

# GREEN CLIMATE FUND READINESS AND INDIGENOUS PEOPLES

The Cases of Peru, Nicaragua, Kenya,  
Democratic Republic of Congo and Vietnam







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*on behalf of the Indigenous Peoples' Advocacy Team on the GCF*

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# Acronyms

## Acronyms

ACR	Área de Conservación Regional ( <i>Regional Conservation Area</i> )
ADB	Asia Development Bank
AE	Accredited Entity
AfDB	African Development Bank
AFD	Agence Francaise de Développement
AIDA	Asociación Interamericana para la Defensa del Ambiente ( <i>Inter-American Association for the Defence of the Environment</i> )
AIDSESP	Asociación Interétnica de Desarrollo de la Selva Peruana ( <i>Peruvian-Jungle Inter-ethnic Development Association</i> )
ANA	Autoridad Nacional del Agua ( <i>National Water Authority</i> )
AND	Autoridad Nacional Designada ( <i>Appointed National Authority</i> )
APRT	Adaptation Prioritization Tool
BDPI	Base de Datos de Pueblos Indígenas ( <i>Indigenous Peoples' Database</i> )
BDS	Benefit Distribution System
BIDV	Bank for Investment and Development of Vietnam JSC
BoD	Board of Directors
BRED	European Bank for Reconstruction and Development
BTC	Belgian Technical Cooperation
CADPI	Centro para la autonomía y desarrollo de los pueblos indígenas (Center for the Autonomy and Development of Indigenous Peoples)
CC	Climate Change
CCFAs	Forestry and Environmental Advisory Council
CCM&A	Climate Change Mitigation and Adaptation
CCP	Confederación Campesina del Perú ( <i>Rural Confederation of Peru</i> )
CDM	Clean Development Mechanism
CERDA	Centre of Research and Development in Upland Areas
CFO	Climate Finance Options
CFTF	Climate Finance Task Force
CICA	Central American Network of Indigenous Organizations
CIF	Climate Investment Funds
CLPI	Consentimiento libre, previo e informado ( <i>Free, prior and informed consent</i> )
CNA	Confederación Nacional Agraria ( <i>National Agrarian Confederation</i> )
CNCC	Comisión Nacional sobre el Cambio Climático ( <i>National Commission on Climate Change</i> )

COICA	Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica ( <i>Coordinator for Indigenous Organizations of the Amazon Basin</i> )
CONAP	Confederation of Amazonian Nationalities of Peru
COP	Conference of the Parties
CORPI-SL	Coordinadora Regional de los Pueblos Indígenas de San Lorenzo ( <i>Regional Coordinator for the Indigenous Peoples of San Lorenzo</i> )
CPC	Commune People's Committee
CPEIR	Investment and Public Expenditure on Climate Change
CSDM	Centre for Sustainable Development in Mountainous Areas
CSO	Civil Society Organization
CTF	Clean Technology Fund
CUNARC	Central Única Nacional de Rondas Campesinas ( <i>Sole National Centre for Rural Patrols</i> )
DAR	Derecho, Ambiente y Recursos Naturales ( <i>Law, Environment and Natural Resources</i> )
ECLAC	Economic Commission for Latin America and the Caribbean
ECMIA	Enlace Continental de Mujeres Indígenas de las Américas ( <i>Continental Network of Indigenous Women of the Americas</i> )
ECOSOC	Consejo Económico Social de las Naciones Unidas ( <i>United Nations Economic and Social Council</i> )*
EE	Executing Entity
EIB	European Investment Bank
ENCC	Estrategia Nacional contra el Cambio Climático ( <i>National Strategy against Climate Change</i> )
ENDE-REDD+	Estrategia Nacional de Deforestación Evitada ( <i>National Strategy for Avoided Deforestation</i> )
EVN	Vietnam Electricity
FAO	United Nations Food and Agriculture Organization
FCPF	Forest Carbon Partnership Facility
FEMUCARINAP	Federación Nacional de Mujeres Campesinas, Artesanas, Indígenas, Nativas y Asalariadas del Perú ( <i>Peruvian National Federation of Peasant, Artisan, Indigenous, Native and Employed Women</i> )
FENAP	Federación de Nacionalidades Achuar del Perú ( <i>Peruvian Federation of Achuar Nationalities</i> )
FEREMIA	Federación Regional de Mujeres Indígenas de Ayacucho ( <i>Ayacucho Regional Federation of Indigenous Women</i> )
FES	Forest Environment Services
FIMI	Foro Internacional de Mujeres Indígenas ( <i>International Forum of Indigenous Women</i> )
FIP	Programa de Inversión Forestal ( <i>Forest Investment Program</i> )*
FIPDLAC	Fund for the Indigenous Peoples Development of Latin America and the Caribbean
FIPS	Forest Investment Program
FONADEFO	Fondo Nacional para el Desarrollo Forestal ( <i>National Forest Development Fund</i> )
FPDF	Forest Protection and Development Fund
FPI	Forest Investment Programme
FPIC	Free, Prior and Informed Consent
FPP	Forest Peoples Programme
FP&D	Forest Protection and Development
FVC	Fondo Verde para el Clima ( <i>Green Climate Fund</i> )
GCF	Green Climate Fund
GCTF	Green Credit Trust Fund
GEF	Global Environment Facility
GG	Green Growth
GGSF	Green Growth Strategy Facility
GIZ	German Development Cooperation
GIZ	German Corporation for International Cooperation
GoV	Government
GTI	Gobierno Territorial Indígena ( <i>Indigenous Territorial Government</i> )
HHs	Households
ICB	Inter-ministerial Coordinating Board
IDB	Inter-American Development Bank
IE	Implementing Entity

IFC	International Finance Corporation
INAFOR	Instituto Nacional Forestal (Forestry National Institute)
INETER	Instituto Nicaraguense de Estudios Territoriales (Nicaraguan Institute of Territorial Studies)
INTA	Instituto Nacional de Tecnología Agropecuaria (National Institute for Agricultural Technology)
JICA	Japan International Cooperation Agency
JOAS	Indigenous Peoples Network of Malaysia
KOICA	Korea International Cooperation Agency
LDC	Least Developed Countries
MAG	Ministerio de Agricultura y Ganadería (Ministry of Agriculture and Cattle Breeding)
MARD	Ministry of Agriculture and Rural Development
MARENA	Ministerio de Recursos Naturales y del Ambiente (Ministry for the Environment and Natural Resources)
MDE	Mecanismo Dedicado Específico ( <i>Specific Dedicated Mechanism</i> )
MEF	Ministerio de Economía y Finanzas ( <i>Ministry of Economy and Finance</i> )
MEFCCA	Ministerio de Economía Familiar, Comunitaria y Asociativa (Ministry for Family, Community, Cooperative and Associative Economy)
MEM	Ministerio de Energía y Minas (Ministry of Energy and Mines)
MIEs	Multilateral Implementing Entities
MIFIC	Ministerio de Finanzas y Crédito Público – Ministry of Finance and Public Credit
MIMP	Ministerio de la Mujer y Poblaciones Vulnerables ( <i>Ministry of Women and Vulnerable Populations</i> )
MINAGRI	Ministerio de Agricultura ( <i>Ministry of Agriculture</i> )
MINAM	Ministerio del Ambiente ( <i>Ministry of the Environment</i> )
MINCULT	Ministerio de Cultura ( <i>Ministry of Culture</i> )
MOCICC	Movimiento Ciudadano frente al Cambio Climático ( <i>Citizens' Movement against Climate Change</i> )
MOF	Ministry of Finance
MOIT	Ministry of Industry and Trade
MONRE	Ministry of Natural Resources and Environment
MOT	Ministry of Transportation
MoU	Memorandum of Understanding
MPI	Ministry of Planning and Investment
MRV	Measuring, Reporting and Verifying
M&E	Monitoring and Evaluation
MU	Management Unit
NA	National Assembly
NCCC	National Commission on Climate Change
NDA	National Designated Authority
NGO	Non-Governmental Organization
NFMS	National Forest Management System
NIEs	National Implementing Entities
NRAP	National REDD+ Action Plan
NRF	Vietnam REDD+ Fund
NRSC	National REDD+ Steering Committee
NTP-RCC	National Target Program to Respond to Climate Change
ODA	Official Development Assistance
OEFA	Organismo de Evaluación y Fiscalización Ambiental ( <i>Environmental Evaluation and Audit Body</i> )
OHCHR	Office of the United Nations High Commissioner for Human Rights
OIT	Organización Internacional del Trabajo ( <i>International Labor Organization</i> )
ONAMIAP	Organización Nacional de Mujeres Indígenas Andinas y Amazónicas del Perú ( <i>Peruvian National Organization of Andean and Amazonian Indigenous Women</i> )
ONU	Organización de las Naciones Unidas ( <i>United Nations Organization</i> )
PACCPERU	Programa de Adaptación al Cambio Climático ( <i>Program of Adaptation to Climate Change</i> )
PAGCC	Plan de Acción en Género y Cambio Climático ( <i>Action Plan on Gender and Climate Change</i> )

PFES	Payments for Forest Environmental Services
PNUD	Programa de las Naciones Unidas para el Desarrollo ( <i>United Nations Development Program</i> )
PM	Prime Minister
PPC	Provincial People's Committee
PRAP	Provincial REDD+ Action Plan
PROFONANPE	Fondo Nacional para las Áreas Naturales Protegidas por el Estado ( <i>National Fund for Natural Areas Protected by the State</i> )
PSF	Private Sector Fund of the Green Climate Fund
RDPR	Rural Development and Poverty Reduction Fund
REDD	Reducing emissions from deforestation and forest degradation
REOJIP	Red de Organizaciones de Jóvenes Indígenas del Perú ( <i>Peruvian Network of Indigenous Youth Organizations</i> )
SBV	State Bank of Vietnam
SERENA	Secretaría de Recursos Naturales ( <i>Secretariat of Natural Resources</i> )
SIDS	Small Islands Developing States
SIS	Safeguards Information System
SMEs	Small and Medium-sized enterprises
SoEs	State Owned Enterprises
SP-RCC	Support Program to Respond to Climate Change
TFF	Trust Fund for Forests
TFFMU	Trust Fund for Forests Management Unit
UNCA	Unión Nacional de Comunidades Aymaras ( <i>National Union of Aymara Communities</i> )
UNDP	United Nations Development Program
UNDRIP	United Nations Declaration on the Rights of the Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
UN-REDD	United Nations Program on Reducing Emissions from Deforestation and Forest Degradation
VCCI	Vietnam Chamber of Commerce and Industry
VDB	Vietnam Development Bank
VEPF	Vietnam Environment Protection Fund
VGGS	Vietnam Green Growth Strategy
VGGSF	Vietnam Green Growth Strategy Facility
VideBridge	Vietnam –Germany Bridge Company Ltd.
Vinacomin	Vietnam National Coal – Mineral Industries Holding Corporation Ltd
Vinatex	Vietnam Textile and Garment Corporation
VNFF	Vietnam Forest Protection and Development Fund
VNForest	Vietnam Administration of Forestry
VNSteel	Vietnam Steel Corporation
VRF	Vietnam REDD+ Fund
VRO	Vietnam REDD+ Office
WB	World Bank
WWF	World Wildlife Fund

# Executive Summary

## Green Climate Fund Readiness and Indigenous Peoples: The Cases of Peru, Nicaragua, Kenya, Democratic Republic of Congo and Vietnam

*by By Francesco Martone,  
on behalf of the Indigenous Peoples' Advocacy Team on the GCF*

### Introduction

Indigenous peoples are among those affected most by climate change but at the same time have contributed and can actively contribute positive solutions to mitigation and adaptation. They have done so throughout the centuries, managing and ensuring the integrity of ecosystems on which their survival, physical and spiritual, strongly depends.

Indigenous peoples are now considered key actors in climate policies and programs. Their active role and right to be consulted, engaged and informed, as well as compliance to the broader suite of indigenous peoples' rights in accordance with international obligations and instruments, are recognized in various climate initiatives. These initiatives include the United Nations Framework Convention on Climate Change (UNFCCC) and climate funds, such as the Forest Carbon Partnership Facility (FCPF), United Nations Program on Reducing Emissions

from Deforestation and Forest Degradation (UN-REDD), Climate Investment Funds (CIF) and Green Climate Fund (GCF). Furthermore, the recognition of indigenous peoples' contribution and traditional knowledge in adaptation and mitigation in the UNFCCC and more recently in the Paris Agreement offers a unique opportunity, in particular for the Green Climate Fund, to capture the potential of indigenous peoples' engagement in GCF activities at all levels, from local project to national and global levels.

Such a virtuous synergy would be enabled by the adoption of some key criteria and commitments at various levels, from the GCF to the country level. Indigenous peoples and civil society organizations (CSO) working on the GCF have repeatedly called for the GCF to adopt a coherent and free-standing policy on indigenous peoples<sup>1</sup> that among others would spell out the key steps required to ensure that any of its initiatives will not harm indigenous peoples, so as not to further multiply their vulnerability but also “do good” to them. They have further

urged the Fund to develop and adopt criteria to ensure the full and effective participation of indigenous peoples in national processes, in particular through the National Designated Authority (NDA) or Focal Point and the overall country ownership strategy and approach. And lastly, indigenous peoples should be provided opportunities to directly access finance for projects they themselves design based on their traditional knowledge and livelihoods to ensure these produce the full spectrum of benefits, carbon and non-carbon alike.

In this sense the role of Nationally Designated Authorities as well as National Implementing Entities (NIEs) is crucial. Equally vital is their capacity to grasp the complexities associated with climate policies and programs that might impact or benefit indigenous peoples, to equip themselves with the relevant policies and procedures, and to engage indigenous peoples fully and effectively in proper consultation and outreach initiatives.

## The Time is Now

A significant amount of Readiness and Preparation programs is already in place or due to be funded in a medium-short timeframe.<sup>2</sup> At the same time key policies are being developed and will be adopted that are expected to contribute to enhance the capacities of the GCF, Accredited Entities (AEs), NDAs and focal points, and NIEs to fulfil high level social and environmental standards, such as the Indigenous Peoples' Policy, the Environmental and Social Management System, and the REDD+ Scorecard.

Such policies are also pertinent to activities and capacities of the NDAs and focal points as these should provide the enabling conditions to ensure the full and effective engagement of stakeholders and rights holders, such as indigenous peoples, and to develop capacity to support and correctly identify the administrative and legal instruments required to contribute to the implementation of such policies.

This is why now is the time to properly assess the degree of compliance of NDAs to the expected results related first and foremost to stakeholder engagement, and to identify modalities and offer opportunities for NDAs and focal points, as well as indigenous peoples to better understand their respective roles and contributions, challenges and gaps to be addressed, and contribute to deliver results that are in line with the transformational goal of the Green Climate Fund. This is even more crucial when considering that multistakeholder engagement and country coordination are also “critical” for preparation of funding proposal, monitoring and evaluation, and to ensure alignment to the relevant GCF environmental and social safeguards, such as those related to stakeholder engagement and information disclosure.<sup>3</sup>

## Country Ownership or Peoples' Ownership?

With this purpose in mind and to correctly frame the analysis and proposals within the perspective of indigenous peoples, a critical aspect related to “country ownership” needs to be critically unpacked. As clearly stressed in various submissions made by indigenous peoples' organizations, according to GCF policies “country ownership” is exclusively “state-centered,” and hence the sole task of the NDA or Focal Point, notably of governments, that in many cases do not recognize the rights of indigenous peoples as defined in international standards and obligations. Or if they do, these are not effectively implemented in their policies and programs. In any case, the “country ownership,” as meant by the GCF, implies that it is the task of governments and implementing agencies to ensure full consultation with stakeholders for defining country priorities and developing the Accreditation Master Agreement (AMA), to ensure the full implementation of GCF safeguards and fiduciary standard and to establish a dispute resolution mechanism.<sup>4</sup>



This point has also been reiterated by CSOs, including indigenous peoples, in the discussion on Country Ownership at the last GCF Board meeting, B17. They pointed to the need for GCF to “distinguish itself from other funds as regards country ownership” and to establish effective processes to address the NDAs’ lack of information or misinformation on GCF that CSOs and indigenous peoples have recorded in various occasions. Hence, NDAs should at least ensure interagency coordination and perform best practice consultation with indigenous peoples and CSOs. Further, NDAs should be required to set up national coordination mechanisms and formal consultation processes. Civil society organizations and indigenous peoples also called for prioritization of the Readiness and Preparation grants for those with evidence of stakeholder engagement through national coordination mechanisms and consultation processes.

Country ownership therefore should be more than a *state-centered* approach, or an interaction with national government, much less a single ministry. The Board should operationalize policies on country ownership in a broader sense, as including local governments, affected communities, indigenous peoples, women, civil society and local private sector.

Nevertheless, the Fund’s procedures to verify that indigenous peoples are fully and effectively consulted and proposals based on application of indigenous peoples’ traditional knowledge are left to the discretion of National Designated Authorities. There is no mandatory or binding language on multistakeholder engagement. Rather there is a set of “initial best practice options for country coordination and multi-stakeholder engagement.” And the initial best practice guidelines for selecting and establishing NDAs and Focal Points include the “capacity to facilitate and coordinate country coordination mechanisms and multi-stakeholder engagement for country consultations,” as well as “retain an overview of all funding proposals relating to the country” and “familiarity with relevant institutions and stakeholders in the country.”<sup>5</sup>

## Readiness for Whom?

Generally speaking, stakeholder engagement does not seem to be considered as a key priority by NDAs. The same applies to indigenous peoples that are only marginally considered in Readiness proposals, engaged in regional NDA workshops or structured dialogues. According to the progress report on Readiness and Preparatory Support programs presented to the GCF Board at its 17<sup>th</sup> meeting (July 2017), as of May 2017, 102 requests from 78 countries for US\$30 million had been approved, of which 56 requests are under implementation. Only 15 grants under implementation are expected to produce results on stakeholder engagement by the end of 2018, accounting for only 25% of the total Readiness grants under implementation. One of the countries in which results on stakeholder engagement are expected is the Democratic Republic of Congo, object of one of the case studies of this report.<sup>6</sup> As regards indigenous peoples, of the initial 47 Readiness proposals, only 12 referred to indigenous peoples.

It is therefore of utmost importance that in any effort by GCF to support NDAs and Focal Points in developing their capacity to fulfil these requirements and effectively manage GCF funds, Readiness and Preparatory Support Programs should clearly identify the challenges and opportunities, the needs and potentials for the engagement of indigenous peoples and to respect their rights and related environmental and social safeguards at the country level.<sup>7</sup>

As a minimum, NDAs and Focal Points should commit and be in the position and capacity to engage indigenous peoples in the management and decision making structures and in project and program design, proposal, assessment, monitoring and appraisal as well as enabling their direct access to finance for their proposed projects. At the same time they should commit and have the capacity to coordinate and ensure consistency among the various national and international climate funds and budget-lines, with a view to guarantee accountability, transparency and effectiveness of climate policies and programs at the national level.

Lastly, specific capacity building and support initiatives should be put in place to enable indigenous peoples to fully understand the functioning of the Green Climate Fund and the opportunities deriving from its activities and priorities as well as to actively engage with their NDAs or Focal Points in identifying and defining country programs and priorities.

These recommendations are further strongly corroborated by the findings of the five country case studies presented in this report, in relation to “participatory” analysis and assessment of the state of climate finance, of the existing institutional framework, the activities of the NDAs and Focal Points, and the challenges for indigenous peoples and the Green Climate Fund.

## This Report

Five partners of Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education) produced country analyses, namely Dignité Pygmée, (DIPY) in the Democratic Republic of Congo (DRC), Centre of Research and Development in Upland Areas (CERDA) in Vietnam, Centro de Culturas Indigenas del Peru (CHIRAPAQ) in Peru, Centro para la Autonomia y Desarrollo de los Pueblos Indigenas (CADPI) in Nicaragua, and Indigenous Livelihoods Enhancement Partners (ILEPA) in Kenya.

Partners were asked to describe the respective government's programs and policies that intend to engage with different stakeholders in the country and to determine how ethnic minorities/ indigenous peoples are being involved/ consulted in the GCF and other climate related mechanisms. Secondly they had to assess the level of awareness of indigenous peoples on GCF and identify potential challenges and opportunities for indigenous peoples at the country level in readiness and implementation phase of GCF activities. Lastly they would collate the recommendations formulated by indigenous peoples regarding the GCF, NDA and GCF Board.<sup>8</sup>

This final report is meant to provide inputs and proposals to the country NDAs and Focal

Points, to the GCF Board and Secretariat as well as to guide the strategic engagement of indigenous peoples at GCF and national levels. It is an interesting sample of national cases showing how the Green Climate Fund interacts and engages in various forms, both by means of Readiness and Preparation Programs and/ or by directly supporting projects, and that the indigenous peoples component is notable. In some of the selected countries, Readiness and Preparation Programs are underway, with GCF funded projects in three cases (Kenya, Vietnam, Peru) and others with no Readiness program presented to the GCF (Vietnam, Nicaragua). In one country with no GCF activity, other donors are supporting a Readiness program (this is the case of Nicaragua with a program funded by Interamerican Development Bank and Nordic Development Fund).

Hence the selected cases offer an interesting opportunity to assess the engagement of indigenous peoples in GCF activities at various levels and degrees, from engagement at NDA level to participation, if any, in GCF project formulation and implementation. (See Box 2)<sup>9</sup>

## Findings

In some of the selected countries, government programs and policies for the engagement of indigenous peoples seem to recognize the need and obligation to engage and recognize the rights of indigenous peoples, at least on paper. This is the case for Nicaragua and Kenya (and Peru to a limited extent) where national legislation does recognize the right to consultation and participation of indigenous peoples in climate policies and programs. However, a significant gap was noted. While some government agencies engage indigenous peoples, those that function as National Designated Authorities and/ or Accredited Entities do not, thereby creating a risk of inconsistency and lack of coherence in defining modalities to engage stakeholders and to fully recognize and respect indigenous peoples' rights across the whole spectrum of

climate change policies and programs at the national level.<sup>10</sup>

Hence, in Nicaragua, the Ministry of the Environment and Natural Resources (MARENA) should commit more clearly in its role as NDA and clarify its strategy and approach towards the Green Climate Fund as well as the role for autonomous governments in the Caribbean and of Indigenous Territorial Governments. Nicaragua has not applied for a Readiness Preparation grant to the GCF, but Readiness activities are included in a Readiness program for Central America and Bolivia supported by the Inter-American Development Bank and the Nordic Development Fund. It should be noted that the Ministry of Finance and Public Credit acts as counterpart of this Readiness Program in Nicaragua and not the MARENA, which is the NDA recognized by the GCF.

The MARENA is currently working on the Readiness Preparation Plan and the Readiness Package with the Forest Carbon Partnership Facility. It is expected that such engagement would result in a stronger commitment on mitigation activities in forests and facilitate further more proactive engagement of Nicaragua with the Green Climate Fund. It is expected for instance that the presence of an alternate member in the GCF Board from Nicaragua and the granting of full membership of Nicaragua in the Board by 2018 would consolidate the country's engagement with the Fund.

In addition in Nicaragua and Peru, the level of recognition and engagement of indigenous peoples differs according to their region of provenance. In Nicaragua, this could be corrected on the basis of the experience accumulated by MARENA in working with the FCPF, especially as regards the high level of involvement and participation of the 25 indigenous territorial governments in the preparation of the Readiness Preparation Plan (RPP), Readiness Plan Idea Note (R-PIN), and Readiness Package (R-Package).

In Peru, while Quechua and Aymara Andean indigenous peoples have been recently included in indigenous peoples' policy talks, most climate change initiatives are aimed towards the

Amazonian forest environments, even though high altitude ecosystems are also extremely vulnerable to climate change. The recognition of Andean peoples' collective rights as indigenous peoples is only a recent development, and the historical neglect of their indigenous identities has hindered their development of collective proposals to face climate change. Further GCF plans for Peru should include the full and effective participation of indigenous peoples in the conservation and management of Andean forests, bodies of water and glaciers.

The institutional framework needed for the implementation of GCF projects and programs at national level in Peru is still incomplete. The Ministry of the Environment (MINAM, former country NDA) adopted a Green Growth document that envisages engagement with the GCF only for private sector initiatives with no consideration of indigenous peoples, while the Ministry of Finance (MEF), as the current NDA, has no track record or capacity to engage with indigenous peoples or carry out meaningful and effective consultations. It should also be stressed that the leverage from the Green Climate Fund to the NDA and AE might be very limited, considering that the US\$300,000 Readiness Program has not yet been signed and no effort was made to consult with indigenous peoples or disseminate information. While MEF and MINAM have signed an agreement to share pending GCF activities, little progress has been registered this far.

All in all, the ministries in Peru with whom indigenous peoples have dialogue (such as the Ministry of Culture – MINCULT) are not relevant for GCF policies. In the second workshop hosted by Chirapaq, indigenous peoples' organizations primarily emphasized the need for MEF to adopt intercultural approaches to finance policies, given the limited power of MINCULT and MINAM on GFC-related matters. It should be pointed out however that there are still opportunities for indigenous peoples to engage in the Indigenous Peoples Working Group of the Ministry of Culture and the National Climate Change Commission.

The only project funded by the GCF in Peru and run by Profonampe provides evidence for

the need for the GCF to clarify the standards to be applied in such projects where a private entity managed by officials is involved. This situation poses, among others, significant challenges on the application and proper interpretation of Free, Prior and Informed Consent (FPIC) by the Fund, the NDA, the Accredited Entity and the Implementing Entity. More broadly, indigenous peoples point to the state-centered design of GCF programs, limited dissemination of information, and a bias towards the private sector, with the risk of funds being disbursed in absence of effective guarantees on indigenous peoples' rights.

The Democratic Republic of Congo has obtained readiness funds from GCF to support strengthening of the NDA, to carry out consultations with stakeholders across DRC, and for preparing a country program as part of the framework for engagement with the Fund. The NDA selected for DRC is the Ministry of Climate Change and Development, while a National Coordination on GCF has also been established with the NDA as a member. The National Coordination sits in the Ministry of Environment, Nature Conservation and Sustainable Development that is also in charge of indigenous peoples' issues and has developed a positive and open attitude towards indigenous peoples. In more recent times, however, also due to staff turnover, the initially good relationship between indigenous peoples and the National Coordination has degraded to the extent that the former, in particular Pygmy indigenous peoples, feel they are excluded from the GCF process.

Even more worrying, the indigenous peoples in DRC denounce the NDA's almost total inaction on awareness raising activities envisaged in the Readiness proposal. The Readiness grant was signed in January 2016 and funds have been disbursed, but the NDA has not invited or met or shared information with any indigenous peoples' delegation. This attitude is somehow new, given that for many years, collaboration between indigenous peoples and those who managed national climate processes linked to the Ministry of Environment in DRC, such as REDD+, FIP, CAFI, GCF, has always been positive.

On a positive note, some of the GCF National Coordination members are still open to indigenous issues. However, the lack of experience of this body and of its coordinator (that is also the NDA) might raise serious concerns. Furthermore, its performance in information dissemination and its outputs, notably three activities so far since October 2016, is also negative. On top of this is a registered lack of transparency and accountability, communication and involvement of stakeholders. The improvement of stakeholder engagement is one of the key deliverables expected by GCF by the end of 2018.

In Vietnam, the level of engagement of the ethnic minorities in climate policies and programs is very low with the exception of REDD+ programs, evidently as a consequence of the involvement of UN-REDD that has high level standards and requirements for ethnic minorities' engagement and Free, Prior and Informed Consent. All REDD+ projects envisage FPIC but no FPIC is required for adaptation and mitigation projects. Direct access to finance and opportunities for capacity building for the ethnic minorities are very limited. No climate-relevant institution (notably The Trust Fund for Forests, the Vietnam Environment Protection Fund and the Vietnam Forest Protection and Development Fund) has provisions on ethnic minorities or FPIC, or recognize the contribution of traditional knowledge. In addition, CSOs and local communities are not members of the GCF steering committee. It should be noted that Vietnam has not applied for a Readiness Preparation grant to the GCF.

Moreover, in the project funded by GCF on improving resilience of vulnerable coastal communities to climate change in Vietnam, ethnic minorities and local communities lack participation in the project design and are not represented in the project organizational structure, giving them no chance to engage in the project. The same concerns apply to the Readiness Program: these groups have not been engaged and have not benefitted from awareness raising and information dissemination under the GCF Readiness preparation. There are also significant risks of gaps and inappropriate policies to secure their full and effective participation and

to deliver benefits to them as well as risks of non-compliance with Social and Environmental Safeguards.

