



## Indigenous Peoples' Submission to the Call for Public Inputs on the GCF Indigenous Peoples Policy

August 3, 2017



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With a decision adopted at BM15, the Board of the Green Climate Fund mandated the Secretariat to develop and consider a Fund-wide Indigenous Peoples Policy at its 17th meeting that was held in Songdo in July 2017, a decision that was very welcome by us, indigenous peoples, and civil society organizations worldwide.<sup>1</sup>

The Secretariat since then launched a process of elaboration of a draft policy<sup>2</sup> that took due notice of the various proposals and elaborations, comments and critiques voiced by indigenous peoples' representatives at the GCF and also originating from experience in the field, as well as the basic demands reiterated by the International Indigenous Peoples' Forum on Climate Change (IIPFCC) in the course of its activities at UNFCCC COPs and preparatory meetings.

The IIPFCC pointed to some key elements for a GCF policy on indigenous peoples and more broadly to climate change policies and programs, notably the recognition of international obligations on indigenous peoples' rights such as those contained in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the recognition of indigenous peoples' right to full and effective participation at all levels, the recognition of Free, Prior and Informed Consent (FPIC), and of the positive contribution of indigenous peoples to climate mitigation and adaptation, by means of traditional knowledge and traditional livelihoods.

The three ensuing overarching principles can be summarized as follows:

- a) Do no harm – climate change policies and programs should not cause harm to indigenous peoples. Hence, a system of safeguards and subsequent compliance and accountability and monitoring framework should be put in place;
- b) Do good – the positive role and contribution of indigenous peoples as key actors in climate mitigation and adaptation, and historical stewards of ecological balance and fragile ecosystems should be recognized formally and practically, by envisaging modalities for direct access to finance and the capacity to design, develop and implement projects based on traditional livelihoods and traditional knowledge;
- c) The full and effective participation of indigenous peoples, including indigenous women at all levels, from the institutional level, in decision-making, to the field level.

<sup>1</sup> The Board, "having reviews document GCF/B.15/02 "Report on the Activities of the Co-Chairs",  
(a) Requests the Secretariat to prepare for consideration by the Board, at its seventeenth meeting, a fund-wide Indigenous Peoples policy and  
(b) invites submissions from the Board, and Alternative members and observers organizations, in relation to the development of the GCF Indigenous Peoples Policy."

<sup>2</sup> As per the Report on the Activities of the Secretariat presented at B17. The Secretariat proposed a process of consultation that could have extended the timeframe of adoption of the Policy, that in our opinion can and should be adopted at B18. [http://www.greenclimate.fund/documents/20182/751020/GCF\\_B.17\\_Inf.01\\_-\\_Report\\_on\\_the\\_activities\\_of\\_the\\_Secretariat.pdf/08db0fe2-e40c-44cd-baba-f3d749001ecb](http://www.greenclimate.fund/documents/20182/751020/GCF_B.17_Inf.01_-_Report_on_the_activities_of_the_Secretariat.pdf/08db0fe2-e40c-44cd-baba-f3d749001ecb)

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This means, among others, the recognition of indigenous peoples as a distinct constituency, as the case is, under the UNFCCC and in many of the climate funds (but not yet at the GCF), of their status as active observers (this is not yet the case at the GCF), and the identification of functions that would allow indigenous peoples to be duly considered, such as Indigenous Peoples Focal Points at Secretariat level, or in the upper management. In practical terms, this would also entail the adoption of tailored guidance and tools to ensure that indigenous peoples fully and effectively participate in decision making, and project and program identification design, implementation, appraisal and monitoring.

