

Joint Comments on the Draft Guidelines to facilitate Board consideration of IRM reports on reconsideration requests, grievances or complaints

As civil society and Indigenous Peoples organizations engaged in the Green Climate Fund (GCF) and its processes, we thank you for the opportunity to comment on the Draft Guidelines to facilitate Board consideration of Independent Redress Mechanism (IRM) reports (“Draft Guidelines”). The IRM is critical for enhancing the performance of GCF projects and programs, as well as providing affected people with access to remedy for harm caused by noncompliance with GCF policies and procedures. Nonetheless, while the independent functions of the IRM can provide a *means* to redress, actual redress cannot come from the IRM alone -- an institutional response to IRM findings is necessary to provide true recourse. We therefore welcome the Draft Guidelines, as they stand to strengthen the institutional culture of engaging with grievances and responding to harm.

Core to the IRM’s mandate is a commitment to operating in a manner that is fair, equitable, and transparent to ensure accountability and justice at the GCF. It is critical, then, that the Guidelines for Board consideration of IRM reports embrace the same principles, as is recognized in section 1.3 of the Draft Guidelines. Not doing so risks undermining the credibility of the IRM and the GCF itself.

Accordingly, we welcome the provisions in section 2.1 of the Draft Guidelines, which instruct the Board to consider IRM reports “fairly, in an unbiased fashion with a view to providing redress, where appropriate,” while satisfying itself that the IRM has properly conducted its work. To that end, we support the requirements in section 5.2 that would require the Board to prepare and publicly disclose a summary of the reasons given by Board members for disagreeing with findings or recommendations of the IRM. Inasmuch as transparency is a core component of ensuring credibility in the process, we appreciate that section 7.1 limits closed-door meetings to exceptional cases and nonetheless requires the Board to disclose summaries of closed-door meetings, including any reasons for disagreement. We fully recognize that in some instances closed-door meetings will be necessary to ensure the protection of complainants who have requested confidentiality, for example, in instances where they fear retaliation.

Suggestions for Improvement

While the Draft Guidelines are overall positive, there remain a few areas in which there is room for improvement.

First, transparency and disclosure should be protected whenever the Board considers IRM reports outside of pre-scheduled Board meetings. We fully appreciate that justice delayed is often justice denied and so there may be instances in which it is necessary to have IRM recommendations go to the Board at an earlier moment than would be allowed if waiting for the next Board meeting. However, decisions between meetings have often lacked the transparency and information disclosure that accompanies decisions taken through the normal channels. As such, section 4.6 should be amended to say “Where there is urgency or where the issues involved are uncomplicated or self-evident, and the next Board meeting is more than 30 days from the date the IRM’s report is

issued, the IRM report will be circulated to the Board *and Active Observers* with the invitation to consider the grievance or complaint and approve the proposed recommendations on a no-objection basis within 30 days.” Sharing the document with the Active Observers contemporaneously with the Board is best practice and has been the practice of the GCF for documents that are not limited distribution (for example sharing the consideration of accreditation document in between B.25 and B.26). That practice should continue here.

Second, conflicts of interest should be recorded as a matter of record during Board meetings. We appreciate and agree that actual or potential conflicts of interest should be disclosed and that Board members should recuse themselves when a conflict is present. However, section 6.3 specifies that conflicts must be shared with only the Ethics and Audit Committee (EAC). We do not disagree that conflicts should be reported to the EAC, but conflicts should also be declared during the relevant Board meeting and discussion of the recommendations in a manner similar to when Board members declare their conflicts of interest in consideration of funding proposals or entities seeking accreditation. Doing so would improve transparency and align with best practice at the GCF.

Conclusion

We appreciate the work that the IRM and the EAC have put into the Draft Guidelines. Overall, they represent important components of engagement and response in the IRM process, and we appreciate that they have been elaborated and shared for comments. The Draft Guidelines demonstrate a positive commitment to accountability and providing redress, and can be improved upon through increased transparency, disclosure, and access to information. These Draft Guidelines, once improved, will be an important additional building block for an ecosystem of accountability that fosters greater communication, coordination, and engagement with project-affected communities, Accredited Entities, National Designated Authorities, Active Observers, and the IRM alike, as well as critical due diligence consideration of IRM findings and recommendations by the Board.

Thank you for the opportunity to comment. If you have any questions, need clarification, or would like to discuss anything further, please let us know.

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- Accountability Counsel
- Center for International Environmental Law (CIEL)
- Heinrich Böll Stiftung Washington, DC

In addition to those listed above, the following civil society and Indigenous Peoples organizations have signed on in support of this submission (in alphabetical order):

- Asian Peoples Movement on Debt and Development (APMDD)
- Both ENDS, the Netherlands
- Centre for 21st Century Issues (C21st)
- Gender Action
- Institute for Climate and Sustainable Cities (ICSC)
- Interamerican Association for Environmental Defense (AIDA)
- Nepal Federation of Indigenous Nationalities (NEFIN)
- TI-Korea Chapter
- Women's Environment & Development Organization (WEDO)