Kenya and Nicaragua represent a significant exception among the selected countries in that legislation and policies do recognize land rights and customary ownership of land, traditional knowledge and Free, Prior and Informed Consent. Nicaraguan legislation on land titling (law 28 and law 445), for instance, has allowed for the titling of 30% of the national territory to indigenous and Afro-descendant communities.

Kenya also recognizes the need to improve direct access of indigenous peoples to climate finance and to actively engage and participate in decision making. Indigenous peoples' organizations have therefore been able to directly access climate funds and mobilize other sources of funding. Furthermore, Kenya's country vision for the implementation of GCF projects does refer to human rights, indigenous peoples, biodiversity and cultural heritage. However, a significant gap is the absence of an Environmental and Social Management System (ESMS) at the national level. The NDA's (Ministry of Finance) lack of understanding of multistakeholder approach, especially with respect to inclusion of indigenous peoples in consultation processes, has this far also strained the proper implementation of the relevant project component of the UNDP/UNEP/WRI Readiness project.<sup>11</sup> Indigenous peoples are not represented in the three thematic areas envisaged by the NDA: a) devolved governance, b) climate smart agriculture environment and water to enhance adaptation and sustainable development, c) increase resilience of livestock and crop farming and strengthen vulnerability of communities and ecosystems.

The overall approach followed by the Ministry of Finance does not seem to reflect Kenya's recognition of the role and contribution of indigenous peoples, since it seems to be mostly focused on the need to enhance private sector involvement in climate financing. Readiness is therefore mostly meant as an opportunity to provide tools for leveraging public funds to attract private investments, while stakeholder engagement is only focused on supply-side of climate finance and less on climate change im-

pacts and traditional knowledge.

However, it should be noted that both the National Environment Management Authority (NEMA that is also the National Implementing Entity for the Adaptation Fund) and the Treasury have established a governance framework that ensures the inclusion of three observers of the Indigenous Peoples National Steering Committee (one of them being a representative of the National Indigenous Peoples Steering Committee on Climate Change) in representation of indigenous peoples, and of the PanAfrican Climate Justice Alliance in representation of CSOs. Another critical issue, similarly registered in Peru, is that the participation of observers is not well structured; their nomination is made without engagement of constituencies and will rely on their capacity to share information with their constituencies on the basis of their own personal initiative.

In all countries covered in this report, indigenous peoples and local communities' awareness about the Green Climate Fund is very low. In Nicaragua, there is a significant gap of knowledge of indigenous peoples, and information at community level is insufficient on all topics related to the GCF. The same applies to Peru where the dissemination of information at national level is ineffective, or Vietnam and Kenya where indigenous peoples and local communities' understanding of GCF is also very low. In the Democratic Republic of Congo, information dissemination has been lacking since the very beginning of the preparation and development of the Readiness proposal and now in the implementation phase.

The findings of the five country case studies point to a situation of low if not non-existing compliance of selected countries' NDAs to the requirements listed in the "Initial best-practice guidelines for the selection and establishment of national designated authorities and focal points,"<sup>12</sup> most notably those related to stakeholder consultation and engagement and access to information. The findings show that the NDAs have not yet shown adequate capacity to coordinate "multistakeholder" engagement for country consultations, in particular as regards indigenous peoples. Furthermore, the NDAs this



far have not provided key information for dissemination, be it in national or local languages. Indigenous peoples' organizations are therefore not informed on what is the Green Climate Fund, how it works and its key operational procedures including environmental and social safeguards. This situation needs to be urgently addressed and resolved.

## Country-Specific Recommendations

On the basis of the research, consultations and findings of the country studies, a series of recommendations have been developed for each selected country to address the key issues related to lack of engagement of indigenous peoples and proper consideration of indigenous peoples' matters related to climate change, information dissemination and proper participation and consultation.

*In general, the NDAs or focal points should enhance their understanding and consideration of indigenous peoples' related issues and significantly improve the degree of engagement and consultation and information dissemination. Indigenous peoples should be involved in monitoring and evaluation in ensuring compliance with the Environmental and Social Safeguards, and their capacity to engage and understand the functioning of the Green Climate Fund should be improved. Modalities to track climate finance should also be developed and implemented. These key issues should be duly taken into account and be mandatory in formulating Readiness programs, in particular as regards the component on stakeholder engagement and in determining the Terms of Reference for the upcoming Independent Review of Readiness and Preparation Programs.*

In Nicaragua, dissemination of information needs to be improved, and representation of indigenous peoples from the Caribbean and other regions ensured, as it is done in the process carried out for the Forest Carbon Partnership Facility. The Ministry of the Environment and

Natural Resources will have to commit in its role as NDA, undertake an effort to systematize and analyze data on climate finance, and develop proper classification systems in the national budget to increase transparency and accountability.

In Peru, the Ministry of Finance should produce a work plan for the execution of the Readiness program (approved but not signed at the time of the writing of this report), with priorities to be agreed upon with indigenous peoples and to be implemented in an inter-sectorial manner, by including the Ministry of the Environment, Ministry of Finance and the Ministry of Culture that is in charge of indigenous peoples' affairs. The Ministry of Finance will have to ensure that monitoring and accountability procedures are adopted and applied with all stakeholders including indigenous peoples. The Readiness program will have to be implemented with a particular focus on strengthening the capacity of organizations, in particular local bases, to formulate initiatives, design indicators, monitoring and assessment, and ensure proper consideration of traditional knowledge, women and youth. Furthermore, it should ensure the full and effective participation of indigenous peoples in formulation, governance and monitoring in accordance to ILO 169 and the United Nations Declaration on the Rights of Indigenous Peoples.

In Vietnam, the NDA should guarantee respect of safeguards at all levels and phases to ensure that all stakeholders have equal opportunities to engage with GCF. It should be noted that some countries are directly accessing support for NDA/focal point strengthening, including the preparation of country programs, through national or regional delivery partners. In the case of Vietnam, readiness support through UNDP as its delivery channel was included in the pipeline as of November 2016. It is imperative that the NDA commit to a rights-based approach, FPIC, gender responsiveness and full effective participation of ethnic minorities and local communities, also in line with UNDP policies on indigenous peoples.

Representation of ethnic minorities and local communities in Vietnam should be ensured, and



an Ethnic Minorities and Local Communities Policy adopted at national level as well as a platform of exchange established between NDA, the GCF National Executive Committee and ethnic minorities and local communities' representatives. This is even more evident, when considering that for REDD+ and due to the engagement of UN-REDD, Vietnam has introduced relevant requirements related to ethnic minorities' rights. The same could happen with GCF Readiness, considering the role of UNDP as delivery partner and its high-level standards on ethnic minorities' rights. To that regard, capacity building for ethnic minorities and local communities to engage with GCF for funding should be ensured and enhanced.

In Kenya, indigenous peoples' capacity to engage with GCF for funding similarly has to be enhanced, and more information provided on the GCF mandate and access modalities, and capacity building focused on improving knowledge of climate policies and measures. Specific tools should be adopted at the national level to track climate finance and determine level of access by local communities. There is also a need to build the capacity of the NDA and indigenous peoples to monitor GCF projects to assess access for local communities and ensure proper balance between mitigation and adaptation.

The NDA's and NIE's capacity and awareness of indigenous peoples' needs and on stakeholder engagement process such as FPIC should be enhanced. A broader approach to country ownership should also be adopted that would include all stakeholders, including indigenous peoples and local communities. The NDA and NIEs should establish clear mechanisms for indigenous peoples' engagement in developing environmental and social safeguards systems, national investment framework, and community-based monitoring and information systems (CBMIS) in national monitoring and evaluation frameworks. Issuance of no-objection letters from NDA should be made conditional to applicant's track record on responsiveness to indigenous peoples' concerns and issues, and indigenous peoples should be provided with the opportunity to comment on vetting processes. The NDAs and NIEs should also consider the

possibility of allowing indigenous peoples to access Enhanced Direct Access programs and be implementers at sub-regional and community levels.

In the Democratic Republic of Congo, safeguards should be introduced to ensure the full and effective participation of all stakeholders and to respect the rights of Pygmy indigenous peoples. It is worth noting that the steering committee of the REDD+ National Fund in DRC is composed of representatives of several stakeholders, except indigenous peoples. Since the country-driven approach is open to interpretation of NDAs and could be interpreted in a restrictive manner to serve as an excuse of excluding indigenous peoples, the GCF should ensure that NDAs fully and effectively engage indigenous peoples as well as representatives of all stakeholders. The NDA should also ensure direct access to finance for indigenous peoples and facilitate communication on the progress of the readiness phase of the GCF process to all stakeholders in general and to the Pygmy indigenous peoples in particular.

## General Recommendations and Proposals

Beyond the specific focus on selected countries, the shortcomings and challenges identified in these country analyses further confirm *the urgent need for the GCF to adopt an Indigenous Peoples Policy and to carry out an independent assessment and evaluation of the Readiness programs financed this far.*\* The findings of this report are also offered as a contribution to define the Terms of Reference and the scope of the independent assessment, whose purpose among others should be to provide the elements needed for the development of a GCF toolkit on best-practice country coordination experiences to help NDAs/FPs move beyond the broad guidelines established by the Board under country ownership.

\*The GCF IP Policy was adopted at the Meeting of the GCF Board on 27 February 2018.

The Indigenous Peoples' Policy will be very relevant to inform and guide NDAs and provide significant opportunities for them to improve their performance in terms of engagement of indigenous peoples, compliance with the Fund's Environmental and Social Safeguards, REDD+ policies, and international standards and norms on indigenous peoples' rights, and the active contribution of indigenous peoples' traditional knowledge and livelihoods to the Fund's stated goals.

*Furthermore, the Environmental and Social Management System (ESMS), also to be adopted in the coming months, will contribute to the improvement of stakeholder engagement by developing and adopting guidelines on stakeholder engagement that would also provide indication for the NDAs on how to engage and for the GCF Secretariat and Board on how to assess the quality of engagement. Such guidelines should be culturally appropriate and based on best practice standards and procedures, especially as regards to participation, consultation and access to information for indigenous peoples.*

As previously noted, Readiness programs are supported not only by the GCF; countries can also apply to other bilateral and multilateral donors for support. It is therefore important also that these donors take due account of this report's findings and recommendations and ensure a common approach to those readiness components that are relevant to indigenous peoples. Such common approach—in terms of support and capacity building activities, engagement of indigenous peoples at all levels and identification of modalities for direct access to finance through the NDA—should be aligned to international best practice and internationally recognized standards for indigenous peoples' rights, full and effective consultation and engagement.

In order to do so, National Designated Authorities, Accredited Entities and National Implementing Entities should be required to

ensure the full and effective participation of indigenous peoples and local communities in policies, programs and projects that can potentially affect them, positively or negatively, or infringe their rights and ability to sustain their way of living. *To that purpose the Green Climate Fund should develop and adopt specific standards and criteria on the engagement of indigenous peoples in the Indigenous Peoples' Policy, the Environmental and Social Management System and in REDD+ relevant policies.* In addition, an Operational Guidance or Toolkit on Free Prior Informed Consent should be developed and adopted.

These criteria and practices should be applied by NDAs and AEs to ensure the meaningful participation of indigenous peoples and affected communities in social and environmental impact assessments. The NDAs should develop an Indigenous Peoples Engagement Plan with the support of the GCF and possibly with capacities acquired or consolidated in Readiness Preparation Programs. *An indigenous peoples' specific component of Readiness, under the stakeholder engagement area, should be adopted, with the goal of supporting NDA and NIE capacity to identify strategies and modalities to ensure indigenous peoples' sustained engagement and effective participation, including full disclosure of information, meaningful consultation, informed participation process and FPIC.* Accordingly, NDAs would be expected to report on modalities and effectiveness of their outreach and consultation activities with indigenous peoples.

The GCF and other donors should identify and offer support to *specific capacity building programs for indigenous peoples to ensure their full and effective engagement with GCF at all levels, from NDAs to IEs*, for activities related among others to consultation, advocacy, institutional building and engagement in formulation of project proposals and monitoring and evaluation. Capacity building and training opportunities should be offered for NDAs, AEs and NIEs as well as GCF Secretariat to enhance understanding of indigenous peoples' rights and the Indigenous Peoples' Policy, and to improve the capacity to comply with international standards and obliga-

tions on the rights of indigenous peoples. These components could be envisaged in Readiness programs, the preparation of concept notes for NDAs, and proposals by NIEs, in full consultation with indigenous peoples.

*Indicators to monitor and assess the quality of engagement, both qualitative and quantitative, of NDAs/focal points and accredited entities with indigenous peoples, local communities, women, and civil society should be developed and adopted. The GCF, together with other donors supporting Readiness and Preparation programs, should develop a toolkit on best practice country coordination experiences building up on similar procedures, such as the Country Coordination Mechanism (CCM) of the Global Fund to Fight AIDS, Tuberculosis and Malaria, and allow NDAs to further expand and integrate the broad and discretionary guidelines for country ownership adopted by the Board. Information on GCF, NDAs and Focal Points, and AEs should be made available in-country with ample time and in local languages. Performance indicators to assess effectiveness and quality of engagement of indigenous peoples should also be developed to allow for independent monitoring and feedback.*

*The GCF should also commit to ensure the active participation of stakeholders in the coming structured dialogues, since this far this has been insufficient. Stakeholders should be proactively approached at the country level and representatives nominated to participate in structured dialogues.*

Parallel to the Independent Evaluation of the Readiness and Preparation Plans, *the GCF should convene a workshop/dialogue on stakeholder engagement, in particular CSOs, local communities, indigenous peoples and affected groups, in Readiness that would also inform the Independent Evaluation.* Such evaluation should also aim at assessing the degree of NDA's engagement, outreach and information dissemination to relevant stakeholders, as well as assess the quality and effectiveness of structured dialogues. Specific Terms of Reference for the Independent Evaluation need to be adopted for this purpose.

## Conclusions

The discrepancies registered in some countries covered by this study between existing legislation on indigenous peoples and the capacity of NDAs and AEs to properly understand, own and fulfil obligations related to indigenous peoples, (in some instances the absolute lack of recognition of indigenous peoples' rights in national legal systems) and their lack of awareness and low level of information on the GCF pose significant challenges. If unaddressed, these would significantly jeopardize the potential opportunities deriving from indigenous peoples' engagement in the GCF activities and programs at the national level as well as GCF's capacity to fully acknowledge and facilitate the effective positive contribution of indigenous peoples in pursuing its transformational goals for mitigation and adaptation as well as guarantee full compliance to its Social and Environmental Safeguards.

More generally, if intended in its stricter sense, country ownership would create a situation where loopholes and gaps in institutional frameworks, different policies of implementing and donor entities, different NDAs, and different legal systems and degree of recognition of indigenous peoples' rights risk creating fragmentation and selectivity in the degree of implementation of international standards and criteria on indigenous peoples' rights. This fragmented situation and the registered gap between legal recognition of rights and the effective implementation and application of the same at the NDA country level further substantiate the need for an Indigenous Peoples' policy and specific guidance on engagement and participation of stakeholders with a specific focus on indigenous peoples. By doing so, the GCF could ensure a level playing field among NDAs in the proper and effective engagement of indigenous peoples and local communities, thereby ensuring coherence and effectiveness in the pursuit of the innovative and transformative approaches underlying the Fund's vision.



## Annexes

### **Box 1** Questionnaire for Country Research

Provide a national picture of your country policies on climate and climate-related funds

What structure of the government is responsible to deal on climate and climate-related funds? How does the national structure look like? How are indigenous peoples visible or present in these structures?

How has your country received climate related funds (not GCF)? What fund has been accessed and received by your government? How much has been received by the government from what climate fund? Describe projects funded by these funds and how they have impacted/affected/benefitted indigenous peoples so far.

#### **Green Climate Fund**

NDA: who and how was the NDA selected? What policy, structure, mechanism is in place to support NDA function for GCF if any? What doors are open for indigenous peoples' engagement with the NDA? Or if you are already engaged, describe nature of engagement with NDA.

Readiness: Describe the readiness proposal of your country to the GCF. How do you describe transparency and accountability in the process of coming up with the proposal? What activities are proposed? How/what would these activities affect indigenous peoples as described in the proposal? How were indigenous peoples consulted? What is the status of readiness phase now? What about women and children?

Perspectives of Indigenous Peoples: So far, what have indigenous peoples known about GCF? How have indigenous peoples organizations and/or NGOs been informed/engaged in the GCF process at the national/regional level? Elaborate how indigenous peoples can be engaged at the local and national level, what mechanisms should be in place?

#### **Challenges and opportunities**

Describe the perceived/potential challenges or issues in terms of readiness of the country to access funds from the GCF. What are issues related to indigenous peoples that should be addressed? What safeguards should be in place at the national level? What are the avenues or opportunities for indigenous peoples to engage in? What can indigenous peoples contribute to the GCF? What do they envision to get back in return?

## **Box 2** Readiness Activities and GCF Projects in Selected Countries (approved or in the pipeline)

### **Peru**

Readiness Preparation program not signed yet)

[http://www.greenclimate.fund/documents/20182/466992/Readiness\\_proposal\\_-\\_Peru.pdf/c9a4b106-b607-4941-af42-e9eb3000e8bf](http://www.greenclimate.fund/documents/20182/466992/Readiness_proposal_-_Peru.pdf/c9a4b106-b607-4941-af42-e9eb3000e8bf)

Building the resilience of wetlands in the province of Datem del Maranon

[http://www.greenclimate.fund/documents/20182/87610/GCF\\_B.11\\_04\\_ADD.01\\_-\\_Funding\\_proposal\\_package\\_for\\_FP001.pdf/f9929dbf-089c-48fd-bdb1-7e0e46388fef](http://www.greenclimate.fund/documents/20182/87610/GCF_B.11_04_ADD.01_-_Funding_proposal_package_for_FP001.pdf/f9929dbf-089c-48fd-bdb1-7e0e46388fef)

### **Kenya**

UNDP/UNEP/WRI Readiness preparation program

<http://www.gcfreadinessprogramme.org/kenya-gcf-readiness-programme>

Universal Green Energy Access Program – total 50.6 million in Kenya, Benin, Namibia, Nigeria, United Republic of Tanzania; Funding to accredited entities: Acumen Fund, Kawi-Safi Venture Fund via venture capital (USD 100m) and Technical Assistance (USD 10m) to support solar-off grid and biomass project. Three projects in the pipeline: Mwache Water Project, Silali and Mengai, and Solar Energy Off Grid

<http://www.greenclimate.fund/-/universal-green-energy-access-programme?inheritRedirect=true&redirect=%2Fprojects%2Fbrowse-projects>

GEEREF NeXt - Total project investment 765.0 million, IE European Investment Bank – multiple countries including Kenya

<http://www.greenclimate.fund/-/geeref-next?inheritRedirect=true&redirect=%2Fprojects%2Fbrowse-projects>

### **Vietnam**

NDA strengthening and country program Readiness, UNDP, 300,000 USD (in the pipeline)

Improving the resilience of vulnerable coastal communities to climate change related impacts in Viet Nam 40.5 million USD

[http://www.greenclimate.fund/documents/20182/226888/GCF\\_B.13\\_16\\_Add.05\\_-\\_Funding\\_proposal\\_package\\_for\\_FP013.pdf/c06ab9c0-5109-4a33-aba4-608973d010ab](http://www.greenclimate.fund/documents/20182/226888/GCF_B.13_16_Add.05_-_Funding_proposal_package_for_FP013.pdf/c06ab9c0-5109-4a33-aba4-608973d010ab)

### **Democratic Republic of Congo**

Readiness Preparation Programme – USD 300,000 approved in 2015

[http://www.greenclimate.fund/documents/20182/466969/Readiness\\_grant\\_agreement\\_-\\_Democratic\\_Republic\\_of\\_Congo.pdf/88315b2c-023f-45b7-82db-98e44e7e0a4f](http://www.greenclimate.fund/documents/20182/466969/Readiness_grant_agreement_-_Democratic_Republic_of_Congo.pdf/88315b2c-023f-45b7-82db-98e44e7e0a4f)

GEEREF NeXt - Total project investment 765.0 million, IE European Investment Bank – multiple countries including DRC

<http://www.greenclimate.fund/-/geeref-next?inheritRedirect=true&redirect=%2Fprojects%2Fbrowse-projects>

### **Nicaragua**

Readiness Preparation Program for Central America and Bolivia (that includes Nicaragua) supported by the Interamerican Development Bank and the Nordic Development Fund

<http://www.iadb.org/en/projects/project-description-title,1303.html?id=RG-X1255>

### **Box 3** Examples of Country Legislation and other Instruments and Policies relevant for Indigenous Peoples and the Green Climate Fund in Selected Countries, Climate Funds and/or Sources of Climate Finance

#### **Nicaragua**

*Country legislation and other instruments and policies relevant for indigenous peoples and the Green Climate Fund:*

Article 2 and Article 52 of the Constitution support the right to participation

Law 475 on citizen participation

Law 621 on access to public information

Law 28 or Statute of Autonomy of the Regions of the Coast of Nicaragua

Law 445 Law on Community Property Regime for Indigenous Peoples; Afro-Descendants and Ethnic Communities of the Autonomous Regions of the Coast of Nicaragua and the Coco, Indio and Maiz Rivers

Law 462 on forest conservation

Law 765 on organic agriculture

Law 217 on Natural Resources and the Environment

National Environmental and Climate Strategy and Related Plan of Action (2010-2015)

Legal Framework for REDD+

*Climate funds and/or sources of climate finance:* BCIE, Korea EximBank, Interamerican Development Bank, the World Bank, IFAD; OPEP Fund for International Development, CIDA; SIDA, COSUDE, Nordic Fund, UNICEF, UNFPA, GFEF, bilateral aid from Germany, Austria, Brazil, Canada, South Korea, Spain, Iceland, Japan, Norway, UNDP, European Union, Kreditanstalt fuer Wiederaufbau (KfW)

#### **Vietnam**

*Country legislation and other instruments and policies relevant for indigenous peoples and the Green Climate Fund:*

Law on promulgation of legal documents and specific provisions on citizens' engagement (2015) Other relevant legal documents (see annex 2 on the chapter on Vietnam case study)

*Climate funds and/or sources of climate finance:* Trust Fund for Forests (TFF), Vietnam Environment Protection Fund (VEPF), Forest Protection and Development Fund (VNFF), Green Growth Strategy Facility (GGSF), Green Credit Trust Fund (GCTF), Vietnam REDD+ Fund (VRF)

#### **Democratic Republic of Congo**

*Country legislation and other instruments and policies relevant for indigenous peoples and the Green Climate Fund:*

Law 11/009 Environmental Protection Law

Law 14/011 Electricity Sector Law

Law 011/2002 Forest Code

Law 007/2002 Mining Code

Law 11/022 Agricultural Code

Law 15/012 Hydrocarbons Code

Law 14/003 Nature Conservation

National Environmental Action Plan

National Adaptation Program of Action on Climate Change

National Adaptation Plan – Global Support Program (NAP-GSP)

National Plan for Disaster Risk Reduction

Poverty Reduction and Growth Strategy Paper – 2



*Climate funds and/or sources of climate finance:* GCF Readiness Grant, Integrated REDD+ Project in the Mbuji-May, Kananga and Kishangani Basins (African Development Bank) Forest-Dependent Communities support project (Dedicated Grant Mechanism, International Bank for Reconstruction and Development - IBRD), Improved forested landscape management project (IFLMP) - IBRD, REDD-Readiness RPP - UNREDD-IBRD, Climate Investment Fund (CIF), Fund for Improvement of Emissions' Reduction (the World Bank), Forest Investment Program (FIP) for Indigenous Peoples and Local Communities (Climate Investment Funds), Supporting Integrated Climate Strategies /NAPA (UNDP – GEF)

## **Peru**

*Country legislation and other instruments and policies relevant for indigenous peoples and the Green Climate Fund*

Ley 26821 Ley Organica para el Aprovechamiento Sostenible de Recursos Naturales

Ley 28611 Ley General del Ambiente

Ley de Consulta Previa 2011

Constitucion 1993 articulo 2

Politica de Recursos Hidricos (ANA)

Resolución Ministerial N° 203-2016-MINAM

## **Kenya**

*Country legislation and other instruments and policies relevant for indigenous peoples and the Green Climate Fund:*

Constitution 2010

Vision 2030

Climate Change Act 2016

Environmental Management and Coordination Act, 1999

Protection of Traditional Knowledge and Cultural Expressions Act, 2016

Kenya Climate Change Response Strategy 2010

1<sup>st</sup> and 2<sup>nd</sup> National Communication on Climate (2002/2009)

National Disaster Policy

National Policy for the Sustainable Development of Northern Kenya and other Arid Lands (2012)

National Guidelines for Stakeholder Engagement and Free Prior Informed Consent

Consultation and Participation Plan for REDD+

*Climate funds and/or sources of climate finance:* Global Environment Facility, African Development Bank, European Union, Forest Carbon Partnership Facility, USAID, UNDP, DFID, SIDA, KFW, International Finance Corporation, JICA, DANIDA

## Endnotes

<sup>1</sup> <http://tebtebba.org/index.php/content/392-an-indigenous-peoples-policy-for-the-gcf> for a complete collection of Indigenous Peoples submissions to the Green Climate Fund: “Indigenous Peoples and the Green Climate Fund” Tebtebba Foundation, 2017 [http://www.indigenousclimate.org/index.php?option=com\\_content&view=article&id=251%3Aips-and-the-green-climate-fund&catid=3%3Anews&lang=en](http://www.indigenousclimate.org/index.php?option=com_content&view=article&id=251%3Aips-and-the-green-climate-fund&catid=3%3Anews&lang=en).

<sup>2</sup> [http://www.greenclimate.fund/documents/20182/751020/GCF\\_B.17\\_Inf.06\\_-\\_Readiness\\_and\\_Preparatory\\_Support\\_Programme\\_Progress\\_Report.pdf/54219665-621e-4cb1-a0ab-7d612f25f114](http://www.greenclimate.fund/documents/20182/751020/GCF_B.17_Inf.06_-_Readiness_and_Preparatory_Support_Programme_Progress_Report.pdf/54219665-621e-4cb1-a0ab-7d612f25f114).

<sup>3</sup> Country coordination and multistakeholder engagement are critical for the effective preparation of funding proposals, as well as ongoing monitoring and evaluation after approval. This process should be well aligned with relevant provisions of the Fund’s environmental and social safeguards, which require, among other things, that all projects/programmes will be designed and implemented to be consistent with the Fund’s requirements for stakeholder engagement and disclosure [http://www.greenclimate.fund/documents/20182/466886/Best\\_Practices\\_for\\_Country\\_Coordination\\_and\\_Multi-Stakeholder\\_Engagement.pdf/585960fa-8e8d-4078-a313-f5575db240f0](http://www.greenclimate.fund/documents/20182/466886/Best_Practices_for_Country_Coordination_and_Multi-Stakeholder_Engagement.pdf/585960fa-8e8d-4078-a313-f5575db240f0).

<sup>4</sup> Tebtebba Foundation – Forest Peoples Programme, letter to the Green Climate Fund Board, October 22, 2015 <http://www.forestpeoples.org/sites/fpp/files/news/2015/11/Letter-to-GCFBoard.pdf>.

<sup>5</sup> [http://www.greenclimate.fund/documents/20182/466886/Best\\_Practices\\_Guidelines\\_for\\_NDA\\_FP\\_Selection\\_and\\_Establishment.pdf/ad4834dc-53ff-4799-801e-1e1b9f1b41cf](http://www.greenclimate.fund/documents/20182/466886/Best_Practices_Guidelines_for_NDA_FP_Selection_and_Establishment.pdf/ad4834dc-53ff-4799-801e-1e1b9f1b41cf).

[http://www.greenclimate.fund/documents/20182/466886/Board\\_Decisions.pdf/5a7648df-ecf3-4ee2-a75b-5d031e06a03e](http://www.greenclimate.fund/documents/20182/466886/Board_Decisions.pdf/5a7648df-ecf3-4ee2-a75b-5d031e06a03e).

<sup>6</sup> [http://www.greenclimate.fund/documents/20182/751020/GCF\\_B.17\\_Inf.06\\_-\\_Readiness\\_and\\_Preparatory\\_Support\\_Programme\\_Progress\\_Report.pdf/54219665-621e-4cb1-a0ab-7d612f25f114](http://www.greenclimate.fund/documents/20182/751020/GCF_B.17_Inf.06_-_Readiness_and_Preparatory_Support_Programme_Progress_Report.pdf/54219665-621e-4cb1-a0ab-7d612f25f114).