As regards the GCF Indigenous Peoples Policy, in April 2017 105 indigenous peoples' organizations and support groups signed on a statement<sup>3</sup> listing its key principles and component. Among these:

- a. *To support and promote the positive contributions of indigenous peoples to climate change mitigation and adaptation;*
- b. *To enable the critical role of indigenous peoples in assisting the Fund to achieve its transformational goals, with regard to more effective, sustainable and equitable climate change results, outcomes and impacts;*
- c. *To avoid and mitigate possible adverse impacts of the Fund's activities on indigenous peoples' rights, interests and well-being;*
- d. *To ensure the respect of the rights of indigenous peoples in the whole spectrum of the Fund's activities and initiatives, in full alignment with applicable international obligations and standards such as ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP);*
- e. *To recognize and respect in all activities financed by the Green Climate Fund, indigenous peoples' rights to collectively own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired;*
- f. *To recognize and effectively apply the principle of Free, Prior and Informed Consent (FPIC), in accordance with relevant international laws and standards, and international best practice principles; and*
- g. *To promote and ensure the full and effective participation of indigenous peoples at all levels of the Fund's activities and initiatives.*

The draft Indigenous Peoples Policy prepared by the Secretariat duly acknowledges the overarching principles and elements contained in the statement, and takes into due account the key asks formulated by indigenous peoples, as well as the various submissions made to the Board and the Secretariat in the last years. For this reason, we have made an effort to reach out, although in a limited timeframe, to as many indigenous partners as possible, to seek their views, and foster a broad discussion and inputs to the policy. Since the GCF could not provide resources for translation of the draft Indigenous Peoples Policy to other languages and for a face-to-face consultation, we agreed to unofficially translate this to Spanish and French, and maximize international meetings of indigenous peoples to raise

<sup>3</sup> [http://www.indigenousclimate.org/index.php?option=com\\_content&view=article&id=250%3Aan-indigenous-peoples-policy-for-the-gcf&catid=3%3Anews&lang=en](http://www.indigenousclimate.org/index.php?option=com_content&view=article&id=250%3Aan-indigenous-peoples-policy-for-the-gcf&catid=3%3Anews&lang=en)



awareness and solicit inputs on the Indigenous Peoples Policy. Some of the meetings include:

1. Global Indigenous Peoples Caucus, 10th session of the Experts Mechanism on the Rights of Indigenous Peoples (EMRIP), July 13, 2017, Geneva, Switzerland;
2. Indigenous Peoples Major Group Meeting, High-Level Political Forum on Sustainable Development Goals, July 16, 2017, New York;
3. Different country celebrations of the International Day of the World's Indigenous Peoples on August 9, 2017.

It should also be stressed that such policy, when adopted with the few changes that will be detailed below, captures the best available standards and criteria developed and adopted by climate finance institutions, and therefore can put the GCF at the forefront of innovation and transformative change in the way climate change is addressed, understood and related programs and projects designed and implemented.

We therefore would take the opportunity to commend the Secretariat for having embarked in such a complex but challenging exercise that goes beyond the actual drafting of the policy itself. As a matter of fact, we have always found interest and genuine concern in our exchanges and conversations with Secretariat staff and Board Members as to the urgency to develop and adopt an Indigenous Peoples Policy without sacrificing the quality and effectiveness.

Obviously, we are fully aware of the challenges ahead of us once the policy will be adopted as we expect at BM18. These include the next steps that will be required, such as the development and adoption of operational guidance for its implementation, the need to dovetail and harmonize other key GCF policies such as the ESMS, the ESS or the REDD+ Scorecard and the need to develop and adopt a specific guidance on Free, Prior and Informed Consent, and on stakeholder engagement.

We are likewise fully aware of the challenges posed by the particular nature of the GCF, the centrality of country ownership, the allocation of responsibilities for implementation and compliance to the Accredited Entities, the NDA, or the GCF Secretariat.

However, we believe that these can be fully dealt with on the one hand by applying already this policy to projects that are in the pipeline, some of which might have relevance to indigenous peoples; and if the case is, relying on existing guidance and tools adopted by other climate funds as best practice and relevant implementation instruments, pending the definition and adoption of related guidance tools by the GCF.

On the other, they can be addressed by improving capacity building for the NDAs and AEs to fully understand and mainstream the Indigenous Peoples Policy recommendations in their activities and actions, by increasing indigenous peoples' capacity to fully understand the GCF functioning and the challenges and opportunities it offers, and by enhancing the understanding of the GCF of IP issues and concerns to ensure its due diligence in monitoring compliance.

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With this constructive spirit, we wish to point to some elements of the current draft that, in our opinion, need to be properly addressed, and propose related text amendments.

