Transparency International recommendations to the GCF Board at its 10th meeting
Songdo, South Korea, 6th-9th July 2015

Introduction and General Recommendations

The GCF Board should be commended in adopting a series of policy decisions which are establishing best practices in many areas of transparency, accountability and integrity. Notably, the recent ethics and conflict of interest policy adopted at the Board’s 9th meeting is precedent setting in stipulating non-tolerance to corrupt behaviours and practices at the executive level. As the Board moves forward in developing its governance policies and building its operational portfolio, equal commitments will be needed to shape the Fund sustainably for years to come. The Fund’s willingness to embrace transparency will be crucial and it can do much better in being transparent. The Board needs to ensure openness to transparency in policy-making, in accrediting implementing entities, of legal arrangements and contracts, in disclosing interests, in its administrative procurement, and with regard to its own activities and expenditures. The Fund can also improve its accountability approaches by appreciating and ensuring the proactive engagement civil society and stakeholders within its policy frameworks.

Regarding these issues, Transparency International offers some recommendations to strengthen the Fund’s policies on transparency and accountability. Further to this as an overarching matter, we strongly recommend that the Board issue a clear statement which pronounces its commitment to zero tolerance of corruption and corrupt behaviour. While we recognise that certain components of a zero tolerance policy are being designed, TI believes that the Board’s unambiguous resolve to prohibit and resist any form of corruption at any level of the Fund will inspire future policy-making along these lines and contribute to the effective and efficient use of GCF finances. Such a commitment will also attract public financial contributions.

Institutional Matters

Agenda Item 5: Report on the Activities of the Secretariat GCF/B.10/Inf.03

TI welcomes the advances of the Secretariat to develop policies and procedures outlined in para 46, in particular the policies on ethics and conflict of interest, information disclosure and the interim integrity framework and practice including various due diligence questionnaires. In this regard, TI has joined other CSOs in urging that the Board ensures that:

◊ The development of such policies be conducted with due transparency and public consultations particularly regarding those policies which are in the greater public interest;
◊ A realistic timeline for the decisions on these policies be determined.
Further, although not listed in para 46, the Administrative Guidelines on Procurement GCF/B.08/31 proposed at the 8th Board meeting has been approved until the end of 2015. Comments to the policy raised between meetings GCF/BM-2015/Inf.07 have partially been addressed by the Secretariat. Still, the adoption of these guidelines is critical to ensure that procurement is fair and transparent and that provisions of the Board’s ethics and conflict of interest policy regarding gifts can be effectively implemented. To this end, TI recommends that the Board:

◊ Instructs the Secretariat to respond to the issues raised in GCF/BM-2015/Inf.07, in particular S. 2.5 regarding gifts and favours without delay;

◊ Ensures, without prejudice to the previous statement, that registries of gifts and services received over USD$ 50 are publicly disclosed whether or not those gifts are auctioned or become property of the Fund such as art work;

◊ Ensures, as a best practice, that the guidelines provide for the disclosure of procurement data - before, during and after the procurement process is completed.

Further, regarding the “progress on the administrative framework” at s. 2.6.4, in the interest of transparency, we urge that the Board instruct the Secretariat to publicly disclose:

◊ The detailed audit report undertaken from March to April 2015 (para 42);

◊ The audit opinions of the external audit of the Fund’s 2014 financial statements as available (para 41);

◊ The template agreement “to be used in the readiness programme including rules on fiduciary standards (anti-corruption and integrity), and reviews of all proposals for funding under the programme” (para 49).


The development of the GCF operational manual is welcomed, in particular the proposed monitoring and reporting online tool. However, we recommend that the Board should:

◊ Instruct the Secretariat to include in the status report, a timeline for the anticipated delivery items for the Operations Manual as listed under paras 19, 26 and 29;

◊ Instruct the Secretariat to ensure that the Appraisal Toolkit’s risk assessment at para 26(c) includes a fiduciary and corruption risk assessment.