<sup>7</sup> USD16 million are available for the GCF to support Readiness and Preparatory Support. As of May 2017, as many as 101 readiness requests have been approved in 75 countries, for a total of resources approved for readiness of USD29.5 million. As many as 56 Readiness requests have been disbursed and 46 countries have received Readiness funds for a total of USD6 million.

[http://www.greenclimate.fund/documents/20182/466883/Readiness\\_Support\\_State\\_of\\_Play.pdf/60519d7a-e334-40d5-a0ab-86f79b60e36d](http://www.greenclimate.fund/documents/20182/466883/Readiness_Support_State_of_Play.pdf/60519d7a-e334-40d5-a0ab-86f79b60e36d).

for a more detailed analysis of the status of Readiness Preparation programs and activities at the GCF (as of May 2017) please check [http://www.greenclimate.fund/documents/20182/751020/GCF\\_B.17\\_Inf.06\\_-\\_Readiness\\_and\\_Preparatory\\_Support\\_Programme\\_Progress\\_Report.pdf/54219665-621e-4cb1-a0ab-7d612f25f114](http://www.greenclimate.fund/documents/20182/751020/GCF_B.17_Inf.06_-_Readiness_and_Preparatory_Support_Programme_Progress_Report.pdf/54219665-621e-4cb1-a0ab-7d612f25f114).

<sup>8</sup> See box 1 for full spectrum of questions for the research.

<sup>9</sup> See box 2 for information on GCF engagement in the selected countries. For an overview of Readiness programs as of December 2016: [https://www.greenclimate.fund/documents/20182/490910/GCF\\_B.15\\_Inf.08\\_-\\_Progress\\_and\\_outlook\\_report\\_of\\_the\\_Readiness\\_and\\_Preparatory\\_Support\\_Programme.pdf/](https://www.greenclimate.fund/documents/20182/490910/GCF_B.15_Inf.08_-_Progress_and_outlook_report_of_the_Readiness_and_Preparatory_Support_Programme.pdf/).

<sup>10</sup> NDAs in the selected countries: MARENA (Ministry of Environment and Natural Resources) in Nicaragua, Ministry of Economy and Finance in Peru, The National Treasury in Kenya, Ministry of Planning and Investment in Vietnam, National Coordination of the Green Climate Fund in the Democratic Republic of the Congo (DRC).

<sup>11</sup> The Readiness preparation plan approved by the GCF included the following deliverables: Monitoring and Evaluation Framework, and Documentation on process of engagement of stakeholders. Among the goals: ensure transparency of GCF related processes and engage private sector, development partners, civil society and community beneficiaries.

<sup>12</sup> Initial best-practice guidelines for the selection and establishment of national designated authorities and focal points (GCF/B.08/45, Annex XIII, page 89). These also specify the nature and modalities of a consultative process that: “should aim to be an ongoing process rather than a discrete activity only occurring once without the possibility of follow up, continuous update and regular assessment of progress. 6. These consultative processes should be inclusive and seek to engage all relevant actors within the government, the private sector, academia, civil society and other relevant stakeholder groups or sectors.”



# DEMOCRATIC REPUBLIC OF CONGO

## Let the Indigenous Voice In

*by Adrien Sinafasi Makelo*

Executive Director, Dignité Pygmée, Democratic Republic of Congo



## Background

The United Nations Conference on Environment and Development held in Rio de Janeiro, Brazil in June 1992 was a turning point for indigenous peoples and their rights relating to the environment. The summit recognized the critical role the indigenous peoples play in managing the environment and the importance of their traditional knowledge and practices. It resulted in the Rio Declaration on Environment and Development, the Agenda 21 and the Forest Principles. Important legally binding agreements were adopted including the United Nations Framework Convention on Climate Change (UNFCCC), United Nations Convention to Combat Desertification and Convention on Biological Diversity. The agreement on the Climate Convention led to the Kyoto Protocol<sup>1</sup> and then to the Paris Agreement. A range of climate financing mechanisms were also set up, the latest and biggest being the Green Climate Fund (GCF).

In the context of the Global Partnership on Climate Change and REDD+ bringing together several indigenous peoples organizations (IPOs) from all continents, Tebtebba Foundation was able to access funds from Oak Foundation. This allowed it to set up the Indigenous Peoples' Global Advocacy Team on the GCF and Climate Finance to support national scoping studies on the GCF in five countries, including the

Democratic Republic of Congo (DRC). The grant further sustains capacity building activities to enable the indigenous peoples to understand, monitor and evaluate the entire GCF process to make sure their rights and interests are safe.

To date, indigenous peoples' advocacy is gradually bearing fruit. In its 15th meeting held in Apia, Samoa on December 13-15, 2016 the GCF Board adopted Decision B.15/01 on a future policy on Indigenous Peoples within the GCF. This is an important step forward for the improvement of the status of indigenous peoples within the GCF.

Indeed, while the GCF Board is made up of 24 members, there is no seat allotted for indigenous peoples, and the quota for civil society organization (CSO) observers and private entities is too small. Only two representatives from each cluster are allowed to attend the board meetings. The indigenous peoples are categorized under CSOs, and their issues can only be raised through the CSO observers who also do not hold the right to vote during board deliberations. This is atypical of other climate finance mechanisms. Such a lack of indigenous peoples' representation within the GCF process is a very worrying issue for indigenous peoples worldwide. The good news that brings a glimmer of hope is the GCF Board intends to develop a GCF policy on Indigenous Peoples.



**Box 1** GCF Board Decision B.15/01

The Board, having reviewed GCF/B.15/02 titled *'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 members and alternate members of the Board, and observer organizations in relation to the development of the GCF Indigenous peoples' policy by the sixteenth meeting of the Board.

## Introduction

The Democratic Republic of Congo took part in the Rio Summit and adheres to the Rio Convention agreements, including the United Nations Framework Convention on Climate Change that it signed on June 11, 1992 and ratified on January 9, 1995. The UNFCCC went into force on April 9, 1995 and 10 years after its ratification the DRC ratified the Kyoto Protocol in 2005 as a non-Annex I country. In 2001 the Minister of Environment, Nature Conservation and Tourism created the Directorate of Sustainable Development to implement the recommendations and resolutions of the World Commission on Sustainable Development and the Conference of the Parties (COP) to the conventions on biodiversity, climate change and desertification.

The DRC has been actively engaged with the Green Climate Fund from its inception, starting from the nomination of an alternative member of the GCF Board from DRC. The country then appointed a Focal Point (FP) on August 18, 2014. A year later on April 11, 2015, a National Coordination Team for the GCF within the Ministry of Environment, Natural Conservation, and Tourism was nominated as National Designated Authority (NDA)/Focal Point. The DRC has since continued to engage with the GCF in various ways.

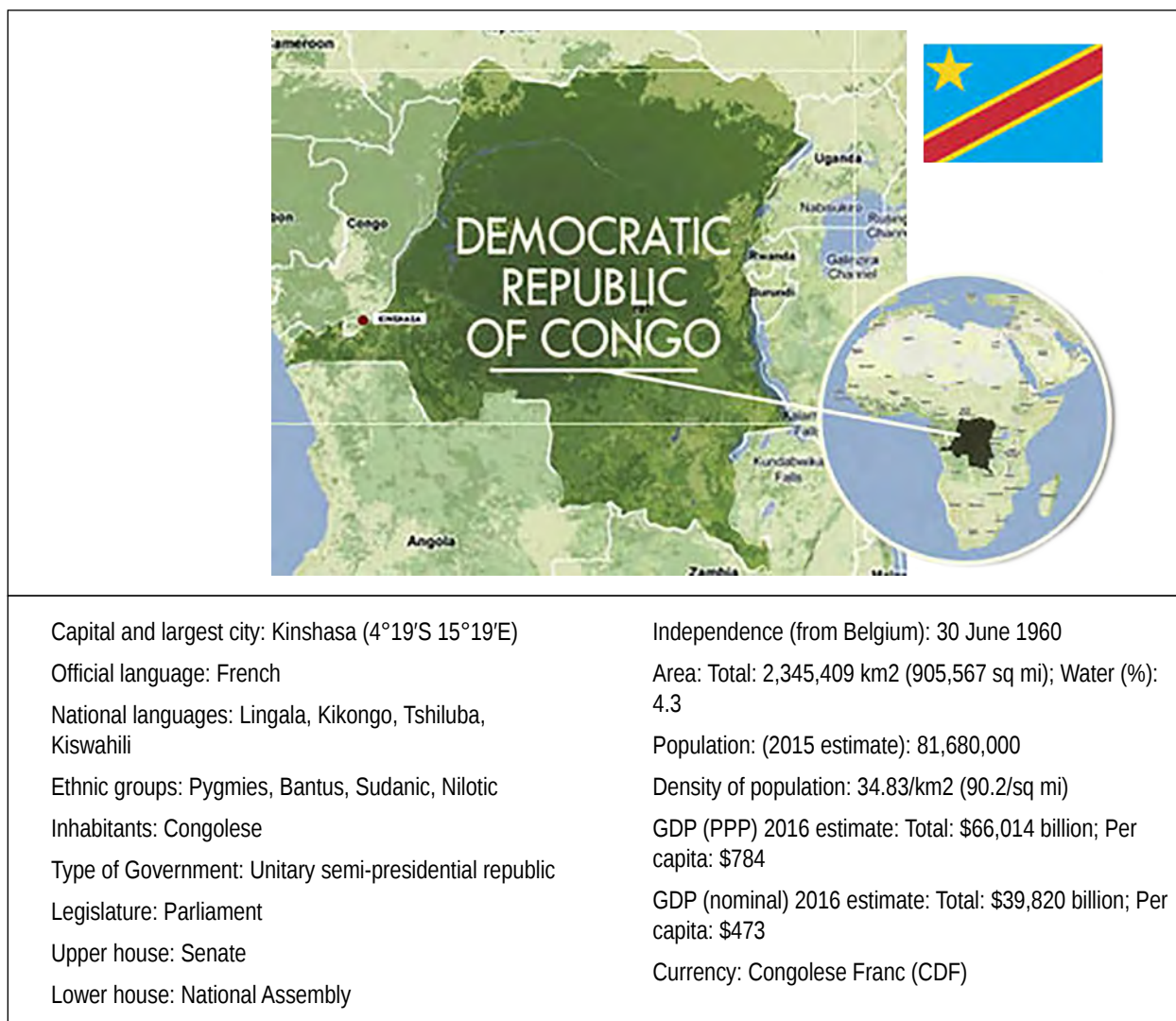
Upon requests and proposals, the GCF grants readiness support to countries through delivery partners, the NDAs or Focal Points.

The DRC already sent its proposal and received readiness funds that aim to help the country prepare to access investment funding from GCF. The grant will support (a) the strengthening of the NDA, (b) consultations with stakeholders across DRC, and (c) preparation of a country program as part of the framework for engagement with the Fund.

The scoping study on the Green Climate Fund in DRC collected data through literature review, analysis of official documents and websites, discussions in focus groups, and meetings and interviews with relevant persons to assess the readiness of DRC in the GCF process. The study further assessed a number of national climate policies, programs and initiatives, including laws, decrees or regulatory instruments, and based on the data analysis, has made recommendations aimed at improving the process.

## DRC Policies on Climate and Climate Related Funds

The DRC has a bicameral parliamentary system. The power to legislate belongs to the National Assembly (Lower House) and the Senate (Upper House).<sup>2</sup> The Constitution, adopted in 2006 and modified in 2011, is the highest ranking norm. It establishes a strict separation

**Figure 1.** Democratic Republic of Congo**Box 2** Laws Relating to Climate Change

Law No. 11/009 on the fundamental principles relating to environmental protection (Environment Protection Law 2011)

Law No. 14/011 of 17 June 2014 relating to the electricity sector (new Electricity Sector law)

Law No. 011/2002 of 29 August 2002 (Forest Code)

Law No. 007/2002 of 11 July 2002 (Mining Code) (with subsequent mining regulations enacted by Decree No. 038/2003 of 26 March 2003)

Law No. 11/022 of 24 December 2011 on fundamental principles relating to agriculture (Agricultural Code)

Law n°15/012 dated 1 August 2015 establishing a general regime for hydrocarbons (Hydrocarbons Law)

Law No 14/003 of 11 February 2014 on Nature Conservation



between “laws” and “regulations.”<sup>3</sup> After both Houses approve a law, it is sent to the President for its promulgation. The Constitutional Court can return to the Parliament a law considered unconstitutional to be modified and voted on again.

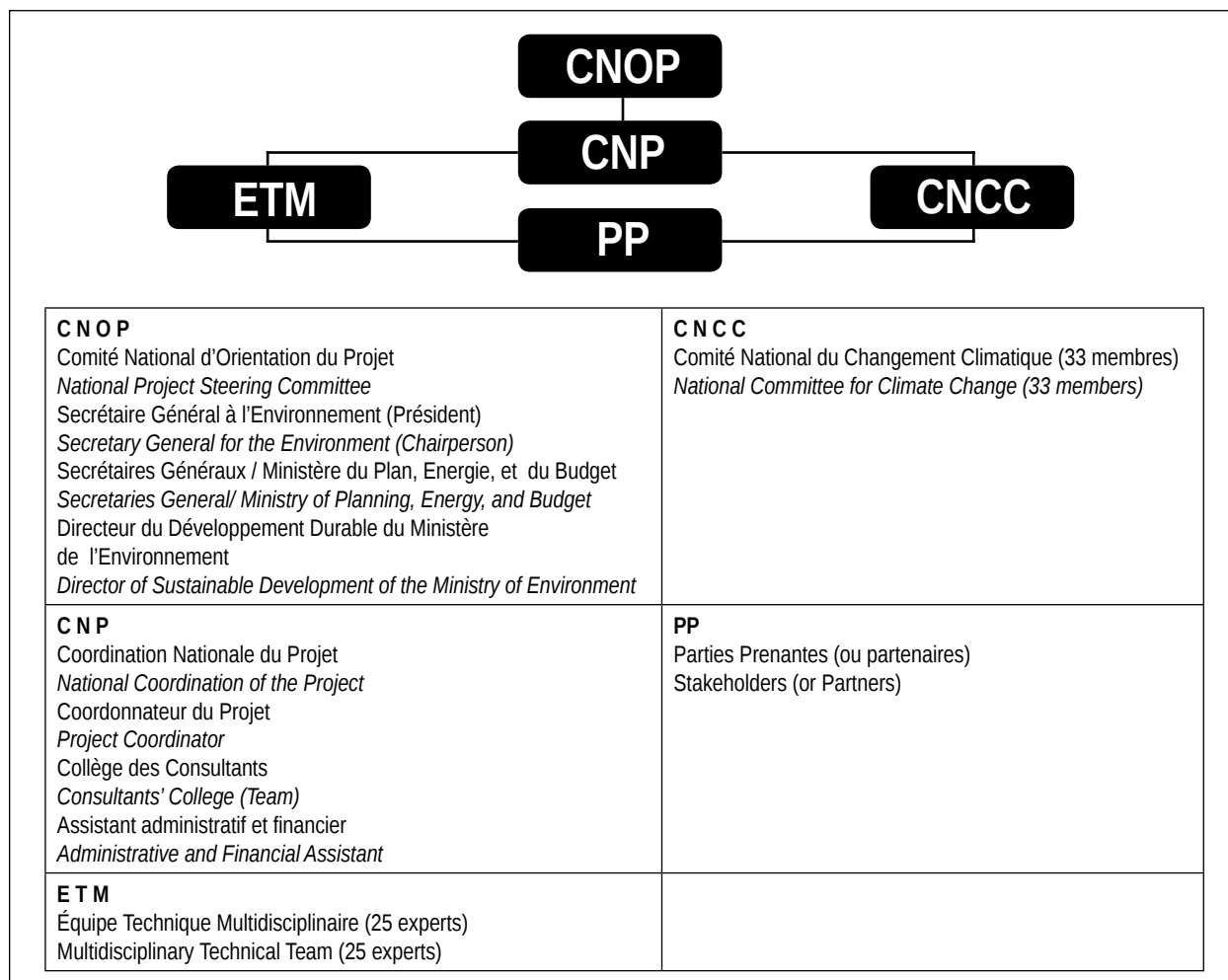
The DRC has no national climate change policy and strategy that guides the country’s efforts to address climate change vulnerability and adaptation. It currently relies on environment-related policies and action plans to implement climate change initiatives and activities in domains such as land use, land-use change and forestry (LULUCF), environment, agriculture, mining, energy and disaster risk management (DRM). Among the relevant ones are shown in Box 2.

Other related policies and actions are:

*National Environmental Action Plan:* In response to the Rio Summit Agenda 21 and with the help of the United Nations Environment Program (UNEP), the DRC adopted its first National Environmental Action Plan in 1997, addressing the country’s major issues related to poverty, population growth and environmental protection.

*National Adaptation Program of Action on Climate Change:* The main document concerning adaptation in DRC is the National Adaptation Program of Action (NAPA<sup>4</sup>) of 2006. The NAPA aims to provide a process for DRC as one of the Least Developed Countries (LDC) to identify priority activities that respond to its urgent and immediate needs to adapt to climate change and for

Figure 2. Organization Chart of DRC NAPA Team



which further delay would increase vulnerability and/or costs at a later stage.<sup>5</sup> The priorities focus on ensuring basic and fundamental services provision, such as electrification of urban areas and water supplies.<sup>6</sup>

*National Adaptation Plan Global Support Program (NAP-GSP):* This program, launched on June 14, 2013,<sup>7</sup> is a UNDP-UNEP program financed by the Least Developed Countries Fund (LDCF). The NAP-GSP assists LDCs to advance National Adaptation Plans (NAPs), which will bring greater focus and coordination to country-led efforts in disaster management and disaster risk reduction, and climate change adaptation.<sup>8</sup> Its support is based on three main pillars: institutional support, technical support, and knowledge brokering.

*DRC's Initial National Communication:* For its Initial National Communication in the implementation of the UNFCCC, the DRC has undertaken studies on the country's vulnerability and adaptation strategy in priority areas. Key vulnerabilities identified in the NAPA include "Water Resources", "Coastal Area", "Health", "Agriculture" and "Land and Ecosystem Degradation."

*DRC's Second Communication:* The Second Communication to UNFCCC lists a number of

priority adaptation options and measures in different sectors vulnerable to climate change (water resources, agriculture, LULUCF, sanitation, health and energy).

*National Plan for Disaster Risk Reduction:* The government is also required to take climate change adaptation measures and to adopt a national plan for disaster risk reduction<sup>9</sup> to manage and to coordinate national measures to protect people, infrastructures and national assets from the impacts of natural disasters.<sup>10</sup>

*Poverty Reduction and Growth Strategy Paper-2:* The GPRSP-2 (2011-2015) includes protection of the environment and fighting climate change as one of four main strategic pillars, along with strengthening governance and peace; diversifying the economy, accelerating growth and promoting employment; and improving access to basic social services and strengthening human capital. The first paragraph of the Executive Summary of the GPRSP-2 states: "The DRC's second growth strategy for poverty reduction aims to consolidate the achievements of the PRSP 1 and make growth, job creation and fight against climate change the main levers for a significant reduction in poverty..."

*REDD and LULUCF:*<sup>11</sup> The forests of DRC are the second largest in the world by area,

### **Box 3** GPRSP-2 (Pillar 4) to Address Climate and Environmental Challenges

1. In order to better protect the environment and combat climate change, the Government intends to place particular emphasis on: environmental management and protection, combating climate change, integration of the environment and climate change in sectorial strategies.
2. This fourth pillar aims at enhancing the unique natural capital of the DRC, whose exploitation depends to a large extent on the socioeconomic development of the country, especially the poorest, and is also threatened by climate change. To operationalize the growth strategy that reduces the pressure on the forest, the DRC has defined a preliminary *REDD+ 1 strategy* in which the country has the ambition of becoming a carbon sink by 2030. REDD+ objectives will be defined in an ambitious and realistic manner, in line with the socio-economic development objectives adopted in the GPRSP. The whole exercise will be defined through a participatory national process, involving all stakeholders with an important role for civil society, including local communities. Two main strategies are proposed: (1) *managing and protecting the environment while at the same time (2) fighting against climate change...*

extending over more than 130 million ha. Due to the pressures of agriculture and resource extraction, DRC is among the top 10 countries in terms of loss of forest cover (measured on an annual basis), with an estimated deforestation of more than 570,000 ha per year from 2011 to 2014 versus 350,000 ha per year from 2000-2010.<sup>12</sup> This presents a large challenge to the rural poor who continue to be dependent on forest resources for their livelihoods.<sup>13</sup>

## DRC National Architecture of GCF

The structure within the government to deal on climate matters is the Ministry of Environment, Nature Conservation and Sustainable Development. However, since climate change is a crosscutting issue some other ministries may intervene in some matters. These include, inter alia, the Ministry of Budget and the Ministry of Finance when it comes to financial matters with regard projects or programs to be funded by government funds. That is why some institutional arrangements of the management of climate issues or climate funds are inter-ministerial ones.

This is the case with the Steering Committee of the National Adaptation Program of Action, which has delegates from the Ministry of Environment, Ministry of Budget, Ministry of Planning and Ministry of Energy (see organization chart above). Similarly, the Steering Committee of the National REDD Fund (COPIL-FONAREDD) has as members at least six ministries (of a total 11 members), which are represented at the highest level (see organization chart).

Within the Ministry of Environment, Nature Conservation and Sustainable Development, the entity that actually manages the process is the National Coordination of the Green Fund for Climate. It is the appropriate structure of the Fund in DRC. The National Designated Authority is part of this coordinating body, which is made up of 11 persons.

**Table 1: Members of National Coordination of GCF**

No	Position
01	National Designated Authority (NDA)
02	Deputy National Designated Authority (NDA Assistant)
03	Principal Technical Assistant
04	Principal Studies Manager (Main Researches Officer)
05	Assistant Studies Manager (Researches Officer)
06	Assistant Studies Manager (Researches Officer)
07	Assistant Studies Manager (Researches Officer)
08	Studies Attaché (Researches Attaché)
09	Administrative Assistant of the National Designated Authority
10	Deputy Administrative Assistant of the National Designated Authority
11	Office Attaché (Attaché de Bureau)

## Climate Funds

Climate-related funds applicable to DRC include, inter alia, the Green Climate Fund, Global Environment Facility (GEF), Carbon Fund, Forest Carbon Partnership Facility (FCPF), Climate Investment Fund (CIF), Forest Investment Program (FIP), Central Africa Forest Initiative (CAFI), Congo Basin Forest Fund (CBFF), United Nations REDD Program (UN-REDD Program), Least Developed Countries Fund, among others.

On August 18, 2015, the DRC submitted formally its Indented Nationally Determined Contribution (INDC) to the UNFCCC, being the 56<sup>th</sup> Party to do so. The DRC's INDC sets a conditional emissions reduction target of 17% by 2030 compared to a "business-as-usual" scenario, but it is dependent on adequate support in the form of technology transfer, capacity development and financial resources. According to the INDC, DRC needs some US\$12.5 billion to achieve its mitigation goal to prevent just over 70 million metric tons of CO<sub>2</sub>-equivalent.

The DRC receives funding from a number of international funds, such as the Climate Investment Fund and the Forest Investment Program, as implemented by the African Development Bank (AfDB). Its investment plan was finalized in 2011, with the program receiv-

**Table 2: Funds received by DRC from climate-related funds**

<b>Green Climate Fund Readiness Grant for the Democratic Republic of Congo</b>	
Funder: GCF	Green Climate Fund
Thematic Focus	Readiness
GCF Funding (US\$)	300,000
Program: GCF Readiness Fund	National GCF Readiness Fund
Partner Approval Date	December 2015
<b>Integrated REDD+ Project in the Mbuji-Mayi/Kananga and Kisangani Basins</b>	
Funder	African Development Bank (AfDB)
Thematic Focus	Capacity Building / Institutional Strengthening and Governance Reform
CIF Funding (US\$ M)	22,300,000
Co-Financing (US\$ M)	12,700,000
Program: CIF Fund	Forest Investment Program (FIP)
Partner Approval Date	September 2013
<b>Forest-Dependent Community Support Project / Dedicated Grant Mechanism (DGM)</b>	
Funder	IBRD
Thematic Focus	Indigenous Peoples / Local Communities
DGM Funding (US\$ M)	6,000,000
Program: CIF Fund	Forest Investment Program (FIP) / DGM
Partner Approval Date	September 2013
<b>Improved Forested Landscape Management Project (IFLMP)</b>	
Funder	IBRD
Thematic Focus	Sustainable Forest Management
Funding (US\$ M)	37,000,000
Program: CIF Fund	Forest Investment Program (FIP)
Partner Approval Date	September 2013
<b>REDD Readiness – RPP Process</b>	
Funder	United Nations
Thematic Focus	REDD+ Readiness
UN-REDD Funding (US\$ M)	7,300,000
Program: UN-REDD Fund	UN-REDD
Partner Approval Date	2010
<b>REDD Readiness – RPP Process</b>	
Funder: The World Bank	IBRD
Thematic Focus	REDD+ Readiness
Funding (US\$ M): WB-FCPF	3,400,000
Program: Carbon Fund	FCPF Readiness Fund
Partner Approval Date	2010

<b>REDD Readiness – RPP Process</b>	
Funder: The World Bank	IBRB
Thematic Focus	REDD+ Readiness
Funding (US\$ M): WB-FCPF	5,000,000
Program: Carbon Fund	FCPF Readiness Fund
Partner Approval Date	2010
<b>Investments for implementation of ER (Emissions Reduction)</b>	
Funder: The World Bank	IBRB
Thematic Focus	REDD+ Readiness
Funding (US\$ M): CIF Funding	60,000,000
Program: CIF Fund	Forest Investment Program (FIP)
Partner Approval Date	2017
Funder	IBRB
Thematic Focus	Indigenous Peoples and Local Communities
Funding (US\$ M): CIF Funding	6,000,000
Program: CIF Fund	Forest investment Program (FIP)
Partner Approval Date	2010
<b>Supporting Integrated Climate Strategies / National Adaptation Programs of Action (NAPAs)</b>	
Funder: LDCF/UNDP/GEF	UNDP/GEF
Thematic Focus	Diseases
Funding (US\$ M): UN-REDD	0.2
Co-Financing (US\$ M)	0.02
Least Developed Countries Fund (LDCF)	Infrastructure / Climate Change Risk Management
Partner Approval Date	

#### **Box 4** DRC's Intended Nationally Determined Contribution

The DRC's INDC covers the energy, agriculture and forest sectors.<sup>14</sup> It focuses on following gases: carbon dioxide (CO<sub>2</sub>); methane (CH<sub>4</sub>); and nitrous oxide (N<sub>2</sub>O). According to the DRC's INDC, approximately US\$12.5 billion will be necessary to reach the country's mitigation goal, which, if achieved, will avoid just over 70 million metric tons of CO<sub>2</sub>-equivalent (MtCO<sub>2e</sub>).

On adaptation, the country estimates it needs about \$9.1 billion, describing the impacts of climate change on the country and particular vulnerabilities. The INDC describes the short- and long-term goals for adaptation as: securing livelihoods and ways of life of both rural and urban communities, managing forest resources rationally, and protecting vulnerable coastal ecosystems. After describing gaps and barriers, the INDC summarizes the country's needs for adaptation.

ing \$58.4M. The goal is to support the DRC's REDD+ initiatives, including the AfDB's project addressing deforestation and degradation in the Mbuji Mayi/Kananga and Kisangani areas. In addition, the Carbon Fund has approved an investment of \$50-\$70M for a new REDD+ pilot project in DRC to tackle deforestation around the capital, Kinshasa (where there is demand for charcoal, timber and food from a growing population), and simultaneously address climate change, poverty reduction, natural resource conservation and biodiversity protection. The DRC also participates in clean development mechanism (CDM) projects and is, since the end of 2012, also eligible for support under the European Union Emissions Trading System (EU ETS).

## Indigenous Peoples and Use of Climate Funds

### Green Climate Fund

The Ministry of Environment, Nature Conservation, and Tourism appointed a Focal Point (FP) for GCF on August 18, 2014. Since the FP's designation, the DRC through this ministry has kept engaging the GCF actively. On April 11, 2015, the same ministry nominated a National Coordination Team for GCF

as National Designated Authority (NDA) for DRC. The Team coordinator, the person who physically embodies the National Designated Authority, leads the team.

The DRC's National Designated Authority is placed within a ministry dealing with climate change-related priorities and development plans.<sup>16</sup> The "Initial best-practice guidelines for the selection and establishment of national designated authorities and focal points" (GCF/B.08/45, Annex XIII, page 89) provides that the NDA may be located within a ministry. Thus, the location of the NDA in DRC is consistent with the GCF guidelines.