Section II, Policy Objectives, para 5:

*To provide a structure for ensuring that activities of the GCF are developed and implemented in such a way that fosters full respect for indigenous peoples' ~~and their~~ members' dignity, human rights, and cultural uniqueness so that they (a) receive culturally appropriate social and economic benefits; and (b) do not suffer adverse effects during the development process.*

NOTE: This formulation risks watering down the recognition of collective rights of indigenous peoples and singling them individually as "members," and hence should be deleted.

Section II, Policy Objectives, para 6a:

*To support and promote the positive contributions of indigenous peoples based on traditional knowledge systems, livelihoods, sustainable resource management systems and practices to climate change mitigation and adaptation in a manner that is accessible, ~~gender-responsive~~, culturally appropriate and inclusive;*

Section III, Scope of Application, para 12:

*This policy applies whenever indigenous peoples are present in, or have a collective attachment to areas where GCF-financed activities will be implemented, as determined by the environmental and social assessment.*

NOTE: The ESMS will have to include elements related to how to assess presence of indigenous peoples and corrective measures in case of non-compliance or faulty assessments.

Section V, Requirements, General, para 18:

*A key purpose of this policy is to ensure that indigenous peoples present in, or with collective attachment to, the areas where the GCF-financed activities are implemented (or activities proposed for GCF-financing will be implemented) are fully informed and consulted about, and have opportunities to actively participate in, project design and the determination of project implementation arrangements. ~~Consultations, as well as subsequent project planning and documentation processes, will address potential risks and impacts as they may affect indigenous peoples.~~*

NOTE: The current draft language as formulated, might imply that the scope of full and effective information and consultation of indigenous peoples might be determined by the risk categorization and this is a risky loophole. The proposed amendment seeks to overcome this problem.

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Section V, Requirements, General, para 19:

*The accredited entities – in collaboration with potentially-affected indigenous peoples, will carry out an initial assessment of the nature and degree of the expected direct and indirect economic, social, cultural (including cultural heritage), and environmental impacts on indigenous peoples who are present in, or have a collective attachment to, the project area. The accredited entities will prepare a consultation strategy with the participation of potentially-affected indigenous peoples and identify the means by which affected indigenous peoples will participate in the design and implementation of GCF-financed activities.*

NOTE: The draft formulation as it stands seems to rely too much on the AE to do initial assessment of potential impacts. Furthermore, we believe that indigenous peoples should be engaged as early as this stage already since they know better to assess potential impacts of projects on them. The proposed text changes seek to address these concerns.

Section V, Requirements, General, para 20:

*The accredited entities proposed measures and actions will be developed in consultation with the affected indigenous peoples and contained in a time-bound plan that is culturally sensitive. Where there are potential impacts on indigenous peoples, entities shall prepare – together with indigenous peoples - an Indigenous Peoples Plan (IPP)*

NOTE: An IPP will have to be prepared together with indigenous peoples.

Section V, Requirements, 5.1.2 Projects where indigenous peoples are not the sole beneficiaries, para 25:

*When indigenous peoples are not the only beneficiaries of the activities proposed for GCF financing, the planning requirements will vary with circumstances. The accredited entities will design and implement the GCF-financed activities in a manner that provides affected indigenous peoples with equitable access to project benefits. The concerns or preferences of indigenous peoples will be addressed through meaningful consultation (including, a process to seek their Free, Prior and Informed Consent) and design, and documentation will summarize the consultation results and describe how indigenous peoples' issues have been addressed in the design of the GCF-financed activities. Arrangements for on-going consultations during implementation and monitoring will also be described.*

Section V, Requirements, 5.1.3. Avoidance of adverse impacts, para 27:

*Adverse impacts on indigenous peoples will be avoided where possible. Where alternatives have been explored, and adverse impacts are unavoidable, the accredited entities will minimize and/or compensate for these impacts in a culturally appropriate manner proportionate to the nature and scale of such impacts and the form and degree of vulnerability of the affected indigenous peoples.*



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NOTE: Indicators and criteria to assess degree of vulnerability will have to be developed and included in the operational manual that will have to be adopted as guidance to implement this policy.