Agenda Item 6: Report from the Committees and Panels (GCF/B.10/Inf.04)

TI welcomes this Report. To strengthen the Report in the interest of transparency, TI recommends that the Board should instruct the Secretariat to include the following information:
A work plan and schedule of planned Committee and Panel meetings for 2015 similar to that provided for the Private Sector Advisory Group at Annex II;

Consistent with paras 2 and 34, the names of Accreditation Panel Members at para 8 and the names of Private Sector Advisory Group Members at para 40 as well as the group’s third meeting participants at para 43. This would be consistent with paras 2 and 34;

In the interest of accountability, TI further recommends that the Board ensures that:

Committees, Panel and Groups report on progress achieved following each of their virtual and physical meetings and that the total cost of each those meetings be disclosed. That same information may be presented in a financial report such as GCF/BM-2015/Inf.08. However, the current document or practice does not provide a breakdown of such costs.

Accreditation

Agenda Item 7: Monitoring and Accountability Framework for Accredited Entities

Although no Board decision appears to be proposed on this agenda item, the Initial Monitoring and Accountability Framework for Accredited Entities (Progress Report) GCF/B.10/Inf.11 may be considered for future action. In this regard, it should be recognised that civil society groups and individuals play an important role in monitoring project and programme implementation. While the Progress Report does make reference to civil society and local community engagement in the monitoring and accountability programme under s. 5.2 Local Monitoring at para 43, that engagement is under the control of the NDA throughout project and programme cycles. This approach may prove successful under certain circumstances. However, TI recommends further that the Framework:

Ensures that NDA’s engagement practice would not exclude certain non-governmental actors and that accredited entities, in compliance with the Fund’s accreditation standards, are not restricted from directly engaging with civil society and local stakeholders;

Includes a procedure that enables civil society and other stakeholders to provide inputs to the annual self-assessments of accredited entities (para 21 (a) ) and ensures that the Secretariat takes account of and reflects those inputs in its annual report (para 23);

Ensures that the in conducting its mid-term visits to accredited entities, the Secretariat also meets with civil society and other local stakeholders to solicit and take into account their assessments and views regarding accredited entity performance;

Includes also the option of establishing a formal independent civil society based information referral mechanism to assist and support civil society and other stakeholders in bringing and satisfying complaints or grievances regarding the performance or activities of accredited entities or other downstream contractors. This idea is explored more fully in TI’s joint submission to the Board last week regarding GCF accountability and integrity mechanisms.
Agenda Item 8: Consideration of Accreditation Proposals (GCF/B.10/03)

While TI recognises the need and urgency to accredit entities to ensure the operations of the Fund, we impress that the accreditation process and assessments should be conducted with optimum transparency and accountability. With regard to the process, TI urges the GCF Board to:

◊ Amend its policy and practice regarding the non-disclosure of the names and applications of entities applying for accreditation so as to disclose that information which fundamentally is in the public interest. Here, it should be noted that independent of the Board’s decision regarding this recommendation, TI chapters and partners will encourage that accredited entities disclose their intent to apply for GCF accreditation as well as their accreditation applications in accordance with national information disclosure legislation;

◊ Additionally adopt a procedure to solicit and take into account inputs from civil society and other stakeholders regarding the aptitude of applicant entities to perform intermediary functions according the GCF standards for the purpose of accreditation;

◊ Ensure further that pursuant to accreditation decisions, the information regarding an accredited entity’s policies and practices deemed in compliance with the GCF’s assessment criteria are fully disclosed. For example, the zero tolerance of corruption policy of an accredited entity should be disclosed and easily accessible on an accredited entity’s website. Ideally, the GCF website which lists accredited entities should provide information on each entity including links to its core policies – on the basis of which it was accredited. Such information will enable civil society and other relevant stakeholders to monitor accredited entity performance and provide further inputs and feedback regarding compliance.