The National Designated Authority has the following tasks:

- Preparing country requests to the GCF;
- Operationalizing GCF in DRC;
- Consulting stakeholders on climate change country priorities;
- Planning country readiness activities;
- Interacting with the World Bank as the delivery partner for the readiness program;
- Interacting with programs/projects developers on climate change mitigation/adaptation;
- Providing No-objection on programs/projects to be funded by GCF;
- Submitting projects/programs and correspondences to GCF.

### Box 5 The Green Climate Fund

The GCF is a fund within the UNFCCC framework set up during the Cancun COP14 in 2010 as a mechanism to assist developing countries in adaptation and mitigation practices to counter climate change. It was adopted as a UNFCCC financial mechanism at the end of 2011 and became fully operational in 2015. The GCF aims to make an ambitious contribution to attaining the mitigation and adaptation goals of the United Nations by offering grants and concessional loans using executing and intermediation capacities of partner organizations to work as implementing entities or intermediaries. It works also through National Designated Authorities (NDA) of countries.

The Board has been insisting on "country ownership" and "country-driven approach" as core principles of the Fund. The indigenous peoples worldwide are concerned and still fearing that their rights may be undermined and trampled in national level implementation of GCF programs. The new climate financing mechanism meant to be part of the solution to the climate issue may become a new problem to harm indigenous peoples. However, as indigenous peoples have been doing for decades, they are actively struggling for their rights within the GCF.<sup>15</sup>



## Indigenous Peoples' Engagement with DRC Government

The Pygmy indigenous peoples in DRC have maintained a friendly relationship with the government as a whole (the Presidency, the Office of the Prime Minister and several relevant ministries).<sup>17</sup> They have closer relations with the government through the Ministry of Environment, Nature Conservation and Sustainable Development with whom a very strong partnership has grown and consolidated in more than about 13 years. The Ministry of Environment is responsible for indigenous matters, a decision made in 2005 at a meeting among the government (through several ministries) and CSOs and indigenous peoples' representatives in the presence of the World Bank (Kinshasa Representation), UNDP, FAO, UNESCO and some international NGOs. It was the consensus that indigenous matters should be in the hands of the Ministry of Environment, being the one that deals with forests and thus relevant to protect the rights of the Pygmies over their forests (forest lands) as forest-dependent peoples.

Since then, an active collaboration has grown between indigenous peoples and the government through the Ministry of Environment. Indigenous peoples' delegates who need official accreditation to attend international meetings (COPs on climate change, environment, biological diversity) get it through this ministry. However, it should be noted that frequent government reshuffles occurring over the last years which also affected the Ministry of Environment do not favor a long personal relationship between indigenous peoples and particular ministers. Just as soon as the indigenous peoples and a minister start getting to know each other and to become friends, a sudden reshuffle occurs and new people lead the ministry with whom new relations have to be forged. Such a situation is not favorable to sustaining common understandings and collaboration.

## Indigenous Peoples' Engagement with NDA

Before the designation of a GCF Focal Point who later became the NDA, it was the Focal Point of the Clean Development Mechanism who

managed the GCF. The old GCF team collaborated with the indigenous peoples, particularly under the lead of the Deputy Coordinator who maintained good relations with the indigenous peoples even after the designation of the new NDA. But he resigned his position at the national level when he was nominated for a position to the GCF Board. Since then, relations between the current GCF team and the indigenous peoples, although still "friendly," have not been as warm at the GCF National Coordination level, though not at the Ministry level.

This "distance" even looks like outright exclusion of indigenous peoples from the GCF process, which has raised serious concern. Indeed, despite the readiness proposal envisaging the NDA to work for awareness raising and consultations of all stakeholders, the indigenous peoples find that since the proposal's preparation to date, they have not been part of any process. The 2-year Grant Agreement was signed in January 2016 and the related funds have been received, but so far the NDA has not invited nor received any indigenous peoples' delegation to his office: either to contact them as an important component of stakeholders in the national GCF process, or to share with them information on the evolution of the process, or to consult with them to get their views in relation to the process, or to plan activities with them. Such an "exclusion approach" from the current GCF team is atypical of what has been maintained for many years in terms of collaboration with those who had to manage national climate processes linked to the Ministry of Environment, such as REDD+, FIP, CAFI, GCF, among others.

The "Initial best-practice guidelines for the selection and establishment of national designated authorities and focal points" (GCF/B.08/45, Annex XIII, page 89) provides that the NDA has familiarity with *relevant institutions and stakeholders* in the countries (including contacts with civil society organizations). On this point, indigenous peoples note that they have never been invited or received by the NDA. Thus, they assume that he is not familiar with all relevant stakeholders to the GCF process.

A positive note however is that some of the GCF National Coordination members are open to indigenous issues. During the visits

Dignité Pygmée (DIPY) organized last year to some ministries and other entities related to the GCF process and climate change (mainly within Ministry of Environment), the DIPY team was able to have open and constructive discussions with some of the members of the GCF National Coordination (in the absence of the Coordinator/NDA). Thus, there is hope that things can change towards a better collaboration between GCF National Coordination (under NDA leadership) and all stakeholders in the GCF process, without discrimination. The indigenous peoples have a crucial role to play in the success of the GCF process both in the DRC and internationally. That is why they warmly welcome the GCF Board Decision B.15/01 aiming to put in place a policy on indigenous peoples within the GCF. Such a policy will inform and guide national GCF processes around the world.

### GCF Accredited Entities

The GCF works through a wide range of Accredited Entities to channel its resources to projects and programs. Such entities have different characteristics. They can be private or public, nongovernmental, subnational, national, regional or international, as long as they meet the standards of the Fund. Accredited Entities carry out a range of activities that include development of funding proposals and management and monitoring of projects and programs. Countries may access GCF resources through multiple entities simultaneously.

The DRC has currently 13 accredited entities:

1. Agence Française pour le Développement (AFD)
2. African Development Bank (AfDB)
3. World Bank (WB)
4. Development Bank of Southern Africa (DBSA)
5. International Union for Conservation of Nature (IUCN)
6. Kreditansalt Für Wiederaufbau (KFW)
7. World Food Program (WFP)
8. United Nations Development Program

(UNDP)

9. United Nations Environment Program (UNEP)
10. International Finance Corporation (IFC)
11. Food and Agriculture Organization (FAO)
12. Conservation International (CI)
13. World Wildlife Fund (WWF)

It should be noted, however, that entities accredited outside the DRC may also work with project holders in the country.

### Readiness

The DRC submitted its readiness proposal to the GCF on June 19, 2015 through the National Designated Authority, who is also the Director and Country Coordinator for the GCF; he is from the Ministry of Environment, Nature Conservation and Sustainable Development. The Readiness Proposal is a 7-page document written in English. The total amount requested is \$300,000 for a duration of 2 years (15 November 2015 - 14 November 2017).

*Targeted readiness domains:* The NDA chose the following two domains (out of 4 in the application form): (1) “Establishing and strengthening National Designated Authorities (NDAs) or Focal Points”; (2) “Strategic frameworks for engagement with the Fund, including the preparation of country programs.”

*Information accuracy within the document:* In essence, the document justifies the fund request by the need for capacity building within the Ministry of the Environment in general and within the team of the National Designated Authority in particular and also for stakeholder consultations.

While it is generally quite normal to mention lack of experience with regard to engagement with the GCF financial mechanism as it is a new process that requires some capacity building, the proposal however contains some inaccurate statements. In paragraph 2 under the heading “Request Summary” the document reads: “*The newly created Ministry of Environment and*

*Sustainable Development (where the NDA is hosted) lacks both human and financial capacity. Its staffs lack relevant technical and operational skills as they are new to the job, making it difficult to effectively engage with the Fund.”*

On page 3 (of 7) under A.2: Justification for request, point 1, it is stated,

*The Ministry of Environment and Sustainable Development (MESD), which hosts the NDA, has significant capacity challenges arising from its **institutional evolution. It used to be just a division in charge of environment** where the government would deploy staff, often not suitably qualified, as the sector had a low profile in government. With the increasing awareness of the importance of environment issues, **the division was upgraded into a Ministry** and its non-performing staffing complement were de facto moved to the newly created ministry, with some occupying positions of directorship.*

Firstly, the DRC Ministry of the Environment is not newly created; it has been around for decades, known under the appellation “Ministry of Environment, Nature Conservation and Tourism (MECNT).” The only thing that changed is the deletion of “Tourism” and the addition of “Sustainable Development” in the appellation. Furthermore, the Directorate of Sustainable Development (which was created in 2001 by the then Ministry of Environment) was recently integrated as a full portfolio within the Ministry of Environment. This is different from saying that a “new Ministry was created.”

Secondly, not all of the staff can be wanting in skills. There are competent people inside and even if newly hired in the Ministry unless the standards and conditions of recruitment are poor and questionable. When the proposal was being prepared (before June 2015), the Deputy Coordinator then was skilled enough as well as other staff. Thus, the description of weakness in terms of capacity within the Ministry and NDA Team is too exaggerated.

*Transparency and accountability:* Among the core principles outlined by the GCF are trans-

parency and accountability. Transparency carries with it the idea of putting things in the clear or in the light, without concealing or making them obscure. Transparency necessarily involves the sharing and dissemination of genuine and accurate information about what recipients have a right to know. This means that the unwarranted retention of information or its manipulation to alter it is a breach of the principle of transparency. On the other hand, accountability applies when someone is aware of its obligations that he is managing something that belongs to others that he must report on in a timely manner. Accountability carries with it the idea of communicating what is done while being willing to respond to any observations and assessments from those who have the right to provide inputs to allow things to progress and succeed.

Based on the “Initial best-practice guidelines for the selection and establishment of national designated authorities and focal points” (GCF/B.08/45, Annex XIII, page 89), the NDA should have “Capacity to facilitate and coordinate country coordination mechanisms and multi-stakeholder engagement for country consultations; and also be able to disseminate in local languages key operational procedures of the Fund, including its environmental and social safeguards and no-objection procedure.” In addition, paragraph 10 of the same document states, “The NDA or focal point should also retain an overview of all funding proposals relating to the country and facilitate available information on the projects and programs through appropriate media and relevant networks, including in local languages.”

In the case of the DRC’s National Designated Authority, transparency would mean being able to share timely genuine information, and accountability, being able to report his activities regularly to all stakeholders. Unfortunately, these have been lacking since the beginning of the drafting and development of the readiness proposal, and to date, a major shortage of information still exists with regard to the implementation of the readiness phase of the GCF process. Even the website of the National Coordination of the GCF, which is also the site of the NDA, has to date very few posts and reports on activi-

ties. Only three activities have been posted since October 2016, among these the official launch of activities of the Green Climate Fund organized on 6 October 2016.

*Proposed Activities:* Two of four listed activities in the application form were chosen by the NDA (see Box). These activities only concern the work of the NDA: (a) capacity building and (b) development of programs for GCF investments in the DRC.

Given that the second activity concerns development of investment programs for DRC, it would be appropriate that the perspectives of indigenous peoples are properly reflected in these programs. For that purpose, indigenous peoples should be involved in their design. Otherwise, without their participation, there is no guarantee that such programs would take into account their rights and interests and that these would not pose risks and threats to their rights and

### **Box 6** Description of Activities in Readiness Proposal

The initial phase of the Readiness and Preparatory Support Program will focus on the standardized readiness package for:

- (i) *the strengthening of the National Designated Authority - NDA (activity 1), and*
- (ii) *the development of strategic frameworks for engagement with the Fund, including the preparation of a country program (activity 2).* These activities are described below:

#### **Activity 1: Strengthening the NDA**

Recruiting national and international experts (with good command of English language) as required to provide technical and management assistance to the NDA in order to:

- a. Carry out administrative and planning tasks, with the support of the CSE's Financial and Human Resources Specialist (requested);
- b. Create webpages on the NDA's website with information on the GCF in French;
- c. Build the knowledge and capacity of the national coordination team for the GCF
- d. Organize an awareness raising workshop with relevant key stakeholders, government and non-state actors (civil society, academia and private sector) on the GCF accreditation process
- e. Draft a country program (see activity 2 below);
- f. Provide logistical support (e.g., travel arrangements) in a country comparable in size to Western Europe.

The NDA may also add other activities in accordance with the Fund's defined scope of work in the Standardized Package for NDA or Focal Point Strengthening.

#### **Activity 2: Strategic Engagement Framework with the Fund**

The NDA will develop a country program by undertaking a number of activities, including:

- a. Organizing executive public sector stakeholders consultation and sensitization meetings including Ministries of Environment and Sustainable Development, Industries, Trade, Mining, Oil, Energies and Water Resources, Planning, Finances, Parliament, Senate, and Presidency with a view to securing their buy-in and identifying transformational investment opportunities in accordance with the Fund's *Initial results management framework*;
- b. Organizing trainings, workshops and consultations with relevant non-state actors from the civil society (including reps of indigenous people), academia and private sector (micro, small, medium enterprises) on GCF-related issue, including consultations on the development of a country program;
- c. Organizing dialogues with financial institutions that may be interested in seeking accreditation by the Fund to implement DRC's programming priorities with respect to the Fund (Central Bank, commercial banks, micro finance, etc.)
- d. The identification of a comprehensive portfolio of projects and programs to be submitted to the Fund for financing, building on on-going processes for National Adaptation Program, Nationally Appropriate Mitigation Actions, and Low Emission Development Strategy (LEDS) development, in accordance with the Fund's *Initial investment framework*. The NDA will develop a plan to manage any conflict of interest that may arise in delivering this particular activity.

The NDA may add other elements of the country program and will also undertake stakeholder consultations in a manner that is consistent with the Fund's defined scope of work in the Standardized Package for Country Strategic Frameworks.

wellbeing. Therefore, this process should be participatory and inclusive. Unfortunately, until now the process is going on as if the indigenous peoples in DRC did not exist and were not part of the stakeholders. However, the Ministry of the Environment has always considered the indigenous peoples as key stakeholders within other processes and programs.

*Status of readiness phase:* As stated in the section on transparency and accountability, the National Coordination (under NDA leadership) does not communicate enough on the progress of the readiness phase of the national GCF process, either in the media or in stakeholders' updating meetings. Furthermore, even the National Coordination's website does not post sufficient information on the ongoing activities. Thus, it is very difficult to know exactly what is being done and what is the status of the process.

## Perspectives of Indigenous Peoples

Since last year DIPY has been undertaking networking activities with many other CSOs, including indigenous peoples organizations on the topic of the Green Climate Fund. A 3-day networking meeting was held, gathering about 100 actors from civil society, and consultation meetings were also held with Pygmy communities in Kinshasa (134 attendees) and in Inongo (169 attendees) on the GCF. More than 300 Pygmies heard about the process and its potential challenges and opportunities. Hopefully, each of them would have talked with others about the GCF.

Nonetheless, such activities are not sufficient to get a better understanding and appreciation of the process in order to be able to engage with it. Thus, it is of serious concern that the official channel, the NDA and National Coordination, do not do enough to disseminate the information. Given the situation, the indigenous peoples organize themselves to have regular updates. The Indigenous Peoples' Global Partnership on Climate Change, Forests and Sustainable Development and REDD+ through the Indigenous Peoples' Global Advocacy Team on the GCF and Climate Finance under Tebtebba's

leadership, is able to disseminate all the updates on the GCF for all the indigenous peoples organizations linked to the network. The question is how the recipients use and disseminate these information to all, including the less educated. There is a need to come up with ways to periodically relay the information received from the Global Partnership according to the national and regional contexts.

## Challenges and Opportunities

**I**n reviewing the evolution of the readiness phase of the GCF process in the DRC, there are challenges that, if not addressed in a timely manner, could compromise the success of the process.

*Little experience of National Coordination:* The lack of experience of the National Coordination team of the GCF in the DRC with its Coordinator also serving as the National Designated Authority is a possible bottleneck that can disturb the smooth running of the GCF process. This observation corroborates what the NDA has cited in the Readiness Proposal sent to the GCF as basis for the request for a preparation fund. Indeed, in justifying the request of \$300,000, the NDA stressed the weaknesses of the National Coordination team. Activity 1 of the proposal is dedicated to building the capacity of the NDA team. Readiness funds are therefore largely allocated to capacity building. This capacity building is expected to last two years from November 2015 to November 2017. Thus, if the result of the capacitation period that is to end in about five months (from writing of scoping study report) is inconclusive with capabilities not having been strengthened, then there may be a problem in moving the process forward. Moreover, signals show that performance is wanting. Hopefully, the term can be deferred and counted from January 2017 when the contract was signed.

*Non-compliance with guidelines:* Our analysis of the performance of the National Coordination team unfortunately showed that the standards such as the GCF guidelines were not followed.



Otherwise, there would have been no deplorable lack of transparency and accountability, of communication, of involvement of stakeholders, and even of achievements in the preparatory phase of the process. We are awaiting the adoption of a GCF policy on indigenous peoples. Will the standards set out there be respected?

*Customizing the process:* Often when a process is still new, the one who starts it runs the risk of falling into a trap of seeing that it is he who embodies the process. The danger is that in the long run he may take the process as a private matter and at that point no longer sees the relevance of being accountable to others. We hope this will not be the case for the GCF process in the DRC. But the lack of communication and retention of information on the process are not a good sign of accountability.

*Communication deficit:* This is a serious challenge with regard to the GCF process in the DRC. The lack of experience may make the National Coordination not up to par on its responsibility to communicate on its work and that the process involves many stakeholders for whom and with whom it must share information.

*Deficit of accomplishments:* Our analysis also showed that the National Coordination's website and Facebook account reported only three activities since October 2016 when shortly after it received the money for the GCF activities. This raises several questions. Why were there no reported activities? Is it because nothing was done? Or again, is there a misconception that reporting what they did or not reporting or posting it on the website (or social networks) are the same? Is it due to a lack of experience? If not, then it may mean no activity was done, which is very serious especially when DRC received the money to do the activities.

*Exclusion of Pygmy indigenous peoples from process:* This is a serious challenge especially as the cause of exclusion is not widely known. Given that Pygmy indigenous peoples are well known stakeholders to the process from the international level, we must note that this is a denial of rights regardless of what the NDA may be used to justify this exclusion. There is not much choice except to struggle to wrest these rights because they are not a gift.

*What safeguards should be put in place:* To ensure that all stakeholders participate and have information in real time to avoid the process being perceived by some people as "their personal process," it is important to restructure the National Coordination by adding representatives of all the stakeholders. Having almost the status of a steering committee, the National Coordination should be inclusive, i.e., to include representatives of all the stakeholders. The steering committee of the REDD National Fund in DRC is composed of representatives of several stakeholders except, unfortunately, indigenous peoples.

*GCF - a fund for investment:* Being a fund specifically dedicated to investments, the GCF provides a great opportunity for indigenous peoples' self-determined development and well-being. This self-determined development will not come from "gifts" of people of good will but through investment projects. Dignité Pygmée has always believed in the strategy of doubling the advocacy of concrete actions on the ground to improve the socioeconomic conditions of communities. These communities have abundant natural resources: non-timber forest products, ecological agriculture, handicrafts, traditional medicine, among others, that can be valorized to bring economic benefit. In order to achieve added value for these products, large local investments (not foreigners who come to destroy) are needed. To date, it is the GCF that could provide an opportunity for culturally appropriate, economically viable and environmentally sustainable investments, that is, if direct access to GCF funding becomes a reality soon.

*GCF - a climate fund:* The GCF remains above all a fund to counter climate change. There were previous other climate funds, such as the Carbon Fund, Climate Investment Fund, GEF and others but all were small compared to the GCF. Thus, if the GCF achieves its mobilization targets of hundreds of billions of dollars, there would be a greater and more visible impact on the climate. For countries such as the DRC, the GCF is an opportunity to conserve forests and in preserving carbon stocks and biodiversity (REDD+).



## Recommendations

### 1. To the GCF Board

**Indigenous Peoples' Policy:** As the indigenous peoples have repeatedly requested, and as the Board's Decision of December 2016 provided, we reiterate our request and encourage the Board to:

- Adopt the Fund-wide Indigenous People's policy, while taking into account the contributions (inputs) that indigenous peoples worldwide submitted to the GCF Secretariat;
- Consider the possibility to appoint an Indigenous Peoples Focal Point within the Secretariat.

**Clarifying the country-driven approach:** The principle "country ownership" makes sense. But it could be interpreted improperly to serve as an excuse for the exclusion of certain stakeholders less influential or less dominant (such as Pygmy indigenous peoples in DRC). Hence, we recommend to the Board to:

- Adopt a guideline that clarifies the concept "country ownership" and directs the NDAs to rigorously ensure that all stakeholders, whatever their status in the country, are fully and effectively involved in the national processes.

**Direct access to funding:** While welcoming the establishment by the Fund of a direct access modality to enable national and subnational organizations to receive funding directly rather than only through international intermediaries, we urge the Board to:

- Finalize the remaining arrangements (if any) to allow the operationalization

of the established direct access modality while simplifying the procedures to enable indigenous peoples to enjoy the modality;

- Advise the NDAs and IEs to ensure that indigenous peoples can access financing directly.

### 2. To the National Designated Authority of the DRC

**On exclusion of Pygmies from DRC's GCF process:** Expressing concerns about the exclusion of the Pygmy indigenous peoples from the national Green Climate Fund process in DRC; recalling the long, active and respectful partnership between the DRC's Pygmy indigenous peoples and the Ministry of the Environment, Nature Conservation and Sustainable Development, the ministry responsible for the Pygmy indigenous' issues within the government of DRC; for the purpose of restoring peace among all stakeholders in the process, we recommend to:

- Respect Pygmy indigenous peoples as key stakeholders in the GCF process in DRC by consulting them and ensuring their full and effective participation in the design and development of programs, some of which will definitely impact on their lives;
- Improve, by using a range of means, the communication on the progress of the readiness phase of the GCF process in DRC to all stakeholders in general, and to the Pygmy indigenous peoples in particular.



## Endnotes

<sup>1</sup> The Kyoto Protocol is an international treaty, which extends the 1992 UNFCCC that commits State Parties to reduce greenhouse gas emissions, based on the premise that (a) global warming exists and (b) human-made CO<sub>2</sub> emissions have caused it.

<sup>2</sup> The National Assembly is made up of 500 members elected from open lists using proportional representation (since 2006), while the Senate has 108 members elected by provincial assemblies (since 2007). Members of both National Assembly and Senate are elected for five-year terms.

<sup>3</sup> Laws determinate general principles and rules in domains explicitly quoted in the Constitution, such as civil or economic rights, property rights, forest management, protection of the environment, energy, etc. On the other hand, regulations (decrees) establish

rules outside of the 'law's domain' determined by the Constitution or specify the implementation of the laws.

<sup>4</sup> National Adaptation Programs of Action (NAPAs) provide a process for Least Developed Countries to identify priority activities that respond to their immediate needs to adapt to climate change, ultimately leading to the implementation of projects aimed at reducing the economic and social costs of climate change.

<sup>5</sup> It calls for a multidisciplinary approach combining expert opinion with consultations with civil society and NGOs; it covers adaptation in both rural and urban areas.

<sup>6</sup> In addition, the UNDP also financed a Climate Adaptation Program 2010-2012, which mainly aimed at strengthening the administrative capacity of adaptation management and enabled development of longterm planning mechanisms to cope with uncertainties related to climate change impacts.

<sup>7</sup> The partners of the program are : World Health Organization (WHO), UN Food and Agriculture Organization (FAO), International Fund for Agriculture and Development (IFAD), United Nations Institute for Training and Research (UNITAR), Global Environment Facility (GEF), United Nations Framework Convention on Climate Change (UNFCCC), Global Water Partnership (GWP), German Society for International Cooperation (GIZ), Program of Research on Climate Change Vulnerability, Impacts and Adaptation (PROVIA), United Nations Office for Disaster Risk Reduction (UNISDR).

<sup>8</sup> The NAP will add to the strategic suite of other sectorial plans and policies for countries that help to guide internal development resourcing mechanisms as well as those provided by donors.

<sup>9</sup> DRC is exposed to a number of hazards including volcanic eruptions, earthquakes, flooding, and drought. Vulnerability to these hazards is exacerbated by poverty and political insecurity. Since 1997 countless millions of people have been plunged into acute vulnerability due to displacement, loss of economic livelihoods, and a destroyed social fabric. Two volcanoes of the Virunga volcanic chain are among the most active volcanoes in the world and pose a direct threat to more than one million inhabitants in the city of Goma and surroundings areas. In 2002, a volcanic eruption covered 13 percent of the city's surface area and destroyed 80 percent of the local economy. The DRC also experiences extreme weather and climate variability, resulting in high exposure to floods and droughts. The impacts of climate change are projected to increase both the frequency and severity of these events. The Government of the DRC is currently working with the United Nations Development Program (UNDP) to develop the country's first Disaster Risk Reduction Policy. The country's latest Poverty Reduction Strategy (2013) includes climate adaptation as one of its core pillars and disaster risk management (DRM) considerations. However, there is no tracking of the government's budget for disaster risk reduction. To further advance the DRM agenda, priorities include (a) Improving capacity to monitor, and forecast hazards and transfer improved knowledge into decision making and planning; (b) Strengthening early warning systems and contingency planning; and (c) Strengthening institutional capacity for DRM.

<sup>10</sup> At a country level, GFDRR's ongoing efforts are helping the Government of DRC advance DRM by (a) Strengthening institutional capacity to better manage natural disaster risk, particularly those related to volcanic activities, in the region of Goma through improved risk assessment, contingency planning, and community preparedness; and, (b) Improving the quality of hydromet services through modernized observation and forecasting infrastructure, better information service delivery, and stronger institutional and regulatory capacity. Both of these engagements are in the early stages, and GFDRR anticipates continued demand from the Government of DRC in these areas.

<sup>11</sup> LULUCF is a greenhouse gas inventory sector that covers emissions and removals of greenhouse gases resulting from direct human-induced land use, land-use change and forestry activities.

<sup>12</sup> As per a new study, from 2011, the rate of deforestation in DRC has increased: "*The Democratic Republic of Congo (DRC) lost an average of 0.57 million hectares of forest per year, and the rate of forest loss between 2011 and 2014 increased by a factor of 2.5, according to a new study by Global Forest Watch, Blue Raster, Esri and University of Maryland released on Tuesday, February 7, 2017*". The study covers the period 2000 to 2014.

<sup>13</sup> Household-scale slash and burn agriculture and exploitation of wood for fuel wood (including charcoal) and timber appear to be the major drivers of deforestation and forest degradation, including in the eastern conflict zones, where four of the DRC's national parks are found. More than half of DRC's territory is now covered with mining and extractive concession licenses, which overlap with one another and also with protected areas. Also, less than a third of timber is processed 'in-country', meaning that significant value added for the tropical hardwoods is captured outside DRC. In addition, many concession licenses are poorly negotiated and provide only limited revenues for central government.

<sup>14</sup> It's to be noted that the industrial processes and waste sectors have minimal greenhouse gas (GHG) emission levels in DRC, as a Least Developed Country.

<sup>15</sup> Their previous efforts made it possible to get some windows opened for indigenous peoples to engage in funding mechanisms such as GEF, FCPE, CIF/FIP and UN-REDD, etc.

<sup>16</sup> The "Initial best-practice guidelines for the selection and establishment of national designated authorities and focal points" (GCF/B.08/45, Annex XIII, page 89) states, in para 3, "The NDA or focal point will likely be placed within a ministry or authority conversant with the country's national budget, economic policies and their interrelation with climate change-related priorities and development plans."

<sup>17</sup> These included the Ministry of Human Rights, the Ministry of Justice, the Ministry of the Environment, Nature Conservation and Tourism, the Ministry of Social Affairs and National Solidarity.



# KENYA

## An Indigenous Peoples' Perspective of GCF Readiness Support

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## Background

There is general global recognition that climate change constitutes the greatest environmental challenge facing the world in this century.<sup>1</sup> “Climate change is not only a threat to the achievement of sustainable development and poverty reduction but has potential to reverse the modest gains that we have achieved towards attaining the Millennium Development Goals (MDGs).”<sup>2</sup>

Although Kenya has little historical or current responsibility for global climate change, and emissions are low relative to global emissions, the country is highly vulnerable to the impacts of climate change. A combination of unsustainable resources use, inadequate national policies and intensifying climate change threatens to overwhelm the existing adaptive capabilities. These changes have many adverse effects and impacts on all sectors of the economy and local livelihoods practices.

