as highly or moderately corrupt should take priority. A corruption risk assessment in line with the GCF's risk framework should be completed at the outset of any project or

programme operating in such an environment. This should be continually monitored and form part of the annual review.

As stated elsewhere, this review should also take into account the views and information provided by concerned stakeholders including civil society and affected communities.

In terms of guidance, the GCF may wish to follow or adapt the [Hydropower Sustainability Assessment Protocol's risk assessment methodology](#). This tool provides a comprehensive and well-considered basis for reviewing performance across a wide range of risk categories including fiduciary, environmental, social and gender.

A light-touch review of the accredited entity half-way through its five-year accreditation period.

The above-suggested procedures for ad hoc checks and annual reviews should apply for the mid-term review. Here as well, a key point is to ensure a framework which takes into account the views of all relevant stakeholders, as elaborated above.

Any additional compliance checks that may be identified.

Incompliance identified by stakeholders (through independent evaluation reports for example) must systematically be taken under consideration and independently investigated, with full disclosure of the process and of relevant documents. Given that the GCF is the ultimate responsible body for ensuring its funds are well spent, implementing entities should refer all their grievances to the Independent Redress Mechanism of the GCF. Some implementing entities accredited by the Fund might not have adequate safeguards policies and associated grievance mechanisms in place. In case the GCF would completely outsource its grievance procedures to implementing entities, this could create an inconsistent and fragmented record in this field.

(iv) How to set an early warning system to support ad-hoc checks and the annual review of a portion of the Fund's portfolio and other monitoring instruments indicated in paragraph (ii)

An early warning system will be heavily dependent on outside information (complaints, tip-offs, etc.) provided by individuals or groups who are affected by, witness or otherwise discover wrong-doing. This includes local communities, company employees, individual academics, journalists and CSOs. As the GCF is just one of numerous multilateral financial institutions, there is a significant risk that its role in funding new project investments and its accountability mechanisms will not be well known or understood on the ground among local communities and other concerned parties. A wider and more structural engagement of CSOs within the evolving GCF is arguably needed. Donors to the Fund should consider facilitating initiatives to enhance CSO input and participation to this end.

[A citizen-based complaint and referral system](#), for example in the form of an Independent Ancillary GCF Civil Society Information Facility, could therefore be an important addition to the existing governance structure of the GCF. It is not to suggest an extra layer of bureaucracy, but instead a CSO-driven counterpart arrangement to complement and strengthen the existing grievance and

monitoring mechanisms of the GCF. An important role for a CSO-led function would be to further galvanise CSO involvement and participation in the operational phase of the GCF, thus contributing to the GCF obtaining the necessary trust from its very beginning in promoting equity in delivering on international climate policies. It should also build on the experience of, and seek cooperation with, the networks of CSOs involved in monitoring and improving existing grievance mechanisms of other international financial institutions or private sector institutions, including some implementing entities. In essence, the CSO-led function would serve as a clearinghouse and concentrate on opening communication channels between the operational structure of the GCF and the public at large.

The CSO-led function should support communities and other concerned parties to bring their concerns and aspirations across to the GCF and its implementing entities. It would enable access to information and trust building between the GCF, the accredited implementing entities and the communities that stand to benefit from its operations, allowing the GCF to become an institution genuinely learning from mistakes as well as observed best practices. It could actively assist the GCF to reach out to communities and other parties to strengthen the effectiveness of the Fund by expanding opportunities for effective participation of civil society. Further discussion is needed to work out and ensure the basis of its legitimacy, to secure adequate independent funding and to elaborate and articulate its role and function in the long run. TI's [Advocacy and Legal Advice Centres](#) may be a constructive model which the Fund may consider.

Civil society actors together with the GCF Board and Secretariat should explore options to develop an Independent Ancillary GCF Civil Society Information Facility that acts as an open forum, but with a clear core of people working specifically on the GCF. It would be one concerted civil society effort with a clear responsibility and visibility, with a commitment to the GCF to fulfil the following functions:

- ◇ A readiness program for Southern CSOs, facilitated by both GCF and CSOs that are/become directly engaged in the GCF, in service of outreach to local actors and communities through various means at the various relevant levels;
 - ◇ Collaborate with GCF IIU and IRM to ensure a pro-active spread of information, to equip potentially affected communities, local CSOs/IMOs and other stakeholders about the GCF, its organizational/procedural requirements, policies, and the function of the GCF IIU/IRM;
 - ◇ Gather and facilitate information exchange between CSOs and experts working on grievance mechanisms, with a focus on synchronising efforts and know-how regarding the GCF, other international funding agencies and the GCF's Implementing Entities.
- (v) How to set up a participatory local monitoring system which encompasses a range of stakeholders, including women, that provide feedback on the performance of accredited entities;**

This question is partially explained above and in TI's view, it is one of the most critical for an effective M&A framework. In terms of how to ensure that local monitoring systems are participatory and inclusive, TI issued [an assessment and recommendations for project monitoring](#). This was the product of multi-stakeholder discussions held in the context of TI's Climate Finance Integrity Talk series conducted in 2013-2014. Some key recommendations for project monitoring are summarised here:

- ◇ A first step is to ensure that stakeholder consultations are conducted in project monitoring processes are open and transparent. It is key that concerned stakeholders (especially climate vulnerable communities) are informed about projects and programmes. This requires regular outreach and information sharing by accredited entities, NDAs, civil society organisations and the Fund itself; but also includes a capacity building aspect so that stakeholders are able to understand and use the information delivered to them.
- ◇ Such information sharing should include concrete guidelines and protocols for stakeholder consultations which are developed by project implementers. Such guidelines should be harmonised in order to prevent fragmentation in this area and reach a common approach towards civil society involvement. On this basis, mechanisms to ensure these guidelines are followed in practice should be developed, implemented and monitored.
- ◇ Project monitoring should be enabled throughout the project cycle. This includes the project design stage. From TI's assessments, particularly in large-scale, highly technical projects, a project's design can influence the tendering process by setting specifications, which favour particular actors in a procurement award. This can be avoided by assuring information disclosure to a third party, independent monitor which should ideally include civil society actors. Accredited entities should establish formal stakeholder groups to monitor the project cycle, from beginning to end. The group should include representatives of all relevant stakeholders and should have access to regular project information. The group should review the data and provide feedback to the accredited entity - and indirectly to the GCF - on implementation performance. It should possibly focus on higher risk operations in particular. There is significant experience in this field on which the GCF can draw to determine the size of the group (relatively small), its composition, its workings and status.
- ◇ Project cycle monitoring in some instances should designate a third party monitor throughout the project cycle, which again should involve independent CSOs (see as an example a [report](#) prepared by TI Bangladesh). Such a monitor is preferable where the project risks - fiduciary, environmental, social or gender-based - are assessed as high. TI suggests that an [integrity pact](#) or like instrument be available as a risk mitigation assurance.
- ◇ Project or programme designs should ensure that sufficient resources are budgeted for full project cycle monitoring including civil society consultations and third party monitors. To this end, bilateral and other donors should create enhanced space and funding for CSOs and local stakeholders to engage in monitoring and due diligence review processes; setting and resourcing a flexible trust fund is one option to consider.

(vi) How to process potential reaccreditation of accredited entities at the end of their five-year accreditation period

As stated elsewhere, the reaccreditation process should ensure that the views of concerned stakeholders including civil society are solicited and taken on board in determining reaccreditation as well as the conditions which will apply upon a reaccreditation decision.

(vii) How the Framework can design and employ a risk-based approach, including by leveraging other monitoring processes, to use its resources efficiently

Ultimately accountability for managing risks related to the performance and quality of accredited entities and for GCF financed projects or programmes rests with the GCF as a legal entity, its Board

and actors delegated with legal responsibilities to carry out Fund operations. Given the current climate finance overlaps including the potential of accredited entities being held accountable under other legal frameworks, and the potential for GCF projects and programmes being also co-financed by other climate finance institutions, there is equally a potential that risk management can be achieved through other monitoring processes.

However, that potential should ensure that such other monitoring processes employ the same robust level of standards as demanded by the GCF. Furthermore, such reliance should not create additional confusion regarding accountability matters at the recipient country level. A considerable reporting burden persists for recipient institutions because climate finance is currently collected and disbursed by numerous multilateral and bilateral funds, each having their own risk management frameworks and safeguards. Moreover, the current situation is also frustrating when it comes to addressing and remedying grievances. In many cases, persons who are witnesses or victims of corruption are debilitated by lack of clarity regarding to whom, when, and under what conditions they can and should make a complaint. The GCF must assure that it does not further aggravate but rather aims to resolve this situation. It is therefore recommended that with regard to grievance handling, the ultimate authority should be entrusted to the GCF. In some cases, accredited entities may not have adequate safeguard policies and associated grievance mechanisms in place. In other cases, implementing entities may attempt to defer all responsibility to project proponents.

Accordingly, the GCF should not outsource its grievance procedures to implementing entities, in order to avoid generating an inconsistent and fragmented record in this field. This should prevent a repetition of the lack of accountability that is often observed with financial intermediaries contracted by other multilateral financial institutions. Strong principles and fiduciary standards - including standards for grievance procedures - will prove essential for the GCF to withstand pressures to compromise on accountability for the sake of meeting funding release targets or accommodating certain political sensitivities.

(viii) How the Fund's national designated authority or focal points can play an active role in the Fund's monitoring and accountability framework

National Designated Authorities or Focal Points could actively engage in the monitoring and review framework by requiring and overseeing that accredited entities comply with the Fund's safeguards and that stakeholders are duly consulted concerning the accreditation of entities operating under their jurisdictions as advanced elsewhere in this submission. They should take into account the independent project monitoring done by watchdogs and CSOs, and could arrange public hearing at the project site to make sure information is reaching concerned citizens and also giving them an opportunity to express and get feedback to their possible concerns or issues.

However, in relation to the GCF itself, NDAs as well as Focal Points appear to have no legal accountability to the Fund in such capacity. For example, while the names of such actors are known, the Fund does not require that such actors explain to whom, under what terms and how they are individually accountable within their jurisdictions. This transparency gap could be remedied by such information being made explicit on the websites of the Fund, the NDAs or the Focal Points.

Further, in some instances, NDAs or Focal Points may restrict or limit civil society or other groups or individuals from being engaged in consultations concerning national GCF strategies and planning, accreditation or project/programme monitoring and evaluations. By setting clear and compulsory guidelines for multi-stakeholders consultations, the Fund can limit and avoid such a potentially negative outcome.

(ix) How the information generated by the monitoring and accountability framework can effectively support the development of the Fund's knowledge management system.

The Fund should regularly review the M&A framework with a view to improving it according to experience gained as well as lessons learned; a first update should be realised within the first two years and include the views of different stakeholders.

With regard to stakeholder consultations - in project monitoring and accreditation approval, review and reaccreditation processes - the GCF and/or its accredited entities should develop a cache of good practice examples. This should include examples to show the payoffs of CSO involvement to improving project effectiveness, enhancing country ownership and protecting against corruption as well as abuses of environmental, social and gender safeguards.

Concerning grievances, the GCF Board should assume a hands-on approach in developing its independent grievance mechanisms, safeguards and national GCF strategies, including an active outreach policy in cooperation with CSOs to ensure that its potential is being understood by all parties affected by activities supported by the Fund and their active participation in decision-making is sought.