Further, with regard to the actual assessments, the current narrative form does not provide a full, accurate picture of the applicant capacities to meet relevant accreditation criteria. Rather, it leads in some cases to the perception that assessment approaches are not consistent across all applicants, as outline below. To this end, TI recommends that the Board:

◊ Instructs the Secretariat to present its assessments should be presented in a more comprehensive and coherent way by using a table or a matrix which lists GCF accreditation criteria and compares them against what the applicant’s policies and practices which comply or need to be strengthened. The matrix should include web links or document sources attaching to each policy.

Finally, regarding the review of accreditation applicants 008 to 0018, TI has assessed concerns which the Board should take into account in its accreditation decisions.

◊ Regarding anti-money laundering provisions, accreditation applications 008, 009, 010, 011, 017, and 018 currently do not but should include an assessment of anti-money laundering and anti-terrorist financing provisions. This recommendation is based on GCF/B.08/03 which categorises anti-money laundering and anti-terrorist financing provisions as basic fiduciary standards for compliance, and on Board Decision GCF/B.07/02 which determines that such provisions qualify as a fiduciary gap to be assessed for accreditation decisions.
Regarding the requirement to have a **policy of zero tolerance for fraud**, normal track applications except 014, do not adequately demonstrate such a policy. In most cases the existence of a code of conduct and a disclosure or conflict of interest policy is explained. However, as the content of such policies is not disclosed, it is not clear according to the assessments the extent to which zero tolerance of corruption is mandated. The assessments do not reflect the criterion stipulated in GCF /B.07/02, Annex III S.1.2.3 (b): “Evidence of tone or statement from the governing bodies or senior management of the organization emphasizing a policy of zero tolerance for fraud, financial mismanagement and other forms of malpractice by staff members, consultants, contractors, or from any other relevant party associated directly or indirectly with the general operations of the entity, and particularly in relation to the implementation of approved funding proposals.”

Further, the assessments do not review the capacities of applicant entities to provide **whistle-blower protection**. According to GCF /B.07/02, Annex III S.1.2.3 (c), capacities “**to prevent or deal with financial mismanagement and other forms of malpractice**” includes “Avenues and tools for reporting suspected ethics violations, misconduct, and any kind of malpractice, which should be complemented by provisions and mechanisms protecting whistle-blowers and individuals reporting such violations.” The protection of whistle-blowers, while an essential competent to an effective complaints and investigation function of any entity, is not provided specifically in the assessment table applied in GCF/B.08/03. Omitting this criteria means to limit first, second or third party complaints to speak out against wrong-doing for fear of retaliation.¹ Therefore, TI strongly recommends that the **Board**:

- **Ensures** that **whistle-blower protection is included as a criteria in future accreditation application assessments**. Those entities which have not been reviewed according to this standard should be reassessed and provided recommendations to improve their policies as required.

With regard to the assessment of **procurement** in normal track applications, with the exception of application 014 to some extent, the review of procurement policies does not sufficiently address the following criteria:

- Specific procedures, guidelines and methodologies, as well as adequate organizational resources for overseeing, assessing and reviewing the procurement procedures of beneficiary institutions, executing entities or project sponsors;
- Procurement records are easily accessible;
- Evidence of transparent and fair procurement policies and procedures.

¹ Notably, both the GEF and the Adaptation Fund require that their accredited agencies provide whistle-blower protection. However, TI has not been able to assess the quality and scope of such protection given that such information is not easily accessible through either the GEF’s or the Adaptation Fund’s websites as well as through the website of a number of their accredited agencies.
Agenda Item 9: Recommendations for Further Accrediting National, Regional and Private Sector Entities (Progress Report) GCF/B.10/Inf.12

The proposed fast tracking of accreditation with regard to application sections 4.1 and 5.3 suffices as a reasonable and practical approach. However, TI suggests that in adopting such an approach, the Board should ensure that the Secretariat maintains oversight of the relevant financial and administrative policies and monitors respective performance, particularly when policy and institutional leadership changes occur.