Over 80% of the country’s population derive their livelihoods mainly from agricultural related activities (Kenya Agricultural Research Institute, 2012). This heavy reliance on a rain-fed agriculture sector makes Kenya vulnerable to the effects of climate change. Periodic floods and droughts already have major costs to the economy and negative implication on economic growth (Stockholm Environment Institute, 2009). Therefore, climate change and its variability pose major threats to the environment,

to economic growth, and to sustainable development in Kenya. Access to resources to mitigate and adapt to impacts of climate change becomes a critical question.

Climate financing is central in efforts to address the challenge of climate change. Climate financing is a commitment enshrined in the United Nations Framework Convention on Climate Change (UNFCCC Art. 4.3) from developed to developing countries for low-emission climate-resilient development pathways, based on the principle of equity and common but differentiated responsibilities and respective capabilities (UNFCCC, Art. 2).

The Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC AR-5) warned that delaying ambitious action now, including in level of climate change financing, to limit global warming to below 2°C and to address adaptation will result in massive cost increases in the future. Climate finance refers to the financial resources mobilized to help developing countries mitigate and adapt to the impacts of climate change, including public climate finance commitments by developed countries under the UNFCCC.

Global climate finance architecture is complex with finance channeled through national, bilateral and multilateral funding arrangements. Under UNFCCC, there are two main operating



entities of the Financial Mechanism: the Global Environment Facility (GEF) and the Green Climate Fund (GCF). Three other specialized funds—the Least Developed Countries Fund and the Special Climate Change Fund hosted within the GEF and the Adaptation Fund (AF) under the Kyoto Protocol—were also established.

Sources and intermediaries of climate finance vary, from governments and bilateral aid agencies to multilateral and bilateral development banks, dedicated climate funds, and various private commercial institutions. Global climate finance is also organized around thematic areas related to climate change such as adaptation,<sup>3</sup> mitigation,<sup>4</sup> gender, forests and climate funding for specific geographical regions. REDD+ finance<sup>5</sup> is provided by several different institutions under multilateral funds basically for “readiness” activities to prepare countries for funding based on demonstrated reductions of deforestation and associated emissions.

Of all global climate financing mechanisms, the Green Climate Fund is poised to be the most significant in terms of funding portfolio, range of thematic areas to be potentially supported, state party participation and global reach, hence the focus of this study.

## Study Methodology

Indigenous Livelihoods Enhancement Partners (ILEPA) in partnership with Tebtebba implemented the project “Securing access and accountability in the Green Climate Fund,” with a focus on enhancing participation and access to climate finance for indigenous peoples and local communities. Specifically, ILEPA undertook a national scoping study on the Green Climate Fund to provide an overall national picture of climate finance architecture in the country and explore dynamics of engagement with and access by indigenous peoples.

The study analyzed government programs and policies related to the GCF with respect to stakeholder engagement to determine the extent to which indigenous peoples and local

communities are being involved/consulted in the GCF and other climate related financing mechanisms; to assess the level of awareness of indigenous peoples and local communities on the GCF and to generate recommendations to the National Designated Authorities (NDAs), National Implementing Entities (NIEs), Accredited Entities (AE) and the GCF Board.

The study was conducted over a 6-month period (June-December 2016). The methodology was grounded in integrated qualitative (both descriptive and interpretative) methods of research, including participant observation, focus group discussion and semi-structured interview applied in respect to the specific needs and social set up of target constituency and institutions.

The lead researcher was one of the few members from African civil society organizations/indigenous peoples organizations (CSOs/IPOs) actively engaged in the global Green Climate Fund negotiation processes. At the time of the research undertaking, he was nominated to serve as one of the Southern CSOs active observers to the GCF. The exposure and knowledge acquired in global GCF engagement was beneficial in designing the conceptual framework of the study, in framing the key research questions and contextualizing data analysis. This prior knowledge of GCF processes compensated for the relatively shorter time spent in the field for collection of high quality data.

## Rationale

The history of development practice is one littered with untold stories of exclusion, exploitation, marginalization and entrenchment of inequality. The inequality relates to privileging of certain knowledge systems and world views, livelihoods systems, and rights at the expense of others. The present sorry state of indigenous peoples of the world is a product of such flawed development pathways.

The GCF is essentially a new development pathway within the context of climate change. The Fund aspires to be transformational, paradigm shifting and adding value in funding interventions that contribute to low emissions and

enhance resiliency to impacts of climate change. To what extent does the GCF depart from the history of exclusion with respect to indigenous peoples' rights and interests, and how exactly is it transformational?

Indigenous peoples' symbiotic and interdependent relationship with their environment and ecosystems is central to their collective survival. Their knowledge systems and climate resilient livelihood systems have contributed least to emissions but immensely to nature conservation. Indigenous peoples constitute one of the most vulnerable sectors to adverse impacts and risks of climate change and may end up paying a double negative price due to unsafeguarded response measures.

The study was informed by the desire to capture and reflect perspectives of key institutions involved in the GCF delivery chain (National Designated Authority/Focal Point, National Implementing Entity, communities). It also made an effort to incorporate gender and

age dynamics in the questioning of stakeholder engagement processes.

The study was also informed by the desire to contribute to localize the gains realized at the global level on climate change financing under UNFCCC, particularly those related to inclusivity and equity. It was equally premised on the recognition that climate change negotiations and interventions are state party driven and predominantly implemented in national geographical spaces. The formative stages of the Green Climate Fund as a multilateral climate financing institution presents a unique opportunity to consider means and ways of enhancing inclusion and safeguards.

In assessing and enhancing the awareness of GCF by indigenous peoples and local communities, the target constituency would be better equipped to engage with and contribute to GCF supported interventions. Some of the activities undertaken that the study benefitted from included:





- African regional training on climate finance and the GCF for indigenous peoples;
- National training of indigenous peoples/ indigenous peoples organizations in Kenya on national GCF related processes and avenues for participation;
- Direct engagement with National Implementing Entities and National Designated Authority;
- Desk analysis of national climate change related policies and legislation;
- Focus group discussions and interviews of key informers on Kenya's GCF readiness.

## Green Climate Fund: An Overview

The Green Climate Fund was initiated in the Conference of Parties 16, Cancun, Mexico in 2010, with a commitment to promote a paradigm shift by funding both mitigation and adaptation projects to contribute to the sustainable development of developing countries. Funds will be allocated on a 50:50 basis between mitigation and adaptation actions.

A significant portion of global financial resources to combat negative consequences of climate change are expected to be entrusted to the GCF. The Paris Agreement and state parties also agreed that a major share of new multilateral, multibillion dollar climate funding should be channeled through the GCF. It is expected to become the main global fund for financing climate change mitigation and adaptation in developing countries in the coming years. As such, it will channel significant amounts of funding required to support developing countries to adapt to the impacts of climate change and to limit or reduce their greenhouse gas emissions.

The GCF Results Management Framework defines eight strategic impacts to be achieved at the fund level—four each for mitigation and adaptation. Adaptation strategic impacts include: health, food and water security, livelihoods of people and communities, ecosystems

and ecosystem services, and infrastructure and built environment. All these areas are of great relevance to indigenous peoples and local communities (IPLCs).

One key impact area of interest to IPLCs is the increased resiliency of livelihoods and of people and communities (as collectivities). Under this result area, the Fund endeavors to promote environmental, social, economic and development co-benefits, taking gender sensitive approaches.

Different from many other climate finance entities, the GCF pursues a country-driven approach that on paper should promote engagement of relevant stakeholders and institutions. Governed and supervised by its Board, the Fund aims to provide “simplified and improved access to funding, including through direct access, which will encourage the involvement of relevant stakeholders, including indigenous peoples and local communities and ensure gender inclusivity and responsiveness.”

The country-driven approach and the key role designated to national accredited entities for planning, implementation and monitoring points at the critical need for IPLCs to establish clear strategies aimed at enhancing their engagement in processes undertaken at the national level. This will contribute to realizing the aspirations for inclusivity and respect for safeguards in GCF supported interventions.

The GCF has and continues to consider and approve project proposals for funding, a significant portion of which will be implemented within indigenous peoples' territories. Indigenous peoples have so far submitted calls for the Board to develop an Indigenous Peoples' Policy in the Fund for it to uphold highest standards of respect for human rights and to consider avenues to facilitate enhanced access of GCF funding by the indigenous peoples of the world.

The Fund aims to provide equal allocation of its resources towards mitigation and adaptation, while ensuring that at least half of the funding for adaptation is for vulnerable countries including African countries. Employing diverse financial instruments including grants, it aims to allocate significant resources to the private sector.

## Climate Change Policies and Programs, Stakeholder Engagement and Institutional Arrangements

### Policy Context

Kenya has a significant number of overarching as well as sector specific policies, plans, strategies and acts relevant to climate change. The priorities elaborated in these documents guide the GCF Readiness Program activities to ensure that Kenya's progress towards climate finance readiness is aligned with national development priorities and mainstreamed within critical processes and institutions dealing with low-carbon and climate-resilient issues.<sup>6</sup>

Some of these relevant policies include: the Kenya Constitution 2010, Vision 2030, Climate Change Act 2016, Kenya Climate Change Action Plan 2013-2017, National Climate Change Response Strategy 2010, Environmental Management and Coordination Act 1999, 1st and 2<sup>nd</sup> National Communication on Climate, 2002 and 2009 respectively. Sector specific ones include the National Disaster Policy, National Policy for the Sustainable Development of Northern Kenya and other Arid Lands (2012), and Climate Finance Policy, among others.

Specifically, the National Policy for the Sustainable Development of Northern Kenya and other Arid Lands focuses on climate resilience requiring the government to find solutions to address climate challenges and to come up with measures to manage drought and strengthen livelihoods. The policy also focuses on establishment of an enabling environment for accelerated investments in "foundations" to reduce poverty and build resilience and growth.

The National Drought Management Authority (NDMA), established by Legal Notice in late 2011, has the core mandate to supervise and coordinate all matters relating to drought management in Kenya, and to be the government's principal instrument in ensuring the delivery of all the policies and strategies relating to drought management and climate change adaptation.

The Community Land Act 2016 provides for the recognition, protection and registration of community land rights, including its management and administration and guidance on the role of county governments in unregistered community land. The Act defines community as "a consciously distinct and organized group of users of community land who are citizens of Kenya and share common ancestry, similar culture or unique mode of livelihood, ethnicity and geographical space."

The new law recognizes customary ownership of land and gives it the same force and effect as leasehold and private/freehold land tenure systems. Leases on community land will be between the community and lessee and cancelled only by the community. This therefore allows local land owners to contract and enter in partnership with private investors, including potentially on climate change interventions supported by the GCF. Investment and benefit sharing arrangements on community land are to be enabled through free, open consultative processes, incorporating social and environmental safeguards and capacity building.<sup>7</sup>

Kenya has recently adopted the Protection of Traditional Knowledge and Cultural Expressions Act, 2016.<sup>8</sup> The Act provides a framework for the protection and promotion of traditional knowledge and cultural expressions, giving effect to Articles 11, 40 and 69(1) (c) of the Constitution. It provides guidance on how traditional knowledge is generated, preserved and transmitted from one generation to another within a community for economic, ritual, narrative, decorative or recreational purposes. The framework for recognition, promotion and application of traditional knowledge in the context of climate change has therefore been established.

### Stakeholder Engagement: Place of Indigenous Peoples and Local Communities

Citizen consultation and participation in planning and decision making processes is at the heart of the Kenyan Constitution 2010. The Constitution vests all sovereign power in the people of Kenya.<sup>9</sup> "Participation of the people"<sup>10</sup> is one of the country's values and

principles of governance, while the object of devolution (county governments) is to “enhance the participation of the people in the exercise of the powers of the state and in making decisions affecting them.”<sup>11</sup>

In addition to constitutional and other legislative gains in citizen participation, a number of instruments/tools related to citizen engagement in policy formulation, program design, implementation and access to benefits have been developed across national and county governments. The guidelines define public participation as the deliberative process by which citizens, civil society organizations and government actors are involved in policy making and implementation before decisions are made. These recognize the pluralism of aims and values and enable collaborative problem solving designed to achieve more legitimate policies.

One such guideline is the *County Public Participation Guidelines*<sup>12</sup> jointly developed by the national and county governments with the goal to strengthen democracy and governance, increase accountability, inclusivity, ownership, and legitimize the various processes of implementing devolution. The guidelines are founded on the rationale that the people of Kenya have sovereign power which they have delegated to state actors at the national and county levels. The sovereignty must be respected and institutionalized in all processes of governance.

A second set of instruments are the *National Guidelines for Stakeholder Engagement and Free Prior Informed Consent (FPIC)*, primarily targeted at forest sector stakeholders and indigenous peoples and local communities respectively. The guidelines, developed by the Ministry of Environment and Natural Resources, aim at capturing and accounting for the experiences and the views of those potentially affected by forest sector related policies, programs, and interventions and safeguarding their interests.

As a tool for promoting transparent and stakeholder-informed policy making and effective participation in forest sector targeted initiatives, the guidelines will ultimately facilitate establishment of policy frameworks that respect the principles of inclusivity, human rights, fairness, and citizen participation. These would

therefore ensure that citizens' voices and interests are reflected in forest sector related policies and programs, ultimately contributing to safeguarding public interest in the design and development process of such interventions.

Furthermore, the *Country's Consultation and Participation Plan (C&P)* for National REDD+ Programming, prepared under the project Widening Informed Stakeholder Engagement (WISE), details modalities, principles and institutional arrangements envisioned to enable stakeholder engagement in REDD+ processes.<sup>13</sup> The institutional framework for coordination entails a National REDD+ Steering Committee (RSC) for policy guidance and intersectoral coordination; REDD+ Technical Working Group (TWG) to provide technical advisory services to the Steering Committee; National REDD+ Coordination Office (NRCO) to operationalize the Readiness Preparation Plan (R-PP); Local Conservancy REDD+ officer in each of the 10 national conservancies<sup>14</sup> and the REDD+ Component Task Forces, including one for consultation and participation, each focusing on specific components of the REDD+ Strategy.

The *Country's Consultation and Participation Plan* provides for national and subnational consultation and participation platforms. The subnational consultation forum will be established based on the ten conservancies, drawing membership from each of the counties that form the conservancy. At both national and subnational levels, special committees are proposed to be established for *special or marginalized groups* to engage in REDD+ with their output feeding into the broader consultative forums.

Public Participation and Access to Information is an integral component of the country's Climate Change Act 2016. Public entities at each level of government (county and national) are required to undertake public participation when developing strategies, laws and policies relating to climate change in a manner that ensures impact on the threshold of decision making. The Act also guarantees capacity building for public participation including in raising awareness and access to information, with the National Climate Change Council being responsible for preparing and publishing annual public engagement strategies.

Full and effective participation of relevant stakeholders is also supported by decisions of the UNFCCC, especially the Cancun decision on safeguards and the Paris/COP21 Agreement. These provide special consideration for the effective participation of IPLCs including through free, prior and informed consent in their consultation in tandem with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The key elements of the REDD+ Strategy, including safeguards and grievance redress mechanism, land and carbon tenure rights, strategic environmental and social assessment, compliance with legal and constitutional requirements, are also integral elements of the GCF Country Readiness Program.

### Governance and Institutional Framework

The Climate Change Act 2016 establishes the institutional framework for coordination, implementation and monitoring of climate change related activities including funding. In addition

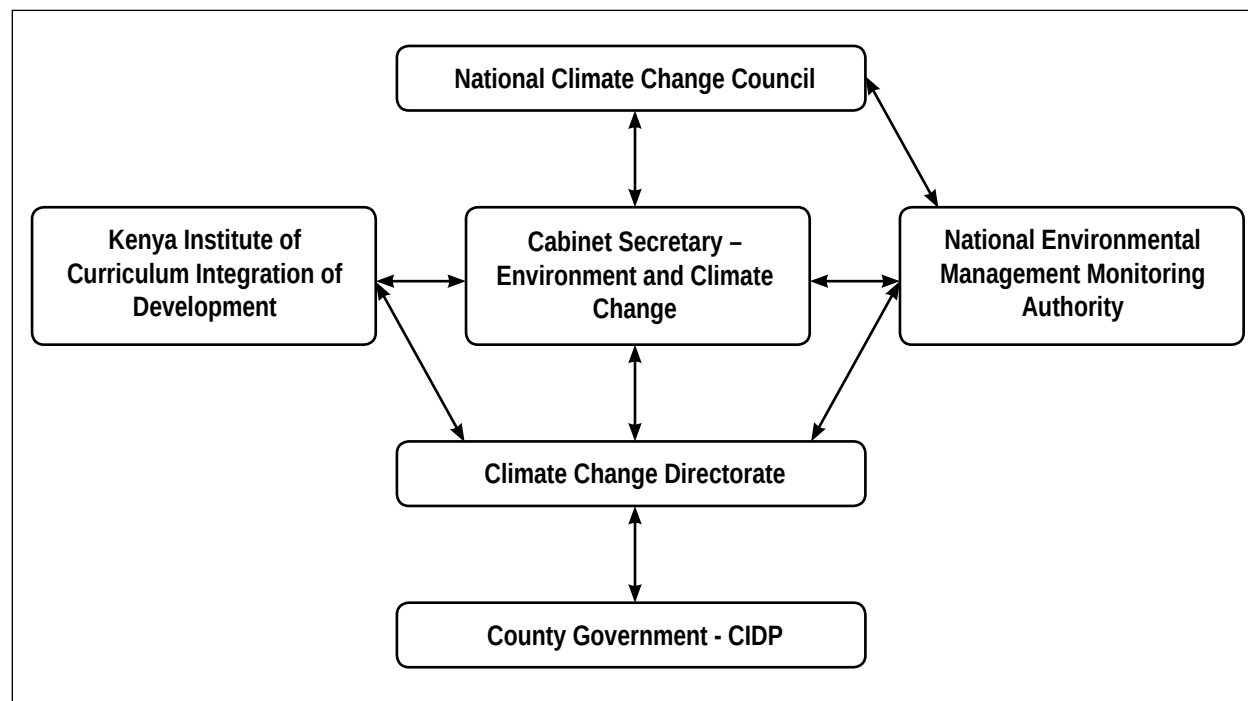
to the existing institutions, this Act proposes the creation of a new, high level body, the National Climate Change Council. This Council is the topmost organ for providing overall oversight and leadership on climate change related issues in the country.

The Council, chaired by the President, brings together multiple actors, including a number of state departments and agencies, and one representative of the marginalized communities as per Art. 260 of the Constitution. One of its key roles is to endorse public education strategy and its implementation and to administer the Climate Change Fund.

The Act also establishes a Directorate of Climate Change with a mandate to coordinate adherence to the country's international obligations including associated reporting requirements, such as the UNFCCC decisions on Safeguards Information Systems (SIS).

In addition to the above climate change management institutional framework, other institutions dealing with indigenous peoples'

**Figure 1.** Climate change management institutional framework.



related concerns need to be creatively engaged to institutionalize gains made within and across sectors. These are the National Gender and Equalization Commission (NGEC), National Museums of Kenya (NMK) which represents Kenya at the United Nations Permanent Forum on Indigenous Issues (UNPFII), and National Human Rights Commission and National Land Commission (NLC), which deals with historical land injustices, among others.

## Climate Change Financing and the Case for Indigenous Peoples

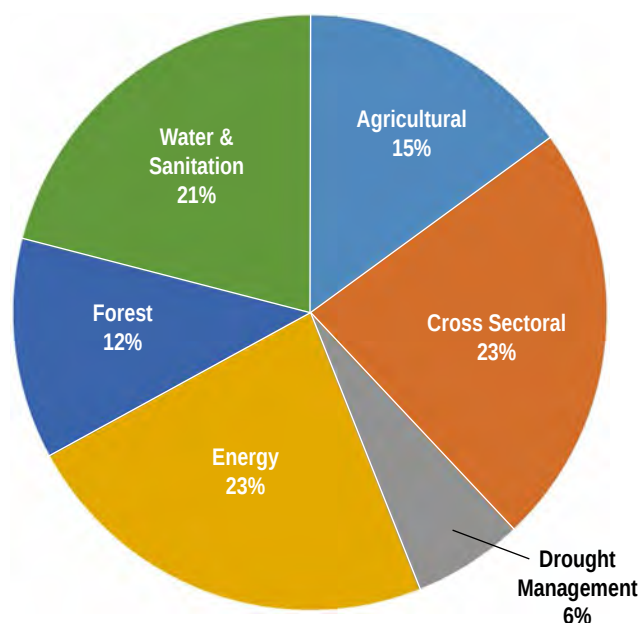
### Overview

Kenya has already proven itself to be a competitive location for international private sector investors looking for low-carbon investment opportunities in Africa. It has been regarded as “head and shoulder” in climate change above other East Africa States. It is estimated that Kenya has attracted more than US\$600 million of international private sector investment in renewable energy alone over the last few years. However, the support is often scattered. Many agencies supporting climate change activities and programs are carrying their own administrative costs and utilizing different approaches to engagement with the Government of Kenya.<sup>15</sup>

Through domestic financing, Kenya undertakes activities in climate-relevant sectors such as agriculture, drought management, energy, forestry, and water and sanitation. Energy specific projects constitute the greatest number of public sector climate change projects, followed by water and sanitation and agriculture. Overall the government financed 34 activities in the climate change sectors, with a total resource use across all projects and programs of KSh36.9 billion or \$444,400,000.<sup>16</sup> A scoping study on climate-related finance shows that development partners play a significant role in funding climate change activities in Kenya. Around 127 active climate-relevant projects were operating in Kenya with a value of \$2.29 billion by 2012.

**Figure 2.** Climate change financing allocation by sector.

(Source: KIPPRA and ASI 2012)



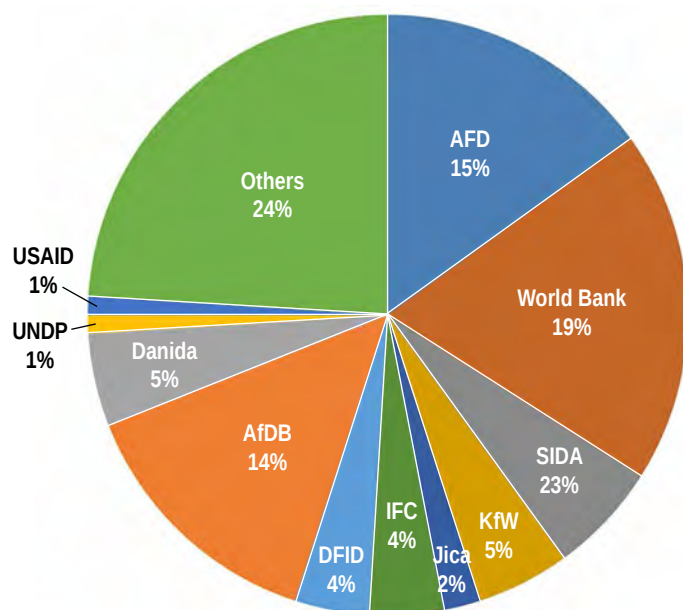
Though much of the funds is flowing to these interventions, little is said about the reporting framework. This is taken as climate change mainstreaming funds cutting across many other sectors within the development agenda. This nonspecific fund for mitigation and adaptations becomes very hard to trace, track and monitor its effects. The largest three development partners are the AfDB, World Bank and European Commission, in terms of number of projects.<sup>17</sup> Each of them already has in place policies or guidelines for dealing with indigenous peoples' specific concerns.

In total around \$300M worth of resources have been disbursed from climate funds to projects in Kenya, including those from Global Environment Facility Trust Fund, Forest Carbon Partnership Facility Readiness Fund of the World Bank, AfDB and the European Commission, with an almost 50:50 ratio between bilateral and multilateral donors. The country's adaptation budget across all sectors for five years was placed at \$7.5 billion.

For the country's National Climate Change Action Plan to be successful, Kenya will need to access resources from both public and private sources and from both within Kenya and over-



**Figure 3.** Climate change financing by development partners.



seas. The Action Plan proposes to create a Kenya Climate Fund, which is intended to become the key vehicle for mobilizing and allocating resources from both international development partners and domestic public resources towards climate change activities. The fund would also ensure alignment of funding with national priorities to facilitate country ownership.

The Climate Change Act 2016, Art. 25 (1) establishes a Climate Change Fund as a financing mechanism for funding priority climate change actions and interventions approved by the newly established National Climate Change Council. Its funding modalities include both grants and loans fairly balanced between adaptation and mitigation actions. In addition, the Council is obligated to set out procedures to ensure gender and intergenerational equity in access to the fund.

### Access by Indigenous Peoples and Local Communities

Increasingly a number of international,<sup>18</sup> regional and national bodies/institutions have responded to the clarion call by global indigenous

peoples networks to establish dedicated financial mechanisms for indigenous peoples and local communities for scaling up natural resource management to halt drivers of deforestation, increase resiliency and advance adaptation action on the ground.

Internationally a handful of indigenous peoples organizations<sup>19</sup> have started receiving scaled up climate-related financial flows from the GEF, EU, WB and regional development banks as well as a few donors like Norway. Some regions already have significant national government programs providing climate finance for indigenous peoples (North America including Mexico, for example).

Most existing targeted funding arrangements for indigenous peoples are for small grants, which though appropriate for local and community based indigenous peoples organizations also create limitations for channeling scaled up finance. There appears to be very few examples of larger program grants. The GEF has a global strategy to support indigenous peoples, mostly through the biodiversity funding window and the Small Grants Program (SGP). There are similarly few examples of large scale land tiling finance for this sector from any source. Most land and natural resource mapping is small scale and financed by a wide range of CSOs and private foundations.

Overall indigenous peoples' access to global finance funding has notably increased in the past ten years, demonstrating increased attention and financing to their concerns particularly in response to climate change. This range of funding allocation varies from below \$50,000-\$500,000 with the exception of the International Land and Forest Tenure Facility, which finances grants up to \$3,000,000 in size. Although securing indigenous land rights is one of the top thematic areas of available financing, the estimated amount of financing for it is far below what is needed to address the problem.<sup>20</sup>

The global trend of increasing recognition of the need to enhance direct access of indigenous peoples to climate change finance and direct participation in decision-making structures is equally observed in Kenya. Firstly, indigenous

peoples' organizations have managed to access the new global climate change related funds, in addition to being able to mobilize other climate change funding targeted at livelihoods support from development partners such as IWGIA and Tebtebba.

Mainyoito Pastoralists Integrated Development Organization (MPIDO), for example, has accessed a number of climate change related funding from the World Bank and United Nations Development Program (UNDP), including the African FCPF CBP grants associated to REDD+. Others like Nasaru Ntomonok CBO have managed to access the adaptation fund resources disbursed through the National Environmental Management Authority.

More importantly, Kenya's Constitution 2010 has expressly provided for affirmative action funds targeted at marginalized and indigenous communities under the provisions of the Equalization Fund representing a share of 0.5% of all national revenue for a period of 20 years.<sup>21</sup> These constitutional provisions are enabled through policy legislation prepared by the Commission on Revenue Allocation (CRA), which has 14 Counties as primary targets for the fund.<sup>22</sup> Furthermore, minority and marginalized communities "are constitutionally provided special opportunities for access to employment to address historical marginalization and exclusion from the national development agenda."<sup>23</sup>

It therefore remains to be seen the extent to which the country's GCF Readiness program and eventual project supported by GCF funding will enhance these apparent emerging good practices at the global level, and how the positive constitutional and policy provisions will be applied in the context of the GCF.

### **Why the focus on Indigenous Peoples and Local Communities**

The Government of Kenya has recognized the growing threat of climate-related risk to the achievement of its development goals. Yet the challenge of effective response has become more urgent as climate change increases drought vulnerability. The mechanism for responding

to climate change in the country is the National Climate Change Action Plan. The Action Plan underscores the inseparable link between action on climate change and action on development; the two are interlinked and will become increasingly so over the coming decades. More than 70% of natural disasters in Kenya are related to extreme climate events.

The National Climate Change Action Plan 2013–2017 already identifies the evident and disproportionate vulnerability of indigenous peoples and local communities' livelihoods to impacts of climate change, their potential positive contributions through indigenous knowledge systems and practices, and proposes potential response measures. Community groups categorized under the Constitution 2010, Art. 260 as indigenous communities include pastoralists and hunter-gatherers, who cumulatively form a significant population of the country (not less than 25%). The Constitution provides for the rights of the minorities and marginalized groups (Art. 56), which include minority, traditional, indigenous and pastoral communities. These communities predominantly practice pastoralism and/or hunter-gathering as means of earning livelihoods.