Section V, Requirements. 5.1.4 Mitigation and Adaptation Benefits, para 30:

*The determination, delivery, and distribution of compensation and shared benefits to indigenous peoples will take account of the institutions, rules and customs of these indigenous peoples, **gender equity**, as well as their level of interaction with mainstream society*

NOTE: Gender equity should be taken into account in compensation and benefit sharing.

Section V, Requirements. 5.1.4 Mitigation and Adaptation Benefits, para 31:

*Various factors including, but not limited to, the nature and context of the GCF-financed activities and the vulnerability of affected indigenous peoples will determine how affected indigenous peoples will benefit from the activities. Identified opportunities will aim to address the goals and preferences of the affected indigenous peoples, including improving their standard of living and livelihoods in a culturally appropriate manner, the role of women in the project and to foster the long term sustainability of the natural resources on which they depend.*

NOTE: Indicators and criteria to assess degree of vulnerability will have to be developed and included in the operational manual that will have to be adopted as guidance to implement this policy.

Section V, Requirements. 5.1.6 Relationship with other GCF policies, para 37:

*Projects developed prior to this policy coming into force will use **AE and Green Climate Fund's** best endeavours to meet the requirements of this policy.*

NOTE: In its original formulation the draft policy seems to lean too much on the AE for compliance. The proposed amendment also addresses the co-responsibility of GCF to ensure due diligence.

Section V, Requirements. 5.2. Circumstances requiring free, prior and informed consent, para 40:

*Guidance on the application of the free, prior and informed consent will be developed and adopted **in the shortest timeframe possible after adoption of this policy**, and maintained in consultation with indigenous peoples as part of the operational guidelines of this policy.*

NOTE: The FPIC guidance to be developed and adopted at a later stage will also have to specify what would happen in case indigenous peoples partially or totally disagree and/or withhold consent.

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Section V, Requirements, 5.2.1 Impacts on lands and natural resources subject to traditional ownership or under customary use or occupation, para 42e:

*Ensure that affected indigenous peoples are informed of: (i) their land rights under national law, including any national law **and international legal standard and instruments**, recognizing customary use rights; (ii)*

NOTE: Governments should be aware that indigenous peoples can go to international courts to have their rights recognized on the basis of international legal obligations and standards even if national legislation does not. See the Saramaka case in Guyana for instance.

Section V, Requirements, 5.2.2 Relocation of indigenous peoples from lands and natural resources subject to traditional ownership or under customary use or occupation, para 45:

*In exceptional circumstances where resettlement or displacement is necessary, they will only be permitted if they meet the following criteria: (a) free, prior and informed consent has been obtained as described above; (b) authorized by national law; (c) carried out in a manner consistent with international human rights law; **(d) undertaken solely for the purpose of promoting the general welfare**; (e) reasonable and proportional;*

Section V, Requirements, 5.3. Grievance Redress Mechanism, para 52:

*The project or programme **shall** provide mediation as an option where users are not satisfied with the proposed resolution.*

Section V, Requirements, 5.4. Indigenous peoples and boarder planning, para 56:

*The accredited entities **shall** include technical or financial support as part of the GCF-financed activities for the preparation of plans activities for the preparation of plans, strategies or other activities intended to strengthen consideration and participation of indigenous peoples in the climate change actions. This may include a variety of initiatives designed, for example, to (a) strengthen local legislation to establish recognition of customary or traditional land tenure arrangements; (b) address the gender and intergenerational issues that exist among indigenous peoples; (c) protect indigenous knowledge including intellectual property rights; (d) strengthen the capacity of indigenous peoples to participate in development planning or programs; and (e) strengthen the capacity of government agencies providing services to indigenous peoples.*

Thank you very much and we look forward to a more collaborative work with you.