Agenda Item 11: Report on the Implementation of Legal and Formal Arrangements with Accredited Entities (GCF/B.10/Inf.05)

With regard to the development of the accreditation master agreement (AMA), TI recommends further that the Board ensures that:

◊ Compliance to basic fiduciary standards is monitored for fast track entities even though those entities are not assessed against those criteria;

◊ In determining issues related to paras 9 and 13 that its own Ethics and Conflict of Interest Policy serves as the basis for defining fraud, corruption and prohibited practices;

◊ A policy which outlines terms and procedures for disaccreditation, suspension and other remedial measures be developed and built into or otherwise referenced in the accreditation master agreement.

Institutional matters

Agenda Item 23: Terms of Reference of the Heads of the Accountability Units: Recommendations of the Appointment Committee (GCF/B.10/09)

TI welcomes this Board decision urging only that the accountability units are properly recruited for and functional as soon as possible without further delays. Notably, the accountability unit Heads were to have been recruited by the 10th Board meeting.

Agenda Item 24: Methodology for Decisions Taken in between Meetings

TI strongly recommends that Active Observers be included in the decisions taken in between meetings. Specific to GCF/B.10/10, the Board should determine that:

◊ Active Observers should be copied into communications regarding proposed decisions (para 1) and regarding objections (para 3), and be allowed to provide opinions. This best practice is currently observed by the Climate Investment Funds where multiple Observers are copied into Committee decision-making between meetings via e-mail.
Agenda Item 26: Template for the Bilateral Agreement on Privileges and Immunities (GCF/B.10/12)

Recognising that the purpose of privileges and immunities for Fund property, funds, assets, communications, representatives, officials and experts on mission, from an anti-corruption perspective it is important to ensure that such enjoyments are not abused. Therefore, TI welcomes SS. IV(6), V(4)(5) and VI (2) which distinguish between personal and professional enjoyment and the right of the Fund to waive immunities and privileges. In this regard, TI requests that the Board:

◊ Clarify which Fund actor has the specific right or authority to waive such immunities and privileges.

Agenda Item 27: Policy on Ethics and Conflicts of Interest (GCF/B.10/13)

TI welcomes the Policy as being robust and comprehensive in terms of stipulating prohibited practices, elaborating situations where conflicts of interest may arise and in determining when interest should be reported by covered individuals or “external members of technical and expert panels.” Additionally, TI recommends that the Board:

◊ Clarify the rationale and the duration of the provision on publications and public speaking at para 29(c) of Annex II as the scope of limiting behaviour is broad and not limited to confidential information or other information not to be disclosed as to be determined by the Fund’s information disclosure policy. It is not clear whether this provision applies beyond the term of the external member’s contractual engagement with the Fund;

◊ Remove para 32 which permits external members to accept unsolicited gifts on behalf of the Fund “when refusal to do so would embarrass the Gift provider or the Fund or otherwise not be in the interest of the Fund, such as when a refusal to accept would be considered impolite.” As we have recommended with respect to the same provision afforded in Policy on Ethics and Conflicts of Interest for the Board (GCF/B.09/16 and GCF/B.09/23), such a permission creates subjective interpretations which cannot easily be verified. It further creates additional administrative and compliance burdens to ensure that such gifts are reported and dealt with through the Fund’s procurement policy which has yet to be adopted. Further, the rationale for this provision being applicable to technical members is unclear as they are not representatives of the Fund such as in the case of Board Members;

◊ Include a provision which requires the public disclosure of interests of covered individuals. To support this recommendation, we point to the best practices adopted under the Montreal Protocol for the Protection of the Ozone Layer which provides for a specific policy on conflicts of interest and ethics for members of its Technology and Economic Assessment Panel and its Technical Options Committees and Temporary Subsidiary Bodies. Accordingly, members of such groups are required to disclose a range of interests including those which are proprietary, financial, professional, and advisory and research related. Such disclosures are made public on the website of the Ozone Secretariat.