Approximately 60% of the country's livestock is found in the arid and semi arid lands (ASAL) which constitute about 80% of the country's land mass and are home to over 30% of the country's population. Pastoralism is the dominant form of livestock keeping in the ASALs and given the recourse to mobility to manage climate variability, pastoralism is inherently adaptive. However, the increased frequencies of extreme weather events multiply the impact of factors that constrain pastoralists' livelihoods.<sup>24</sup>

Drought in Kenya had profound impacts on many communities, destroying livelihoods and increasing vulnerability. The livestock sector experienced the worst impacts, losing approximately KSh699 billion, with KSh56 billion in damage due to costs from veterinary care, water, feeds and production decline and KSh643 billion in losses due to animal deaths. In pastoralist areas where men are traditionally responsible for livestock, reduced herd sizes forced men to migrate to urban centers for wage employment.

This has had implications for women and children due to the additional burden of sustaining household food, water and human security. School attendance rates decreased, child labor increased and conflicts over resources were observed to intensify.<sup>25</sup>

A number of the benefits associated to a low carbon, climate resilient development pathway, identified under the NCCAP, directly relate to concerns of indigenous peoples and local communities:

- Improving lives of the poor and vulnerable: The human impacts of climate change are often experienced most acutely by the poor, who are often women and children. Efforts to improve climate resilience can further Kenya's people-centered development strategy;
- Building adaptive capacity: Kenya's vulnerability to climate change is influenced by the adaptive capacity of its people and institutions, or their ability to take advantage of opportunities or to cope with the consequences of potential damage. Improving development outcomes such as income, literacy, social networks and access to information and services is critical to building the country's adaptive capacity;
- Reducing disaster risks: The use of climate risk information in economic activities (such as farming, pastoralism), public infrastructure investment and government planning decisions can enhance decision making capacity and reduce and prevent climate-related disasters and climate risks. The magnitude and severity of drought has increased in the recent past particularly in the ASALs.

Kenya's forest resources provide important environmental and ecosystem services, contributing to economic development, rural livelihoods, water availability and climate resilience (adaptation benefits). Maintenance of and increased forest cover in water catchments is critical for sustaining water availability and generation of hydropower. There is evidence to show that most of the standing forests, for

example, Kayas, Bonni, Mt Kulal, Naiminic Enkiyio Forest (Forest of the lost child) are managed by indigenous communities for whom the forests form their lifeline.

In addition to identifying areas vulnerable to climate change of interest to indigenous peoples and local communities, NCCAP also proposes potential response measures:

*Pastoralism:* Breeding animals tolerant to local climatic conditions, weather indexed live-stock insurance, establishment of fodder banks, documenting indigenous knowledge, provision of water for livestock and humans, early warning systems for droughts and floods, and vaccination campaigns and disease control.<sup>26</sup> The contemplated early warning system should be backed by a reliable and effective social safety net program carried out by empowered youth and women. Trained county level disaster management officers can also help to ensure a timely and effective response.

*Capacity building:* One of the NCCAP sub-components is knowledge management and capacity development designed to address the sharing of climate change-related knowledge and proposed capacity building measures to address the institutional and technical capacity needs of the various actors. This will also contribute to the implementation of the Constitution 2010 that guarantees every Kenyan the right to a clean and healthy environment under the Bill of Rights. Increase participation rates in all sectors of education and training as a longterm measure to address human capital challenges and support livelihood diversification. Focus on livelihoods improvements to enable adaptation to increased climate variability over the short term and to change over the medium term.

*Access to information:* Strengthen demand-driven R&D to generate climate resilient information, technologies and methodologies and contribute to development of climate information sharing and knowledge management systems. Strengthen collaboration between climate change actors including indigenous peoples and local communities. Establish a national framework for capacity development and knowledge management network to collect, generate and

analyze climate change knowledge products with clear avenues for disseminating these to potential beneficiaries, especially women and other vulnerable groups.

*Forestry:* Intensifying afforestation, promoting agroforestry-based alternative livelihood systems, promoting alternative energy sources, enhancing community forest management, REDD+ initiatives and reduced mono-species plantation stands. These also include reforestation and restoration of forests on degraded lands including in rangelands to contribute to Kenya's goal of 10% forest cover and provide sustainable development benefits in the form of sustained water availability.

Internationally the GCF derives its mandate from the UNFCCC Conference of Parties, which has responded to the indigenous peoples question in a number of its decisions, including in the Paris Agreement. The preambular paragraph of the Paris Agreement calls for the recognition and respect for human rights, including the rights of indigenous peoples. It also underscores the value of indigenous knowledge systems in climate change adaptation (also supported by IPCC AR5), in addition to its call for establishment of an indigenous peoples' platform for knowledge exchange.

Other UNFCCC COP decisions (Cancun and Warsaw) have provided for full and effective participation of indigenous peoples and the integration of community based monitoring information systems in monitoring climate impacts and response measures.

The Green Climate Fund is poised to be the largest climate change funding agency with a commitment to fund mitigation and adaptation equally, including the role of forests in mitigation, to safeguard against the operational risk associated with climate change on most vulnerable people and communities, and to enhance sustainable management of ecosystems and ecosystem services in adaptation. Given this, the GCF themes resonate with areas of critical interest for indigenous peoples and local communities as reflected above.

## GCF Readiness and Preparatory Support

### Overview of GCF Readiness Support

The Green Climate Fund provides support for readiness and preparatory activities to enhance developing country's ownership and access during the early stages of its operationalization. The tailor-made support aims at maximizing the Fund's effectiveness by empowering countries.<sup>27</sup> These activities are not one-off measures but rather ongoing iterative processes to strengthen the country's engagement with the Fund, with particular focus on vulnerable countries—Least Development Countries, Small Island Developing States and African states—receiving 50% of the support.

As a means of ensuring enhanced on-the-ground support for countries, the Fund has established a regionalized program for readiness and preparatory support with advisors, including one in Africa. It has also prepared a pamphlet guide to assist Nationally Designated Authorities understand the Fund's operational modalities and their respective roles and responsibilities in relation to their countries' engagement with the GCF.<sup>28</sup>

Support to readiness activities in individual developing countries is capped at \$1 million per calendar year and may be delivered through a wide range of delivery partners with relevant expertise and experience as well as through NDAs/focal points directly. The modalities through which a country can engage with GCF include: i) establishment and maintenance of an NDA/FP, ii) identification and seeking of accreditation of entities to access GCF resources and iii) development of projects and programs to be funded through accredited entities.

An NDA/FP is the core interface between a country and the Fund and seeks to ensure that GCF-supported activities align with strategic national objectives and priorities in mitigation and adaptation in line with national needs.<sup>29</sup> One of its key roles is to provide letters of no objection



to direct access of entities seeking accreditation with the GCF.

The Fund's readiness program provides support to strengthen such strategic frameworks and develop country programs to identify strategic priorities for engagement with the Fund. One mandate and responsibility of the NDA/FP is to convene relevant public, private and civil society stakeholders to identify priority sectors to be financed by the Fund. Other than government entities across levels, civil society, project developers, private sector actors, financial institutions, and communities including vulnerable groups, women and indigenous peoples who will be affected by the Fund's activities are to be engaged (p.50).<sup>30</sup> The NDA/FP is encouraged to consult such stakeholders in preparing the country programs.

The role of accredited entities includes: i) development and submission of funding proposal for projects and programs; ii) overseeing the management and implementation of projects and programs; iii) deployment of a range of financial instruments within their respective capacities, including grants; iv) mobilizing private sector capital.

### **Status of Kenya's GCF Readiness Process**

Country ownership is a core principle of the GCF business model and countries are expected to identify their priority result areas in line with their national strategies and plans. The Green Climate Fund Readiness Program seeks to build the institutional capacity of national entities, with a focus on enabling direct access to climate finance. This is critical, as it is through the joint work of National Designated Authorities and Accredited Entities that a developing country's projects and programs are proposed, with the latter channeling funding for such projects.

The GCF readiness support to Kenya, therefore, aims at strengthening the country's national capacities to effectively and efficiently plan for, access, manage, deploy and monitor climate change financing in particular through the GCF once it is fully operational. The country's readiness support program was envisioned

to commence in November 2014 and project activities to be completed by December 2016. Readiness activities are to be planned and implemented in line with the Kenya National Climate Change Action Plan, with a priority on enhancing the country's capacities for direct access to climate finance and help it prepare mitigation and adaptation investment strategies, programs and projects, including through the active involvement of the private sector.<sup>31</sup>

Stakeholder engagement was identified as the first step to inform development of a readiness plan.<sup>32</sup> The readiness program therefore entails engagement with key stakeholders responsible for the access, management and monitoring of climate finance in addition to increasing country ownership and coherence with national needs and programs.

The National Treasury (Ministry of Finance) serves as the National Designated Authority and the National Environmental Management Authority (NEMA) as the National Implementing Entity (NIE) under the direct access modalities of the GCF. A number of national<sup>33</sup> and international<sup>34</sup> entities with interest in Kenya have applied for and received the "No Objection Letters" from the NDA to facilitate their accreditation as implementing entities with the GCF. Each of the entities that have been granted a letter of no objection are in varying stages of the accreditation process, with NEMA, Acumen's Fund and United Nations Environment Program (UNEP) already fully accredited. Some of the implementing entities have already acquired accreditation either in the large<sup>35</sup> or small<sup>36</sup> project categories under the GCF.<sup>37</sup>

Current implementing entities in the country include the UNEP, United Nations Development Program and World Resources Institute (WRI). The GCF Readiness Program in the country is therefore a partnership of these three entities, with a combined budget of €15M, utilized in nine countries.<sup>38</sup> The funding support is from the International Climate Initiative (IKI) of the German Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (BMUB). These entities collaborate directly with the GCF to ensure coordinated readiness support to the country.



Under the tripartite Kenya's readiness support, the three Executing Entities (EEs) (UNDP, UNEP and WRI) were jointly charged with responsibility of delivering component II—Strengthened institutions and climate finance capacities to align with *internationally accepted benchmarks and safeguards* and to enable direct access under the GCF. The activities of UNEP focus on accreditation and project pipeline development, and WRI activities on support to enhance NEMA's institutional capacities to meet the GCF accreditation profile, including capacities in developing environmental and social management frameworks.

The project has so far received a total \$355,190 from BMUB. In addition, the country has received funds from a variety of sources for the GCF readiness process, including from the German Society for International Cooperation (GIZ) through Carbon Fund in 2014 (\$1.3M). These funds are targeted at Readiness

The country's readiness plan provides information about:

- Support for National Implementing Entities;
- Accreditation and capacity strengthening of Executing Entities;
- National climate change context;
- Enabling environment;
- Climate finance readiness needs and components of the Kenya climate finance readiness program and the support to be provided by the UNDP/UNEP/WRI readiness program.

The UNDP/UNEP/WRI Readiness Program outputs include:

- Strengthened capacities of the NDA/ National Treasury including stakeholder engagement, outreach and project/program identification;
- Institutional capacity building for two National Implementing Entities and



- multiple Executing Entities;
- Pipeline of projects and programs;
  - Establishment of national MRV (measurement, reporting, verification) systems;
  - Dissemination of lessons learned through South-South and triangular cooperation.

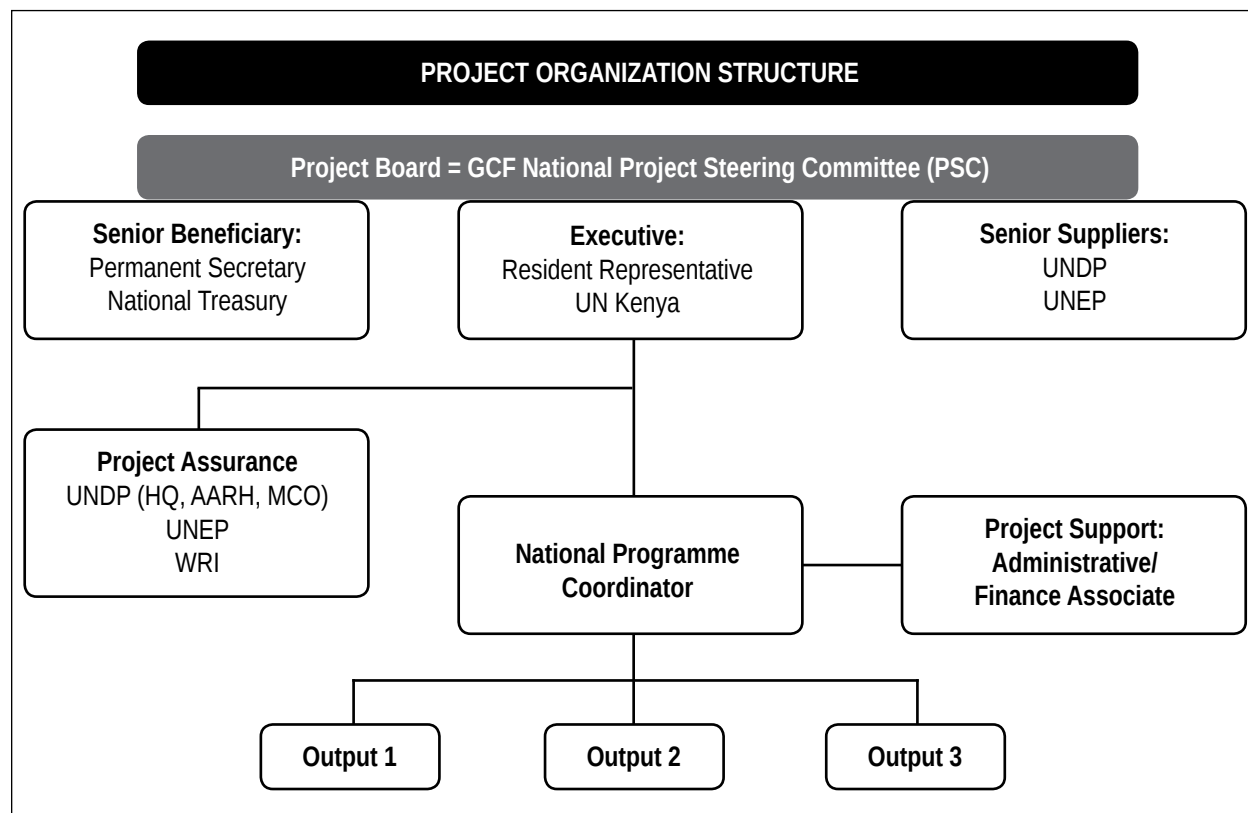
In essence developing the capacity of stakeholders at the national and subnational levels in Kenya to effectively engage in climate change related interventions and financing is the overall goal of the GCF Readiness program.

The readiness project also pursues a gender-sensitive approach which strongly promotes women's participation in training workshops, demonstration activities and management committees. All stages of project management will consider gender and other social inclusion issues. Part of the inception workshop is to consider mainstreaming gender throughout the activities.

Also notable is the readiness activities' emphasis on the need to enhance (including through provision of incentives) private sector involvement in climate financing. The readiness program aims at setting up a longterm infrastructure with incentives and structures to leverage public funds to attract private investment and set up longterm partnerships for the type of scaled-up action the GCF will be interested in financing.

However, while a multidisciplinary and multistakeholder approach is envisioned in the readiness project documents—aspiring to bring together government, academia, NGOs, community groups, the private sector and civil society—the reality upon implementation does not strongly reflect this inclusivity principle. It is evident from the readiness project progress report that stakeholder engagement is heavily skewed towards the supply side of climate change finance and less on the climate change impacts and indigenous knowledge.

**Figure 4.** Organizational structure of Kenya's GCF readiness.



## Enhancing Readiness for Direct Access: Early Lessons

Some of the accredited implementing entities have already accessed GCF funding for project implementation in the country. Acumen Fund, Kawi-Safi Venture Fund for example have pumped in resources in the form of venture capital (\$100M) and technical assistance (\$10M). This includes support to small and medium enterprises to provide solar off-grid and biomass projects. In terms of the country's project pipeline development in 2015, three projects were identified: i) the Mwache Water Project in Coast (approximately \$50M) under adaptation;<sup>39</sup> ii) Silali and Mengai (\$600M) under mitigation<sup>40</sup> and, iii) solar energy off grid (\$600M).<sup>41</sup>

National, regional, international accredited entities undertaking some work in Kenya on micro, medium, small and large level categories<sup>42</sup> include:

- Acumen Fund Inc. USA – category C and regional;
- Deutsche Bank Aktien Gesellschaft – category A, international;
- International Union for the Conservation of Nature – international, large;
- Kreditanstalt für Wiederaufbau – KfW – international, large;
- NEMA, 18/03/16 – national, micro, category B;
- UNEP, Kenya, 20/03/16 – international, small, category B;
- UNDP, USA, 24/03/16 – international, medium.

Kenya is currently implementing a GCF Programs Design Process with support from DFID through CDKN under the joint leadership of the National Designated Authority-Ministry of Finance, National Implementing Entity-National Environmental Management Authority, and Ministry of Environment and Natural Resources (MENR). The overall objective is to enhance direct flow of climate finance into Kenya with focus on the Green Climate Fund.

Project leadership is provided by a Project Steering Committee<sup>43</sup> supported by a techni-

cal working group<sup>44</sup> with a number of project design teams (PDTs)<sup>45</sup> established through invitation by the NDA. The project design teams have since been organized into three priority thematic areas: Devolved Governance, Climate Smart Agriculture, and Environment and Water, which are aimed at supporting adaptation and sustainable development in county, increase resiliency in livestock and crop farming, and strengthen resiliency of vulnerable communities and ecosystems in selected counties respectively. Indigenous peoples and local communities are not directly represented in any of the three thematic areas.

The project development process aimed at preparing and submitting a project proposal to the GCF Secretariat before end of August 2016 and to the Board by BM14 in Songdo. Some of the project's key deliverables relevant to indigenous peoples and local communities include environment and social management framework, monitoring and evaluation framework, and documentation of the stakeholder engagement process.

In the country's vision of implementing GCF supported projects, Environmental and Social Safeguards are being considered such as compliance with existing laws related to: management of environmental/social risks, disadvantaged and vulnerable groups, respect for human rights, gender equity, labor and working conditions, indigenous peoples, involuntary resettlement, protection of natural habitats/biodiversity, climate change, pollution and resource efficiency, public health and security, and cultural heritage. One of the identified capacity gaps in readiness for potential implementing entities is the absence of environmental and social management frameworks (ESMFs).

The NEMA set itself out from the beginning to develop projects for submission to the GCF as soon as it was accredited and the National Treasury as the NDA facilitated the development of three initial projects mentioned above. The process they led has provided for a governance framework that has recognized the inclusion of three observers from the Indigenous Peoples National Steering Committee representing

indigenous peoples' networks, Pan African Climate Justice Alliance representing CSOs, and Transparency International representing international NGOs.

The participation of the three observers however has not been well structured with their invitations to meetings and information sharing done in a discordant manner. Although deemed a positive initiative of stakeholder engagement, the nomination of individual persons from the organizations was done without engaging their respective constituencies, and it is their organizations that will have to share progress on the process to their constituencies. Their participation in the project writeup meetings was also not supported by either the NDA or the NIE and only their transport costs were reimbursed by the consultant organization.

Towards the end of 2016, the National Environmental Management Authority as the National Implementing Entity called for submission of proposals for potential access to the Green Climate Fund under the enhanced direct access modalities. A number of indigenous peoples' organizations jointly submitted the proposals and are awaiting the response from the NIE.

## Discussion, Challenges, Opportunities and Recommendations

The Kenyan legal and policy environment (including the Constitution and enabling legislation) on recognition of the rights and marginalization status of indigenous communities is progressive and generally positive, calling for robust participation, inclusion and equity in policy formulation, program design and implementation.

Beyond mere recognition of rights and the disadvantaged historical and contemporary situations of indigenous communities, the policy and legislative environment further provides for affirmative actions to establish mechanisms for redress. Specifically, the Constitution 2010, Art.

204 establishes the equalization fund, with an allocation of 0.5% of national annual revenues for an initial period of 20 years subject to extension. The Constitution goes further to define which communities should benefit from the fund and the thematic areas to be funded.

Furthermore, citizen participation in governance and decision making, including in policies and program formulation, development planning and practice, is constitutionally guaranteed. These principles of inclusivity and equity are not only provided as rights but the necessary enabling legislation and guidelines are in place. The guidelines related to stakeholder engagement and Free, Prior and Informed Consent and to costs distribution and benefit sharing arrangements with particular focus on indigenous communities are a case in point. Related to these gains are provisions for representation of CSOs, indigenous peoples and local communities within topmost decision making organs, such as the National Climate Change Council.

The National Climate Change Action Plan appreciates and articulates the indigenous communities' high vulnerability to negative impacts of climate change and proposes relevant requisite response measures. In addition, it acknowledges, though in passing, the role of indigenous knowledge systems and practices in climate change mitigation and adaptation and makes recommendations for its promotion in climate change interventions, including legislation regulating indigenous knowledge and cultural expressions.

The National Environmental Management Authority, the country's National Implementing Entity (which incidentally also serves as the National Designated Agency for the Adaptation Fund), has made appreciable attempts to incorporate CSOs and indigenous peoples as observers in the project pipeline programmatic development process. Through NEMA one indigenous peoples community based organization managed to access the adaptation fund resources.

The dire need for climate change finance support, including potential areas for climate change intervention within the context of indigenous peoples and local communities, is clearly



reflected in the Constitution and NCCAP. The GCF may just turn out to be the next frontier for struggle around land rights, as climate change interventions supported by the Fund could potentially be a future major driver of land dispossession and land use change, if not safeguarded. Full and effective participation of IPLCs in GCF related processes from design to implementation is therefore critical.

### **Challenges on IPLCs participation in GCF readiness and early implementation**

Indigenous peoples and local communities face the following challenges in terms of full and effective participation in the GCF readiness processes:

- Glaring disconnections exist between existing gains in policies and legislation on stakeholder engagement and actual practice. While the legislative and policy environment regarding social inclusion, including project documents, is robust, there is little evidence to support these gains in practice. The country's GCF readiness processes, while relatively strong on CSOs and gender inclusion, are rather weak with respect to indigenous peoples participation especially in the context of the multistakeholder engagement process;
- The country's GCF readiness process is heavily influenced by private sector actors and least by CSOs, local communities and indigenous peoples. This could partly be attributed to the less than optimal experience/exposure of NDA (Treasury/Ministry of Finance) to multistakeholder engagement process, particularly within the natural resources sector. This may have contributed to a rather narrow interpretation of the multistakeholder requirements of the GCF, which is explicit on the range of stakeholders to be engaged;
- While the country has so far received and continues to access climate change financing from domestic, bilateral and

multilateral sources, it is difficult to isolate how much of these funds are directly and indirectly reaching indigenous peoples and local communities. It is also evident that there are no deliberate efforts to provide direct access to climate change finances by indigenous peoples in the country;

- Climate change as an area of development practice and associated financing opportunities is complex and technical in concepts, nature of intervention and levels of engagement. Given the historical marginalization of IPLCs, their literacy levels, exposure and capacities to engage, IPLCs are least aware of climate change financing in general and the GCF in particular.

## **Recommendations**

### ***Capacity Building***

Climate change presents both risks and opportunities, necessitating the need for enhanced capacity to take advantage of the opportunities that may arise and at the same time reduce the associated risks. The topic of climate change financing more generally, and the GCF in particular, are both technical and highly dynamic. Hence, the need for sustained awareness creation and training within and across IPLCs' networks down to the communities.

Enhanced capacity will ensure IPLCs' meaningful engagement at project, national and global levels, including lobbying for the GCF funds to reach those most affected by climate change at grassroots or at least minimize potential negative impacts of activities supported by the Fund. Capacity related needs in the context of climate change financing include:

- Assessment exercise for in-country IPLCs on GCF mandate and access modalities, including country ownership to facilitate needed and targeted capacity building interventions;
- Human resources capacities and aware-



ness and knowledge of climate change measures and reporting requirements and frameworks;

- Strategies and tools to track climate change financing in-country and across the region to determine level of access by local communities;
- Monitoring nature of GCF supported projects especially the balance between adaptation and mitigation, including their impacts on local livelihoods;
- Clear mechanisms to ensure costs, risks and benefit sharing arrangements do not disenfranchise IPLCs;
- Strengthening contracting and negotiations capacities of indigenous peoples organizations, local community organizations, and communities in payment for environmental services related to climate change such as REDD+;
- Strengthening institutional capacities in proposal writing, financial and admin-

istrative project management among IPLC organizations to enable them to submit bankable project proposals to NIEs/GCF and manage large amounts of funding;

- Enhancing capacities of the National Designated Authority/Focal Point, National Implementing Entities, County governments and key private sector actors on the unique circumstances of IPLCs and existing instruments on stakeholder engagement in the country, including free prior informed consent.

This recommendation is in line with the country's NCCAP which confirms low public awareness about climate change in Kenya, noting that capacity development must focus on those individuals and institutions that are dedicated to climate change and are mainstreaming climate change adaptation or low carbon development into their sectors, organizations and companies.



### ***Participation and Representation***

The GCF guiding principles call for inclusive decision making at all levels, including through observers, advisory panels, multistakeholder engagement, policy formulation, project implementation and virtual spaces. Indigenous Peoples as a constituency is expressly recognized under both the GCF governing instrument and the GCF guide to country readiness. Participation and representation of IPLCs across levels and within emerging global and in-country institutional arrangements related to climate change financing, in particular the GCF, is a must if IPLCs were to influence the vision, working and ultimate impacts of these processes.

Already indigenous peoples are engaging directly with the GCF Board deliberations as observers through the broader CSOs observer arrangements, with an indigenous peoples representative having just been nominated by the CSOs as active observer from the South. More importantly, the GCF Board has just adopted a decision to develop an Indigenous Peoples policy. This decision has elevated the question of indigenous peoples' rights, interests and perspectives in GCF related processes.

*National Level:* Given the centrality of the concept of country ownership and drivenness of the GCF related interventions, the place of IPLCs in national GCF processes, such as the multistakeholder engagement process, design and implementation of policies and access to GCF funding, is critical. Country ownership should be understood as something beyond ownership by government ministries/agencies, private sector and international NGOs. Rather, to be sustainable and to ensure the needs of recipients and communities are met, it should be understood as broad-based ownership of all stakeholders, including indigenous peoples and local communities.

Country GCF readiness programs provide the initial critical opportunity for any stakeholder to bring their interests and perspectives to the table. The readiness process sets the country's priority areas of intervention, identifies stakeholders and capacity needs, establishes action plans and institutional framework to coordinate

and implement GCF supported activities.

The NDAs and NIEs should therefore establish deliberate and clear mechanisms for IPLCs' engagement, especially in the upcoming development of social and environmental standards, national investment framework on climate change and incorporation of community based monitoring information systems in the evolving national M&E framework. Specifically, the current Observer status in project pipeline development process provided by NEMA/NIE should be institutionalized and regularized.

Further, candidates seeking the 'no objection letter' from the NDA to support their accreditation with the GCF as implementing entities in the country should be vetted against their historical responsiveness to indigenous peoples' and local communities' issues and on gender responsiveness and sensitivity. This could be strengthened by creating mechanisms through which organized networks of IPLCs could submit their views for consideration in the vetting process.

### ***Enhancing Indigenous Peoples' access to GCF Funding***

The GCF policy guidelines indicate commitment to enhanced direct access, including to non-state local actors, directly addressing needs and benefitting vulnerable people and communities, especially in supporting adaptation activities to reduce climate-related vulnerabilities.

While the GCF Board is yet to respond to indigenous peoples' demands for consideration of either a dedicated window or an arrangement for indigenous peoples' direct access to GCF funds, existing potential access modalities of the Fund should be explored. One of the Terms of Reference of NDAs is to "support small scale activities with local actors that directly address needs and benefits of *vulnerable people and communities*," including scaling up of effective community based adaptation actions.

The NDA and NIE should assess, explore and encourage possibilities for engagement of indigenous peoples as implementers at subna-

tional/community level to enable application of both national constitutional provisions on affirmative action in access to resources and GCF related guidelines on enhancing inclusivity.

The county governments and NIEs should equally incorporate perspectives and involvement of IPLCs in the design and implementation, including access to associated benefits of County Adaptation Funds (CAFs). Capacities of local organized and recognized groups such as Community Land Committees, Community Forest Associations and Indigenous Peoples Organizations should be enhanced to facilitate access to climate change funds.

It is essential that county governments develop climate change-related vulnerability indicators that account for livelihoods security of IPLCs and disaggregated on gender to inform targeted allocation of CAFs.