This submission is being done on behalf of the following Indigenous peoples' organizations, civil society organizations, support groups and networks:

1. ABC Television, Nepal
2. AMAYNUT Organisation (AMAZIGH), Morocco

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3. Asia Indigenous Peoples Pact, Thailand
4. Asia Pacific Forum on Women, Law and Development (APWLD)
5. Asian Indigenous Women' Network
6. Asian Pacific Resource and Research Centre for Women, Malaysia
7. Asian Peoples Movement on Debt and Development (APMDD), Asia
8. Association of Indigenous Village Leaders in Suriname (VIDS), Suriname
9. Association of Nepalese Indigenous Journalists (ANIJ), Nepal
10. Baikalpik Media Network, Nepal
11. Bangladesh Indigenous Peoples Network on Climate Change and Biodiversity, Bangladesh
12. BothENDS, The Netherlands
13. Center for Indigenist Development in the Philippines, Inc. (CIDev-Phil), Philippines
14. Center for Sustainable Development in Mountainous Areas (CSDM), Vietnam
15. Centre for 21st century Issues, Nigeria
16. Centre for Integrated programme and Development (CIPD), Bangladesh
17. Center of Indigenous Cultures of Peru (CHIRAPAQ), Peru
18. Centre of Research and Development in Upland Area (CERDA), Vietnam
19. Centre for Indigenous Peoples' Research and Development, Nepal
20. Centro para la Autonomía y Desarrollo de los Pueblos Indígenas (CADPI), Nicaragua
21. Civil Society Coalition on Indigenous Peoples in Uganda (CSCIPU), Uganda
22. Climate Justice Programme, Australia
23. Federación por la Autodeterminación de los Pueblos Indígenas (FAPI), Paraguay
24. Federación Indígena Empresarial y Comunidades Locales de México, A.C (CIELO), Mexico
25. Federation of Nepalese Indigenous Nationalites Journalists (FoNIJ), Nepal
26. Forest Peoples Programme, UK
27. Foro Indígena de ABYA YALA – FIAY, Latin America
28. Friends of the Earth, US
29. Fundación para la Promoción del Conocimiento Indígena (FPCI), Panama
30. Fundación Avina, Latin America
31. Global Forest Coalition (GFC)
32. Glocal Bej, Mexico
33. Himalaya Natural Fibre Foundation (HNFF), Nepal
34. Inclusive Media Network, Nepal
35. Indigenous Livelihoods Enhancement Partners (ILEPA), Kenya
36. Indigenous Peoples' Foundation for Education and Environment (IPF), Thailand
37. Indigenous Women Network on Biodiversity from Latin America and the Caribbean
38. Institut Dayakologi, Indonesia
39. Interamerican Association for Environmental Defense (AIDA)
40. International Work Group for Indigenous Affairs (IWGIA), Denmark
41. IP Hub Africa
42. Karen Environmental and Social Action Network (KESAN), Myanmar
43. Kitanglad Integrated NGOs, Inc. (KIN), Philippines

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44. Kua'aina Ulu 'Auamo (KUA), USA
45. Little Angels School, Nepal
46. Mainyoto Pastoralists Integrated Development Organization (MPIDO), Kenya
47. Maleya Foundation, Dhaka, Bangladesh
48. Marine Ecosystems Protected Areas (MEPA) Trust of Antigua and Barbuda
49. Maya Leaders Alliance, Southern Belize
50. Mountain Spirit, Nepal
51. Naga Women Union, India
52. National Indigenous Women Federation, Nepal
53. Nepal Federation of Indigenous Nationalities (NEFIN), Nepal
54. Ogiek Peoples Development Program (OPDP), Kenya
55. Pakistan Fisherfolk Forum, Pakistan
56. Pastoralist Indigenous Non Government Organizations (PINGO's Forum) Tanzania
57. Pikhumpongan Dlibon Subanen, Inc. (PDSI), Philippines
58. Rainforest Foundation Norway
59. Red de Cooperacion Amazonica, (REDCAM), Venezuela
60. SONIA for a Just New World, Italy
61. Tebtebba (Indigenous Peoples International Centre for Policy Research and Education), Philippines
62. Transparency International- Korea Chapter
63. Trinamul Unnayan Sangstha(TUS), Khagrachari, Bangladesh.
64. Unissons nous pour la Promotion des Batwa (UNIPROBA), Burundi.
65. Women's Environment and Development Organization, USA
66. WWF International
67. This submission has also been endorsed by 103 indigenous representatives from 39 indigenous peoples communities and organizations in the Philippines during the celebration of the International Day of the World's Indigenous Peoples on August 8-11, 2017 at UP Diliman, Quezon City, Philippines

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