### ***Monitoring and Safeguarding of Safeguards***

The GCF IFC interim safeguards, “fit-for-purpose” accreditation approach, the Monitoring and Accountability Framework, information disclosure and independent redress mechanism, at the minimum, target the ‘Do No Harm’ safeguards threshold.

The IPLCs as actors present on the ground will most likely be impacted by climate change interventions supported by the GCF. The GCF Board, NDAs, NIEs and other related institutions should facilitate the participation of IPLCs in safeguards related processes to ensure accountability and monitoring of the application of safeguards.

To enable this monitoring, NDAs, NIEs and IPLCs should support the development (where they do not exist) and operationalization of modalities, tools and approaches to engage with

IPLCs. These tools include (not limited to) Free Prior Informed Consent, Community Based Monitoring Information Systems and community protocols. The goal is to advance safeguards to a higher threshold beyond “do no harm” to ‘doing good’ that complies with international law in relation to environment, human rights, including rights of indigenous peoples.

### ***Networking, Solidarity and Coordination***

Modalities guiding access and safeguarding potential negative impacts of climate change financing are often negotiated, developed and established through multilateral global and international processes. Equally, national level policy and programmatic initiatives such as GCF readiness and access to funding are often far removed from IPLCs’ familiar local spaces. This constrains, rendering negligible, the participation of IPLCs in climate change financing related processes across levels.

It is therefore critical to establish and strengthen county and national based IPLC networks of organizations carrying out climate change related activities to build and strengthen partnerships with regional, national and global organizations/networks engaged in climate change to enhance their learning and potential to access climate change finances across levels.

The IPLCs should lobby for enhanced inter-linkages between relevant government agencies for synergetic impacts of existing positive policies, instruments/tools on stakeholder engagement such as FPIC, access to information and benefits,



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<sup>45</sup> MOA, MENR, Ministry of Devolution, NDMA, Council of Governors, UON, KEFRI, KFS, KARLO, KEPSA, Ministry of Water, World Concern, WWF, Norwegian Church Aid.



# PERU

## Securing Rights-Based Approach

*by the Centre for Indigenous Cultures of Peru  
& International Indigenous Women's Forum*



## Introduction

The recent worldwide climate negotiations view the Green Climate Fund (GCF) as the main future mechanism for funding actions to combat the effects of climate change<sup>1</sup> within the structure of the United Nations Framework Convention on Climate Change (UNFCCC). The GCF is financed mainly by contributions from the developed countries and assigns its funding through Accredited Entities (AE) in the public and private sectors, whose projects must be approved by the National Designated Authority (NDA) of the country where they are located.<sup>2</sup> The funds gathered by the GCF shall be invested in mitigation and adaptation activities in equal parts. At least 50% of the funds for adaptation are to be assigned to countries classified as most vulnerable: developing countries, emerging states, islands and countries with climatic susceptibility. Up until May 2017, funding from GCF had been approved for 45 projects, representing a total of more than US\$166 billion.<sup>3</sup>

Such a large initiative involves the indigenous peoples, whose lives and rights are particularly affected by climate change, as they are linked closely to vulnerable territories and ecosystems (forests, highlands, coastal zones, arctic zones). This situation is aggravated owing to political and social inequalities, such as the precarious judicial security of their communities. These lead to lack of protection of collective rights and territorial insecurity, such as large-scale

interventions by extractive industries promoted by the neo-liberal policies of the Washington Consensus, which have been applied in Peru since the 1990s.

In this scenario, the environmental and climatic agenda of the indigenous peoples is based on the assertion that the peoples that have occupied the vulnerable territories since ancient times are the central actors for their conservation. In that sense, the indigenous peoples advocate an approach to climate-related actions which takes into account their rights, collective territories, participatory governance and incorporation of traditional, inherited indigenous knowledge.

The approach based on collective and individual rights, which is proposed by the indigenous environmental agenda, was included in the Paris Agreement as a result of the Conference of Parties (COP) 21,<sup>4</sup> and is incorporated within international climate endeavors. Case studies by Johl & Lador (2012) have shown that the mechanisms for climate-related financing implement the rights-based approach through social and environmental safeguards destined to guarantee that projects do not have a negative human impact and that there are policies of transparency and rendering accounts and channels for grievances in the case of local populations whose rights are violated.<sup>5</sup>

While this approach has been consolidated as a fundamental component of the new conservation paradigm, the United Nations Special Rapporteur on the rights of indigenous peoples



(UNSRIP), in its latest report on the topic, has found cases of “green” initiatives on the protection of forests in Kenya and the countries in the Congo River basin that have caused the forced displacement of indigenous peoples. Similarly, in Nepal cases of maltreatment, arbitrary arrest and sexual violence have been committed against indigenous women who inhabit the Chitwan national park by the security officials of the protected area (Tauli-Corpuz, 2016). The report shows negative effects on the indigenous peoples’ individual and collective rights caused by the ecosystem protection policies of 12 countries in America, Asia and Africa (Tauli-Corpuz, 2016). The UNSRRIP maintains that the non-governmental organizations that promote conservation should use their position before the national governments to guarantee the exercise of indigenous peoples’ rights.

The Indigenous Peoples’ Global Partnership on Climate Change, Forests and Sustainable Development, together with several territorial indigenous organizations and allied NGOs, endeavor to advocate through communications and statements before the Board of the Green Climate Fund with the aim of creating safeguards and other instruments required to avoid these violations of rights. These organizations have given warnings in global spaces, such as the International Indigenous Peoples’ Forum on Climate Change, about the weaknesses in the GCF’s means for protecting collective rights: mainly that the GCF still does not have a policy regarding indigenous peoples.<sup>6</sup>

At the present time, the GCF uses the social, cultural and environmental safeguards of the International Finance Corporation (IFC) which is a member of the World Bank Group.<sup>7</sup> As Johl and Lador (2012) point out, the climate initiatives have opted to support decisions on an economics-based logic. A move in the direction of a rights-based approach would guarantee consideration of the human impact of institutions, policies and means of financing climate-related activities in accordance with the parameters set out by the United Nations High Commission on Human Rights (OHCHR 2016). The indigenous peoples point out that the social and environmental safeguards of the GCF should

meet the highest international standards of the ILO Indigenous and Tribal Peoples Convention No.169 and the United Nations Declaration on the Rights of Indigenous Peoples (FPP & JOAS 2012, Tebtebba & FPP 2015b).

At its 15th meeting, the GCF Board requested the secretariat to draw up a policy for indigenous peoples<sup>8</sup> which would be reviewed at the 17th GCF meeting in July 2017 (GCF 2016). At the close of this study, the tender has been issued for a consultant to draw up the policy on indigenous peoples.<sup>9</sup> It is expected that the approval process for the policy will include a call for opinions from the different actors of interest, among them indigenous peoples’ organizations.

Peru has had important participation in the GCF process, occupying the co-presidency of the Board during 2015 in representation of the developing countries. Furthermore, the COP 20 agreement reached in Lima led to a funding agreement for 10,200 million soles for the Green Fund. Peru had the first project supported by the Fund, “Building the resilience of the wetlands of Dátem del Marañón Province” directed by the Promotion Fund for Protected Natural Areas of Peru (PROFONANPE), a privately run institution.

This study is part of an international investigation promoted by the Indigenous Peoples’ Global Partnership on Climate Change, Forests and Sustainable Development on the situation of the indigenous peoples vis-à-vis the Green Climate Fund. Its aims were to identify the existing programs and policies of the Peruvian government with reference to climate-related funding, to establish the degree and type of participation of the indigenous peoples in them, and to characterize the degree of indigenous organizations’ information management and articulation in state policies regarding the GCF, giving special attention to the participation of indigenous women and youth.

Towards these, the study held a round of meetings with leaders of indigenous organizations and civil society, examined GCF documents, government documents, climate project accounts and reports and other items of public information, conducted workshops with

indigenous leaders of national and regional organizations on the proposal of strategies for participation in the GCF, and organized a public forum participated in by indigenous leaders, representatives of accredited entities, and specialists in funding for climate-related activities.

The results of the study are presented in two parts: the first deals with the approach of the Peruvian government to climate change and the gradual involvement of the indigenous peoples in this process. Recognition can be discerned, albeit incomplete, of the indigenous political agency and the persistence of a technocratic approach to funding for climate issues at the initial stage of the adaptation of Peru to the GCF. The second part sets the stage and examines possibilities for the participation of the indigenous peoples, beginning with the workshops held in Lima and the examination of experience in access to funding. This analysis concludes that the strength of a proposal for the direct funding of indigenous peoples is linked to the exercise of collective rights, systematization of experiences with other sources of funding, and development of the technical and executive skills of the organizations.

## The State, Climate and Indigenous Peoples

### Institutionalism of Climate and Indigenous Peoples

Peru possesses a great biological and ecological diversity, which is customarily extolled in national addresses in favor of tourism and other economic activities which need to show off the country's attractions. However, since its colonial founding, Peru has been run by an élite group which has seen the exploitation of rich natural resources as the way towards the idealized destinations of progress and modernity.

Peruvian ecosystems have therefore been managed with an economics-based logic: the government, usually unable to administer the

vast Peruvian territory, has devoted its efforts to controlling those territories which provide the raw materials necessary to generate wealth through exports. This logic has prevailed since the colonial administration of the natural resources up to the present-day extraction of petroleum and minerals by private companies.

In that process, the territorial rights of indigenous peoples have been systematically violated because the places where natural resources are extracted generally involve traditional indigenous homelands. "Relocation" of agricultural populations close to mineral deposits in the Andes is commonly carried out through economic compensation agreed with the communities; or economic and cultural changes are imposed on populations as they become a labor force for the extractive undertakings. From the decade beginning in 2000, the indigenous populations, organized with agendas and strategies for acknowledgement of their rights, have accentuated their protests against these violations of their cultural, social and territorial integrity. In view of this, the official and hegemonic rhetoric usually appeals to the racist disqualification of their agenda, alluding to them as "backward" people or "enemies of progress."

In the 1990s, the neoliberal economic model was consolidated in Peru, delegating public affairs such as territorial planning and responsibility for the natural environment to the private sector, under policies of concessions administered by ministries and technocratic institutions. In this way, in matters related to the environment, the supremacy of the "technical" pitch of Western science and technology (considered to be objective, neutral, modern and unquestionable) has been strengthened, postponing the intercultural dialogue with the knowledge and practices of the indigenous peoples who have inhabited the endangered territories from time immemorial.

Nevertheless, the increased presence of the indigenous peoples in public debate, especially after the violent events that occurred in Bagua (June 2009)<sup>10</sup> and the protests about water and territory,<sup>11</sup> has led to the government creating some spaces for dialogue and a greater acknowledgement of indigenous peoples' agency in

environmental initiatives. It is common for leaders of the organizations considered to have national representation of Andean and Amazonian peoples to attend meetings for dialogue at ministries such as Environment and Culture. This section gives an account of the government environmental institutionalism in Peru, ways in which indigenous peoples are included or excluded from governmental decisions, and the ways in which climate change is addressed with a transversal and multisectorial approach. This information is necessary in order to give a framework to the process of the Green Climate Fund from the viewpoint of Peru and the indigenous peoples..



### **Environmental Institutionalism and Inclusion of Indigenous Rights**

The Peruvian government has at its disposal a set of legal instruments for environmental management and policies which recognize the Peruvian territory as particularly sensitive to the effects of climate change. However, its environmental institutionalism is still under construction since the Ministry of the Environment is a young institution (created in 2008 under Legislative Decree No. 1013), and mainstreaming of climate change adaptation and mitigation actions is still pending. This section examines the main institutional standards currently in force with regard to the natural environment; their chronological order throws light on the progressive inclusion of indigenous rights in the institutional structure of the state.

The presence of the indigenous peoples in the environmental management instruments can be traced back to 1997 with Law No. 26821, the

Organic Law for the Exploitation of Sustainable Natural Resources. This law cites the native and rural communities as preferential users of the resources within their territories. In this period, a logic of exploitation is prioritized rather than one of care; and different ways of exploiting resources by the indigenous peoples are not considered nor is territorial regulation which considers the collective rights of the indigenous peoples to that territory.

### ***General Law of the Environment***

The General Law of the Environment, Law No. 28611 enacted in 2005, incorporates some of the rights of indigenous peoples, such as the conservation of cultural patterns, knowledge and lifestyles. The law states that environmental initiatives must consider traditional knowledge, safeguards, criterion of sustainable exploitation, participation of the indigenous peoples based on consulting,<sup>12</sup> and the generation of agreements.<sup>13</sup>



### ***Creation of Ministry of the Environment***

Environmental institutionalism in Peru began an important period of expansion when the Ministry of the Environment (MINAM) was created in 2008 with two vice ministries. The Ministry of the Environment is attached to the National System for Environmental Management and the System for Environmental Evaluation and Control, strengthened within the Body for Environmental Evaluation and Control. This ministry includes the Directorate General for Climate Change and Desertification.<sup>14</sup> In 2009 MINAM drew up the National Policy on the Environment, in which the intrinsic rights and traditional knowledge of the indigenous peoples are acknowledged as a condition to undertake the processes of adaptation and mitigation.

### ***National Commission on Climate Change***

In 2013 the Ministry of the Environment modified the composition of the National Commission on Climate Change (created in 1993), increasing it to 35 members,<sup>15</sup> the majority of which were representatives of ministries and autonomous government bodies. This reconfiguration assigned a seat to the nongovernment organizations (currently occupied by the Citizens' Movement against Climate Change [MOCICC]) and a seat for the indigenous organizations (currently represented by Interethnic Association for Development of the Peruvian Jungle [AIDSEJP]). This commission is responsible for checking and validating national policies on climate change and supervising the fulfilment of the binding international UNFCCC agreements.

### ***Reforms that weaken environmental control***

A series of measures was taken in 2014 in the environment sector in order to facilitate the application of investment projects and thus "revitalize the economy" whose growth rate had declined. Monitoring agencies within civil society called them "environmental packages" and warned that such measures restrict

MINAM's controlling capacity, especially of the OEFA (Body for Environmental Evaluation and Control). Furthermore, they annul the participatory nature of the processes for regulating territory and ecological-economic zoning. In this new legal institutional context, measures to safeguard the territorial rights of the indigenous peoples are not considered (Red Muqui 2015).

### ***Committee for scientific studies of climate change***

In 2014 a committee for scientific studies of climate change was set up with the aim of providing technical assistance to MINAM in the implementation of the UNFCCC agreements. This committee comprises only functionaries of the different bodies of MINAM, without the participation of the indigenous peoples or other actors of interest.

### ***National strategy on climate change***

The government updated the national strategy on climate change in 2015 that acknowledges extensively the vulnerable situation of the indigenous peoples. This update was made because the previous strategy drawn up in 2003 complied with only 12% of the proposed targets, such as the national and international regulations on climate change, and advances have been made in scientific knowledge on the subject (Ministry of the Environment 2014, p. 41). The national strategy on climate change includes a list of instruments for managing the natural environment and climate, the first of which is ILO Convention No. 169 (Ministry of the Environment 2014, pp. 28-35).

The national strategy on climate change (ENCC) points out that its application

*...should be carried out with suitable consideration for the country's environmental, economic, social and cultural context, and the problems of poverty and social inequality. Particular care should be taken with regard to the vulnerability of the poorest populations*

*and the 'at risk' groups such as the indigenous peoples and rural populations in general; and a gender approach should be incorporated in dealing with the effects of climate change. (Ministry of the Environment 2015, p. 41).*

### ***Giving priority to adaptation***

The Directorate of Climate Change and Desertification is in charge of carrying out adaptation and mitigation projects for climate change. As options for intervention, this directorate indicates adaptation to climate change, mitigation of greenhouse gas emissions and sectorial articulation for putting into motion the Nationally Determined Contributions, which are the country's commitments to reduce greenhouse gas emissions under the UNFCCC.<sup>16</sup>

It can be seen that the Peruvian government places special emphasis on adaptation projects. At the present time, work is being done to achieve a national adaptation plan for which the National Commission on Climate Change (CNCC) is to be responsible.

## **"Administration" of Indigenous Affairs**

The problem of integrating cultural diversity in government initiatives has long been the subject of discussion within the Peruvian government. Peru acknowledges the rural communities (in the Andean zone) and native communities (in Amazonia) as legal subjects, as well as the pluricultural and multilingual nature of the nation (1993 Constitution, Article 2, subsection 19).

From 2009 onwards, as a consequence of the "Baguazo," attention is given to prior consultation as a mechanism to avoid conflicts. The Law on Prior Consulting was approved in 2011 and led to the discussion of who are the country's legal subjects. Traditionally, only the native communities of Amazonia were considered as indigenous as it was believed that the

rural communities of the Highlands and Coast had lost their ethno-cultural distinction and had been "assimilated" into the mestizo world. However, this is based on suppositions arising from previous government policies and not on the subjective and objective indicators for the identification of indigenous peoples as defined in ILO Convention No. 169. A study carried out by CHIRAPAQ (2005) concludes that within ethnically diverse communities, "mestizo" or "peasant" are identified with modernity, and "the indigenous" with pre-modernity in a pejorative sense. Those who assume indigenous identity to affirm their status as legal subjects are the indigenous intellectuals and representatives of organizations. But this discussion has never been held in the communities themselves, and they are still unaware of the specific rights that correspond to their ethnicity.

The process of regulation of the Law on Prior Consulting, which is the responsibility of the Ministry of Culture (created in 2010 with stewardship on interculturality topics), took place amid a reconfiguration of indigenous political subjects, with demands for participation and self-determination. The Andean organizations, which formerly gave priority to the class denomination "peasant," would adhere to the indigenous platforms in matters of rights. The Ministry of Culture's data base on indigenous peoples would acknowledge the communities of the Quechua and Aymara peoples (such as the Uros, Jaqaru and Cauqui) as indigenous peoples. This process of acknowledgement was marked by an internal political dispute between the Vice-minister for Interculturality and the government sectors devoted to the promotion of private investment.<sup>17</sup>

These institutional and legal changes in environmental affairs and culture contribute to widening the full participation of the indigenous peoples in government initiatives on climate change topics. However, the non-recognition of the Andean peoples as indigenous has impeded their chances for participation.

It is thus that the majority of Amazonian local authorities and regional governments have offices for indigenous affairs, often run by designated members of local indigenous



organizations, while such a setup is absent in the case of the Andean peoples. In Amazonia, communal reserves have also been initiated whose governance is shared with the local communities and federations, a model which has not been developed to any great degree in the Andes. This is of special importance when it is realized that the Andean peoples are located in, and relate to, territories whose ecosystems are extremely vulnerable to the effects of climate change (glaciers, upper reaches of river basins, mountain woodlands).

In exercise of the right to prior consulting, 34 administrative and legislative measures have been implemented, 12 of which directly affect the indigenous communities of the Andes, 18 are relevant to Amazonian indigenous territories and four concern national public policies. Of the 12 consultations in the Andean zone, 11 deal with the concession of territories for mineral prospecting or exploitation.<sup>18</sup> The isolated case of the Tres Cañones Regional Conservation Area

in the province of Espinar, Cuzco is noteworthy for being the first occasion in which, through this mechanism, Andean communities have worked jointly on a conservation effort.<sup>19</sup>

### Working Group in MINAM

The Ministerial Resolution No. 203-2016-MINAM created a permanent sectorial working group in charge of “proposing, applying and disseminating solutions to environmental problems to provide an improvement in the quality of life for the individuals and societies of the indigenous or aboriginal peoples, and to manage technical cooperation and the development of projects of mutual interest, within the scope of the powers of the Ministry of the Environment.” This working group comprises eight officials from MINAM bodies, including the two Vice-Ministers and representatives of the seven national indigenous organizations.



## Climate, Territory and Indigenous Participation with Multisector Approaches

The Ministry of Agriculture (MINAGRI) has a current National Agrarian Policy<sup>20</sup> that acknowledges the intercultural approach and the importance of the indigenous peoples in the development of farming activities and management of the forests.<sup>21</sup> However, in the text the indigenous peoples appear as beneficiaries and not as agents of change, and their vulnerability is pointed out but not their potential to change the situation.

The MINAGRI is the state institution governing the issue of title deeds for territories. Its policies need to be updated to acknowledge the direct relation between the award of title deeds to territories and environmental conservation, a condition from which the projects generated by the indigenous peoples originate.<sup>22</sup> A recent empirical study has shown the positive effects of awarding title deeds for territories on the conservation of forests in the Peruvian Amazonia. It led to reduced deforestation and a strengthening of formal and informal regulatory influence on the lands (Blackman *et al.* 2017).

The Policy on Water Resources, which is the responsibility of the National Water Authority (ANA),<sup>23</sup> recognizes the rights of communities and the traditional use of the water, as well as their being included in structures of governance. However, effective participation is “little or none,” which gives rise to permanent conflicts related to the lack of fair distribution of water resources (Salazar and Rivera, 2013).

The National Water Authority is attached to the Ministry of Agriculture and governs the management of water resources in Peru. Its scarce participation in climate policies and initiatives is a crucial lack because in the indigenous peoples’ agendas, the security of the territories and of the water sources are essential conditions for conservation.

## Green Climate Fund

Peru has actively participated in the global process of the Green Climate Fund, but its institutional structures for a nationwide implementation are still incomplete.

In looking at Peru’s policies for climate financing, we must take into account that the public budget for forests and climate change has been increased constantly between 2012 and 2015. A report produced by DAR (Derecho, Ambiente y Recursos Naturales [Law, Environment and Natural Resources]) shows that in 2015 it reached 443 million soles (US\$143 million) in the month of July (Che Piu *et al.*, 2016), Nonetheless, as pointed out by Loyola (2015, cited by Che Piu *et al.*, 2016), the Ministry of the Environment and the regional governments did not implement more than 50% of this budget in any year of the period mentioned. The report also notes that in Peru 30 projects were implemented for forest management or climate change, representing total resources of more than \$600 million. However, the projects “still have not defined the funding mechanisms through which they will be implemented, or they have failed to comply with all the internal requirements of investment and public debt” (Che Piu, *et al.*, 2016, p. 29).

### *National Designated Authority and National Policies on GCF*

In its summary reports for the government period 2011 to 2016, the Ministry of the Environment recognizes the following advances made regarding the institutionalization of the Green Climate Fund:

- Designation of the MINAM Vice-Minister of Strategic Development of Natural Resources, attached to the Directorate for Climate Change, as the National Designated Authority for the Green Climate Fund in Peru;
- Approval of Peru’s Program of Financial Readiness for access to the GCF, with a sum of \$300,000.

Regarding access to funding, the following achievements may also be noted:

- Accreditation of PROFONANPE as a body authorized for access to the resources of GCF;
- Approval of GCF funding for the project “Building the resilience of the wetlands of Dátem del Marañón Province” directed by PROFONANPE.

Ongoing or pending tasks in relation to implementing Peru’s Program of Financial Readiness are:

- Design of a system for evaluating projects and requests for the accreditation of bodies;
- Strengthening of skills at nationwide level in relation to opportunities offered by GCF;
- Identification of new national bodies that might be accredited before GCF;
- Development of a portfolio of projects to present to GCF.

At the same time, the Ministry of the Environment issued a document containing guidelines for “green growth” (sustainable economic growth).<sup>24</sup> This document mentions participation in the Green Climate Fund as a positive attribute. The guidelines make no reference to the rights-oriented approach nor to indigenous peoples; rather, it addresses the promotion of the private sector’s adopting policies of sustainability.

From the date of change of government (July 2016), the new accredited body is the Ministry of Economy and Finance (MEF).<sup>25</sup> The desired result of this change is to improve channelling

of climate related funds within the framework of national economic policies.

However, in comparison with MINAM, the MEF has less experience in processes of consulting and coming to agreements on common agendas, so this change has aroused some feeling of uncertainty among the indigenous organizations. The effective acknowledgement by MEF of indigenous political agency, in comparison with the culture and environment sectors, is a subject for discussion in view of the experience of interaction between institutions. Furthermore, the structure of the Peruvian government and its internal policies give the MEF a particular degree of power which, in relation to the issue of centralizing budgets and supervising their use, practically limits investments by the other sectors.

#### *Working agenda of National Designated Authority*

In April 2017, the MEF and MINAM signed the Framework Convention on Inter-institutional Cooperation with the aim of monitoring the workings of the Green Climate Fund and drawing up the National Strategy on Green Growth. The agreement divides the tasks of both agencies; the MEF is responsible for the procedures of access to funding and to evaluate whether the projects presented coincide with national economic policies, while the MINAM is in charge of the political work of drawing up agreements within the framework of regional strategies on climate change. The following table sets out the particular responsibilities of each area:

Ministry of Economy and Finance	Ministry of the Environment
<ul style="list-style-type: none"> <li>• Validate projects and programs presented to the GCF according to MEF policies</li> <li>• Analyze financial structure of projects</li> <li>• Issue no objection to projects presented to GCF</li> <li>• Present proposals to GCF to obtain access to Readiness Funds, prepare projects and an instrument for the private sector</li> <li>• Identify potential accredited bodies</li> </ul>	<ul style="list-style-type: none"> <li>• Validate projects and programs presented to GCF according to environmental policies and international climate related commitments undertaken by the government</li> <li>• Coordinate environmental priorities with regional governments</li> <li>• Compile portfolio of projects that could be eligible for GCF funding</li> <li>• Propose potential accredited bodies for GCF</li> </ul>



Shared responsibilities are as follows:

- Drawing up a Country Work Program, the national strategy for obtaining access to GCF resources;
- Formulating the procedure that accredited bodies should follow in order to select and evaluate project proposals to be submitted to GCF;
- Designing and updating the no-objection procedure for projects presented by accredited bodies;
- Drawing up a strategy for communication and dissemination of procedures related to the GCF;
- Drawing up a strategy to gain private sector access to GCF;
- Defining priorities of eligible activities to gain access to the Readiness Fund;
- Identifying project proposals eligible for access to the Readiness Fund;
- Coordinating on production of the National Strategy on Green Growth, together with follow-up actions with sectors involved.

As can be seen, the agreement aims to complete the institutionalization of the GCF in Peru in a coherent manner. While MEF will act as interface with the GCF and will validate economic proposals, the MINAM will take charge of the political processes for coordinating the environmental priorities within the framework of existing policies. From the point of view of the indigenous peoples, we must make the following comments:

- *On the national strategy for access to the Green Climate Funds and access to the Readiness Fund:* More information is necessary on the method of consulting with the actors of interest and the determination of representatives and undertakings that might be allowed access to the funds. The private sector has a special niche in this process through a line of access which the GCF provides for this sector. Indigenous peoples' organizations and women's organizations should join forces as representative agents.
- *On environmental priorities:* The political entities appointed for joint work with

the MINAM are the regions, represented by their regional governments, who should create regional strategies regarding climate change. The guidelines for generating these strategies indicate that the indigenous peoples (called rural and native organizations) are actors who propose and implement actions to contribute to the strategy (MINAM, 2011). However, this work should not exclude the indigenous peoples, which are collective autonomous entities differentiated from the regional government, owing to the fact that in the regional spaces especially in the Andes the indigenous peoples particularly women and youth are not acknowledged as actors with agency in all stages of the process.

### **PROFONANPE as Accredited Body**

The first nationwide body in Peru accredited to work with Green Climate Fund resources is the Fund for the Promotion of Protected Natural Areas of Peru. PROFONANPE was accredited in the category of micro projects, enabling it to receive funding of up to 10 million Peruvian soles.<sup>26</sup>

PROFONANPE was created in 1992 through Decree Law No. 26154, and its board consists of four representatives from the public sector, representatives of the economics and environment sectors, together with two representatives of NGOs, one from the private business sector and one from international cooperation. It is defined as a not-for-profit private institution with the mission of "obtaining, administrating and channelling financial resources to promote the establishment and effective management of the Protected Natural Areas and the conservation of the biological diversity contained within them and their buffer zones."<sup>27</sup>

Since 2015, PROFONANPE has been in charge of "Building the resilience of the wetlands of Dátem del Marañón Province," the first project financed by the Green Climate Fund with funding of 6.1 million Peruvian soles. This project is qualified as of low social and environmental risk. It is oriented to the sustainable

exploitation of the natural resources of the zone through agriculture and fishing by the local indigenous communities and provides some technical support for their integration in the market through bio-businesses.

The PROFONANPE project has worked as an example of some of the pending challenges for the indigenous peoples with regard to the rights-oriented approach applied by the Green Climate Fund. This case has been thoroughly analyzed by Martone (2015),<sup>28</sup> whose study points out that the project was approved with comments on the validity of the free, prior and informed consent given by the local indigenous communities, especially the Achuar organization FENAP. This took place in a territory which has a large diversity of indigenous peoples and organizations, with varying levels of representation and legitimacy. The FENAP coordinates at provincial level with CORPI-SL and at national level with AIDSEP; however, each organiza-

tion is autonomous in making decisions on consultations.

According to PROFONANPE,<sup>29</sup> the process of dialogue with the local indigenous communities was based on previous work during 10 years of implementation of the project in the zone, together with the different organizations of the seven indigenous peoples that live in the province. The proposal of the project presented to the GCF incorporated the communities affiliated to the FENAP, an organization that is busy drawing up its own development program or life plan. The FENAP requested the following points as agreements: (1) that the project does not affect the creation of new federations; (2) that PROFONANPE does not become involved in the process of issue of title deeds for lands. Both of these points were taken into account as the activities mentioned are not included in the project proposal.



While the case of PROFONANPE was resolved positively, this experience shows the need for the GCF to point out clearly its policies on indigenous peoples and the procedural standards which projects must meet. It is conceivable that in the future projects will be presented which have a higher socio-environmental risk qualification.

Free, prior and informed consent (FPIC) is a condition for any intervention in indigenous territories, and this is supported by international legislation. At national level, the Peruvian law on prior consultation determines that this be applied to government legislative and administrative measures that could affect the rights of the indigenous peoples.<sup>30</sup> In this situation, the National Designated Authority at nationwide level should adopt a legal route to resolve this ambiguity: (1) to define the FPIC guidelines for the presentation of projects before the Green Climate Fund, determining the body responsible for carrying out the consulting process with the supervision of the Vice-Ministry of Interculturality as the governing body; or (2) to carry out the prior consultation procedure according to the law, starting from the MEF (being the body which takes the administrative decision to back the project before the GCF).

With these routes, the obligations regarding the rights of the indigenous peoples, which are honored by the private entities that achieve accreditation, would be made clear. There is evidence that the indigenous peoples need to accentuate their organizational strengthening and for articulate local and regional bases with nationwide organizations to watch over processes of this kind.

Furthermore, it would be positive if the GCF publicized the documents relating to the dialogue process with the local communities, so that the indigenous organizations and civil society might learn how to strengthen future dialogue experiences. The information in the GCF website is hard to access as it appears solely in the English language. To date, the only document on this project published on the GCF web is the proposal presented to obtain funding dated October 2015.<sup>31</sup>

## Agency and Proposal of the Indigenous Movement

### Structures of Citizenship and Participation

#### *Indigenous organizations*

The political processes in the Andes and Amazonia which have been outlined have given rise to different types of organization. It should also be remembered that each community might be considered as an organization in itself with legal standing through registration with the Public Records Office or through the issue of title deeds for its territory.

When dealing with public policies, the government usually calls nationwide organizations to dialogue tables: AIDSESP, CONAP, CNA, CCP, ONAMIAP, FEMUCARINAP, UNCA and CUNARC.<sup>32</sup> These organizations are linked to regional, provincial and river-basin federations (in the case of Amazonia) which participate in advocacy spaces in their respective territories. AIDSESP also articulates at international level through COICA, which gathers together organizations from the countries in the Amazon Basin. These national organizations make alliances with actors in civil society, such as NGOs and citizens' environmental groups, for transparency, overseeing for example, and to enhance their chances of advocacy at nationwide level.

In addition to the organizations recognized by the government at nationwide level, it is necessary to explore other ways in which indigenous communities can be organized, especially in the Andean zone where the indigenous identity has been weakened and the people themselves prefer to call themselves peasants or producers. While water-users' committees and municipalities exist in those jurisdictions where rural communities are district capitals, this participation has not been investigated in terms of ethno-cultural diversity and collective rights.

### ***Indigenous women's organizations***

Although the organizations normally include gender equality as part of their political platform, gender inequality persists within the indigenous movement, where the majority of the bases at different levels are led by men. Similarly, the gaps in access to education, multiple types of violence (owing to economic conditions, gender and ethnicity), lack of economic independence and other situations limit indigenous women's possibilities of access to decision making spaces.

Different indigenous women's organizations have joined forces to create two nationwide organizations: ONAMIAP and FEMUCARINAP. These organizations, together with the organizations of women of African descent, participated in the process of formulating the Action Plan on Gender and Climate Change (PAGCC) led by the Ministry of the Environment and the Ministry of Women and Vulnerable Populations, with the aim of linking the gender and climate-change policies. The PAGCC acknowledges that:

*... the gender gaps between men and women accentuate the vulnerability of women to the impacts of climate change; they limit their capacity to adapt in the face of the risks generated by these changes and they do not contribute to the efforts to reduce emissions of greenhouse gases (MINAM and MIMP 2016, p. 12).*

The effects of climate change on indigenous women and the actions of indigenous women are acknowledged and are part of the political platforms of the organizations:

*Gender inequalities limit and reduce response capability in the face of the effects of climate change; the women are not only victims but also active agents of change and have unique knowledge and skills. Understanding the differentiated risks and impacts of climate change on women and men is basic in order to achieve sustainable, low-carbon development that is resilient to climatic impact (MINAM and MIMP 2016, p. 17).*

The PAGCC defines eight lines of action, which include forests, water resources, and food security.

The Green Climate Fund considers women as actors of interest with participation in the design and implementation process of the projects, and it has a policy on gender;<sup>33</sup> however, this instrument makes no mention of indigenous women.

### ***Participation of indigenous youth***

Unlike the women, young people as a group are not considered by the Green Climate Fund's governing instrument as actors of interest.

CHIRAPAQ (2014) has noticed the inequalities suffered by indigenous youth regarding access to higher education and decent employment. Furthermore, it is mentioned that while young people form their own indigenous organizations in spaces at university or sign up to organizations where their parents are members, they do not participate actively. A study carried out by Diego Salazar (2013) shows that the indigenous youth's agenda on education and employment only come second to prior consulting in the indigenous political agenda.

Different indigenous youth bases (usually differentiated from local or regional bases and not affiliated with nationwide territorial organizations) made up the REOJIP although the latter does not form a part of the official spaces for dialogue with the indigenous peoples.

### **Experience of Governance from Indigenous Peoples' Viewpoint**

The indigenous peoples agree that the best way to address initiatives on climate and the reduction of carbon emissions is through protection of territorial rights on forests. In that sense, they have participated in the governance of sustainable development initiatives and gradually have become more involved in leading projects and in monitoring and overseeing them.

In the case of Amazonia, the World Bank's Forestry Investment Program (FIP) has acquired



special importance, Peru being one of the first countries to be involved.<sup>34</sup> While its formulation has aroused concern over the omission of the protection of indigenous peoples' rights and free, prior and informed consent (FPP, 2009), some projects funded by FIP have made up for this deficiency by implementing governance structures with the participation of indigenous organizations, AIDESEP and CONAP. The assumption is that indigenous management of the actions will guarantee that the rights of the communities involved are not violated. The FIP's conditions of implementation, agreed between the Peruvian government and the indigenous organizations, are as follows:<sup>35</sup>

- Allocation of title deeds to territories and indigenous management and governance of forests as part of the conditions for implementing projects, with an investment commitment of \$14,5 million;
- Participation of indigenous technical teams in the design of FIP projects;
- Participation of indigenous peoples in technical teams for the program of issuing title deeds for lands;
- Direct implementation by indigenous peoples of programs for forest governance and management.

Within the FIP, the Saweto Specific Dedicated Mechanism (SDM) has been operating since 2015 as a special fund for financing indigenous peoples. This mechanism has authorized \$5,5 million for the recognition of new lands, the assignment of title deeds for communal territories and the development of productive projects compatible with the sustainable use of the forest. The AIDESEP and CONAP are at the top of the governance structure of the SDM and make policy decisions. Under their leadership, the World Wildlife Fund (WWF) has been contracted to administer the funds issued. The base communities of AIDESEP and CONAP participate as implementing bodies. Representatives of both organizations interviewed for this study gave a positive evaluation of the Saweto SDM, especially because at the different levels of governance the best is made of its organizational structure and deployment across the territories.

The performance reports of the SDM are published periodically in the web portal of the

World Bank.<sup>36</sup> The latest report (February 2017) shows that the progress of results and the employment of funding do not meet the previously estimated values.<sup>37</sup> However, the organizations involved have identified as progress the improvement of forestry management practices by the indigenous communities, the recognition of 77 native communities, actions for issue of title deeds by 17 communities, and the funding of six sub-projects on forest management.<sup>38</sup>

With regard to the Andean zone, guidelines on climate change include traditional knowledge and practices, local technology and the intercultural approach. However, community participation in the structures of governance is hindered by weak organization, social and inter-community conflicts and the lack of recognition of collective rights, which is linked to the history of non-acknowledgement of their status as indigenous peoples.

This may be noted in the experience of the Program of Adaptation to Climate Change (PACCPERÚ), an initiative carried out by the Ministry of the Environment with support from the Swiss Agency for Development and Cooperation, together with the governments and public universities of the Andean regions of Apurímac and Cuzco, and the communities of the micro-basins of Huacrahuacho (Cuzco) and Mollebamba (Apurímac) as local allies. The summary of the first phase of the Program (the second phase's summary was not available at the close of this study) shows the importance of the participatory aspect of the methodology, the exchange of knowledge, and gender and age equality to the development of the project:

*Scientific study provides quantitative evidence based on instrument readings, while participatory study values and capitalizes on local knowledge based on the observation of 'signs,' providing qualitative evidence (PACCPERÚ 2013, p. 94).*

No information on the continuity of this initiative is available.

While the regional strategies of Cuzco and Apurímac produced within the framework of

the Program of Adaptation to Climate Change acknowledge these conditions and involve the indigenous communities as implementers, the potential of the latter as generators of proposals for adaptation and mitigation is not considered, nor do they participate in the design of initiatives.

### Participation in Green Climate Fund

The indigenous peoples in Peru have a limited number of routes open for advocacy in the global process of the Green Climate Fund. The COPs, where indigenous organizations normally participate, could provide exactly the right opportunities to advocate, but the final decision making in this mechanism is in the hands of the governments. Comberti, Thorton and Korodimou (2016), in their analysis of the Paris COP 21, show how the distinctive style of discourse used by indigenous peoples is treated by those who take decisions as something “novel” or “different.” The result is that the representatives of the indigenous peoples are relegated in spaces where decisions are taken among the states, and they are “folklorized” in indigenous pavilions and cultural expositions. The negotiation model applied at the COPs favours political cultures and Western styles of communication, concludes this study.

The governance structure of the Green Climate Fund is centered on states whose representatives comprise a 24-member board of directors (12 from developed countries and 12 from developing countries) who designate an independent secretariat. The board of directors hold meetings twice a year with the participation of four active observers (two from the private sector and two from NGOs).<sup>39</sup> The other observing entities may follow the meetings in a separate space and have neither say nor vote.

In different communications to the GCF Board, the indigenous peoples have claimed their right to participate as active observers with a different status from that of civil society. This is an ongoing claim of indigenous peoples in worldwide scenarios; their participation as peoples and not as members of the civil society is a proposal stemming from the recognition of

their collective entities as subjects of law, supported by international instruments.

In the Peruvian case, PROFONANPE (accredited body), AIDSESEP (indigenous peoples) and DAR (NGO for environmental surveillance) have the status of observers.

There exist *de facto* restrictions on the effective participation of national observers, especially the indigenous organizations. The meetings and all communications of the GCF are in English. In addition, technical language developed specifically within this process is employed and no translation or interpretation is provided in the languages employed by the United Nations. Furthermore, the organizations do not have sufficient available funds to travel to the Korean Republic where the meetings are held. These conditions hinder the effective circulation of information among the grassroots organizations of the indigenous peoples.

### Development of Strategies by Indigenous Movement

The current context of the Green Climate Fund represents an opportunity for the indigenous peoples to advocate so as to open pathways towards coordinated formulation of GCF policies and the execution of projects with a governance based on collective rights. Similarly, the strengthening of surveillance strategies is needed to ensure the projects are implemented without damage to indigenous territories and lives.<sup>40</sup>

### Political Context

The political context for advocacy in the GCF shows an unfavourable international scenario and at the national level, one with disadvantages for the indigenous organizations with regard to decision making by the government. The election of Donald Trump as US president constitutes a threat to the continuity of the Green Climate Fund. The US government

has up to now been GCF's main financier, but the Trump government is opposed to continue making contributions to worldwide initiatives to combat climate change, endangering future funding for climate related issues.

There exists the possibility that actors at a high level of decision making, such as the developed countries and the World Bank on the global scene and the Ministry of Economy and Finance as the National Designated Authority for Peru, will show openness to indigenous initiatives within the framework of compliance with international standards and social and environmental safeguards for the implementation of GCF projects. However, spaces for dialogue between indigenous peoples and these bodies are restricted.

The Peruvian indigenous movement has a low advocacy capability with regard to the GCF process in Peru. The spaces created by the government where organizations coordinate and have permanent dialogue have no influence on policies for the GCF.<sup>41</sup> However, some allied organizations do possess the technical capacity and information to carry out surveillance of the GCF process.

Information about the GCF is not effectively disseminated among the indigenous organizations. The regional and local base organizations are not informed of the monitoring of the process. At the workshop conducted by this study, it was suggested that the channels of communication between observing organizations and the indigenous base groups be strengthened through culturally relevant communication tools, such as radio and video. The participating organizations in the workshop asked the observers of the GCF to disseminate information and evaluations they make, as indigenous or other groups, among the national and grassroots indigenous organizations.

The conditions for developing initiatives on adaptation and mitigation are similarly negative, given the lack of territorial security of the indigenous communities and scarce progress with the issue of collective title deeds. Furthermore, indigenous organizations face threats to their safety and lives from illegal gangs and economic

interests whose intention is to commandeer the natural resources located in indigenous territories.

### **Moving Towards Direct Funding of Indigenous Organizations**

Given the current situation, a priority on the route towards direct GCF funding for the indigenous peoples is to advocate for the formulation of a policy for indigenous peoples in the GCF. A recommendation that could be put before the GCF Board is the creation of a special interface for indigenous peoples.

A precedent of a special interface for accrediting and access to funding for the private sector (PSF) already exists. The indigenous interface should make the accreditation requirements more flexible according to the fund-management experience of continental and worldwide indigenous organizations.<sup>42</sup> However, this will require that the indigenous organizations strengthen their technical skills and improve their results and implementation in current undertakings, such as the Saweto SDM, in order to propose and implement projects with autonomy and political leadership.

Similarly, unified agendas and spaces for articulation need to be generated between the Andean and Amazonian peoples that strengthen participation and initiatives on mitigation and adaptation, advocacy within the institutional structure of climate related funds in Peru, and formulation of projects by the indigenous peoples.

In parallel, it is necessary to create and strengthen alliances with international accredited bodies that have agencies in Peru, such as WWF and GIZ as well as UNDP or FAO at worldwide level, on the basis of experience of indigenous governance in previous processes. These alliances will be aimed at the commitment of these bodies to apply the rights approach in full, free, prior and informed consent and indigenous governance in GCF projects for implementation in Peruvian territory.



## Conclusions

1. The Green Climate Fund process represents a challenge for the indigenous movement, because its design is built around governments and practices with economics-oriented criteria; moreover, dissemination of information is restricted, and these factors impair participation of the many different actors involved.
2. The policies on approval of GCF projects have been shown to favor the private sector and have prioritized the disbursement of funds for actions without even having the necessary guarantees for the exercise of the rights of the indigenous peoples. These criteria are applied in Peru and coincide with the official policies of governance and development.
3. It is necessary to identify the lessons learned in the approval of the project directed by PROFONANPE to generate a national institutionalism that addresses the funding of climate related issues from the intercultural standpoint, acknowledging the inequalities faced by the indigenous peoples and strengthening them as agents of change.
4. The policy for indigenous peoples in Peru has been characterized by creating distinct management instruments that include the rights approach but which have to coexist with a national economic policy that exalts large-scale extraction of natural resources and seeks to benefit from territorial insecurity.
5. The nomination of the Ministry of Economy and Finance as the National Designated Authority, while of concern to indigenous organizations, should serve to transfer the debate on development with rights to the space where investment priorities are decided.
6. The process of formulating an indigenous policy in the GCF, already started, represents a chance to guarantee the participation of the indigenous peoples in the climate change initiatives. It is important that organizations of the in-

igenous movement define the terms in which this participation is to take place

7. It is necessary to agree on Andean-Amazonian parameters for involvement in the GCF processes that go further than mere inclusion in the design and negotiation. Rather, this could provide a contribution and offer a comprehensive perspective on the management of the factors that influence climate, from the starting point of a geographic reality as complex as the Andean zone.





8. The Readiness Fund must be executed with a view to strengthening the skills of the indigenous organizations, especially of local bases, in the formulation of initiatives, design of indicators, execution, monitoring and surveillance, implementing the dialogue between technical knowledge and traditional, local indigenous knowledge, and a transversal approach to gender issues and youth. The creation of these instruments will strengthen the proposal to make direct funding available to indigenous organizations and will validate the accrediting of their organizations.
9. Just as with previous GCF instruments, the policies being designed for indigenous peoples should be consulted with civil society and stakeholders. This necessitates collective action for advocacy from Peru, together with advocacy before the Ministry of Economy and Finance, towards institutionalizing the GCF in a participatory fashion.
10. The processes, at both national and international levels, require the commitment of the organizations that are currently observers of the GCF on timely dissemination of information and discussion of progress made.

## Recommendations

The agenda of recommendations agreed by the indigenous organizations is addressed to the decision making bodies of the GCF process at international level (GCF Board) and national level (National Designated Authority).

### Indigenous policy for Green Climate Fund

The projects financed by the Green Climate Fund must have the full participation of the indigenous peoples in their formulation, governance and monitoring in order to ensure beneficial results which respect individual and

collective rights. This position is based on ILO Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples.

On the basis of the experience of PROFONANPE and of the conservation projects with indigenous governance, lessons learned in Peru on free, prior and informed consent and participation of the indigenous peoples must be identified. These lessons should be incorporated in GCF policies for the indigenous peoples and in the creation of mechanisms for FPIC in the private sector at national level.

The generation of a specific policy for indigenous peoples by the governing board of the GCF must focus on rights and safeguards meeting the standards of the United Nations. The current safeguards used by the IFC have an investment logic that does not adapt to the life plans and development agendas generated by the indigenous peoples on territorial security, sustainable use of natural resources, food security and sovereignty, gender equality, youth participation, and other claims included in the indigenous agenda.

In the same way, the GCF policy for indigenous peoples must take into account that a part of each project budget is devoted to attending the urgent needs of the indigenous organizations: territorial security, strengthening technical and executive skills of their teams, and personal safety of their constituents, particularly women and young people, in the face of possible criminal acts. These aspects should be coordinated with the life plans of legitimized organizations present in the territory where the intervention takes place, avoiding malpractice such as creation of new organizations to validate the projects or recruitment of personnel from outside the organization.

### Indigenous Monitoring in GCF process

The incorporation of representatives of indigenous peoples as active observers at international and continental levels is demanded, with a budget designated for their participation differentiated from that of civil society organizations. This accreditation should be agreed by the

indigenous peoples in global spaces such as the International Indigenous Peoples' Forum on Climate Change (IIPFCC). Their participation must be funded administratively by the GCF.

In order to enable the effective participation of indigenous peoples in GCF meetings, the use of the official UN languages is demanded, together with dissemination of complete information in the official languages of the Board's decisions and the projects funded by the Green Climate Fund.

### **Peruvian Government and Institutionalism of GCF**

The choice of the Ministry of Economy and Finance as the National Designated Authority for the GCF is a concern, as there is no prior experience of collaboration between this ministry and indigenous peoples' organizations. Despite the Ministry of the Environment's being in charge of the joint formulation of policies for the GCF, up to May 2017 no progress had been made on this initiative on climate related funding. In general, from 2016 onwards a paralyzation of the GCF process in Peru can be seen.

The organizations demand that the Ministry of Economy and Finance, as the appointed authority, should complete the institutionalization of the GCF in Peru, creating the working plan for the country and a portfolio of projects, both instruments having been agreed with the indigenous peoples and all actors of interest. The Ministry of Economy and Finance and the Ministry of the Environment, by virtue of their agreement, should call for dialogue with the national, regional and local indigenous organizations to come to agreed perspectives and to generate these instruments with a gender and youth approach. The political agreements should be endorsed by a Supreme Decree from the Ministry of Economy and Finance.

The Ministry of Economy and Finance must execute a supporting-fund plan (readiness fund) approved by the GCF for Peru. This budget must be agreed on with the indigenous peoples, all actors of interest in the GCF process, and national efforts to combat the effects of climate change. These agreements must be discussed in an intersectoral fashion, round a table with the participation of the Ministry of Economy and Finance, Ministry of the Environment, and Ministry of Culture (as an institution governing indigenous affairs) within the framework of national policies for sustainable development and climate related efforts.

The Ministry of Economy and Finance and Ministry of the Environment must guarantee that future projects approved for GCF funding in Peru implement mechanisms for monitoring and rendering accounts with the participation of actors of interest, among which are the indigenous peoples. The indigenous organizations have experience of environmental surveillance and indigenous monitoring, which should be central strategies in implementing projects.<sup>43</sup>

The transparency in projects funded by the GCF in Peru must be improved. The organizations demand the publication of reports on the project, "Building the resilience of the wetlands of Dátem del Marañón Province" directed by PROFONANPE and the plans for participation by the indigenous peoples in its implementation. Likewise, they require clear and precise information on the process of formulating the project and the dialogue to obtain the free prior and informed consent of the indigenous peoples located in the intervention area. In such a way, lessons may be learned to guarantee compliance with standards on rights in future initiatives, possibly of higher social and environmental risk.



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## Endnotes

<sup>1</sup> This centrality stems mainly from the condition of the GCF as the body responsible for operating the financial mechanism of the United Nations Framework Convention on Climate Change (UNFCCC), which makes it similar to the Global Environment Facility (GEF). In that sense, the GCF is in charge of funding actions derived from the Paris Agreement (2015). The quantity of funding which it is hoped to raise (100 billion US dollars annually up to 2020) is indicative of its political importance. Nevertheless, up to May 2017 only 10,1 billion US dollars had been gathered - a large sum but a long way from the declared target. Source: <http://www.greenclimate.fund/partners/contributors/resources-mobilized>.

<sup>2</sup> The participation of the private sector in the reception of funds from the GCF causes concerns regarding local communities' rights' being affected and the fulfilment of transparency criteria, especially after the accreditation of the Deutsche Bank and HSBC, who finance extractive projects for fossil fuels in conditions contrary to the aims of the Paris Agreement. (AIDA, 2016 and King, 2016).

<sup>3</sup> Consult the list of approved projects in the GCF web page: <http://www.greenclimate.fund/projects/browse-projects>.

<sup>4</sup> Quote from the Paris Agreement, page 1: 'Acknowledging that climate change is a problem affecting the entire human race and that, on adopting measures to deal with it, the Parties must respect, promote and take into account their respective obligations concerning human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, people with disabilities and those people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.' (UNFCCC, 2015).

<sup>5</sup> The mechanisms analyzed in the cited study were: GEF, REDD and CDM (Clean Development Mechanism).

<sup>6</sup> Consult the bibliographical references in section C: Communications between the GCF and the indigenous movement.

<sup>7</sup> An analysis of the safeguards of the IFC regarding the rights of indigenous peoples may be found in the Halifax Initiative Coalition (2006). Misgivings about the implementation of the IFC safeguards for indigenous peoples of the IFC may be found in Forest Peoples Programme (2007) and the pronouncement of social organizations of Honduras (2014) obtained from: <http://www.forestpeoples.org/sites/fpp/files/publication/2014/01/cso-statement-cao-investigation-ifc-dinant-investment4.pdf>.

Experience with the IFC in Peru is not positive because this entity has financed extractive projects that have had negative effects on the territories (Hinojosa y Livise, 2015).

<sup>8</sup> The mandate to generate policies to promote the contributions and participation of the actors of interest in the GCF is to be found in Article 71 of its instrument of government.

<sup>9</sup> The terms of reference of the tender can be consulted here: <https://www.impactpool.org/jobs/267457>.

<sup>10</sup> Confrontation in which 43 people were killed and one was missing after a strike by the Awajún and Wampís indigenous peoples in protest against the legislative decrees which threatened their territorial integrity in the province of Bagua, Amazonas Region (northern Amazonia). Detailed accounts of this event are to be found in the minority report submitted by a special commission of the Peruvian Congress (Congreso de la República, 2010) and in the documentary (*La Espera*, 2014).

<sup>11</sup> Opposition to the Conga mining project in Celendín, Cajamarca (from 2012 onwards) and the Espinar mining conflict (since the 1990s) are landmark cases in which the limitations of the social responsibility programs of the concessionary firms can be seen. Extractive projects and the damage to water sources and territory are the main reasons for conflict in Peru. 139 out of 204 conflicts recorded as ongoing in March 2017 (68.1%) have socio-environmental causes. (Defensoría del Pueblo, 2017).

<sup>12</sup> The law does not specify, however, what consulting process should be used, since at the time this law was enacted, prior consulting had not been regulated. Neither does law no. 28611 stipulate a standard procedure to meet this requirement.

<sup>13</sup> See Articles 69, 70, 71 and 72 of law no. 28611, which acknowledge the cultural rights associated with the environment, safeguards for the constitutional rights of peoples and communities, collective indigenous knowledge and the cultural, social and economic integrity of their societies.

<sup>14</sup> Formerly the Directorate General for Climate Change, Desertification and Water Resources; the change was made through the ROF of 2017.

<sup>15</sup> Through the Supreme Decree n<sup>o</sup> 015-2013-MINAM.

<sup>16</sup> Source: <http://www.minam.gob.pe/cambioclimatico/nuestras-lineas-de-intervencion/> (Consulted: 11-04-2017) which indigenous territories were ceded in concession to extractive industries without any prior consulting processes.

<sup>17</sup> A report on this can be found in Lanegra (2015), an article distributed before the complete publication of the Data Base on Indigenous Peoples (BDPI), which included the Quechua peoples (Balbuena, 2016). However, it should be made clear that the BDPI is a declaratory instrument and does not grant rights.

<sup>18</sup> Data obtained from the web page of the Vice-minister for Interculturality via the link <http://consultaprevia.cultura.gob.pe/proceso/> (Consulted 17-04-2017).

<sup>19</sup> The communities in Espinar Province have undertaken a process of self-recognition with regard to the ancestral identity of the Quechua-speaking K'ana people. Having confirmed the recognition of indigenous rights in the Andean zone, it is possible that other groups of communities might choose the same path.

<sup>20</sup> Approved through Supreme Decree no. 002-2016-MINAGRI.

<sup>21</sup> See points 4.2 (Territorial approach), 4.3 (Gender approach), 4.4 (Intercultural approach), 4.5 (Sustainable-development approach), 5.5 (Inclusion of indigenous knowledge in agricultural innovation and investigation).

<sup>22</sup> See: *Experience of governance from the indigenous peoples' viewpoint* in this paper.

<sup>23</sup> Approved through Supreme Decree no. 006-2015-MINAGRI.

<sup>24</sup> Declared through Ministerial Resolution no. 161-2016-MINAM available in: <http://www.minam.gob.pe/wp-content/uploads/2016/06/RM-N%C2%B0-161-2016-MINAM1.pdf> (Consulted 11-04-17).

<sup>25</sup> The focal point is the General Directorate of International Economic Affairs, Competition and Productivity. Its functions do not include reaching agreements on the allocation of resources. Source: <https://www.mef.gob.pe/es/quienes-somos/organizacion/organos-de-linea/308-acerca-del-ministerio/organos-de-linea/2561-direccion-general-de-asuntos-de-economia-internacional-competencia-y-productividad> (Consulted 11-04-17).

<sup>26</sup> There also exist international bodies with agencies in Peru and they have been accredited in higher categories; examples are the WWF, GIZ and UN agencies.

<sup>27</sup> Source: [http://www.legislacionambientalspda.org.pe/index.php?option=com\\_content&view=article&id=104&Itemid=4003](http://www.legislacionambientalspda.org.pe/index.php?option=com_content&view=article&id=104&Itemid=4003) (Consulted 11-04-17).

<sup>28</sup> Based on the PROFONANPE case, Martone's study draws conclusions with regard to the need to implement a policy for the indigenous peoples at the level of the Green Climate Fund and its capacity to oversee approved projects to ensure they comply with standards on rights. In this study, the possible consequences of this case within the framework of Peruvian national regulations and the tasks pending with regard to the institutionalization of the GCF are addressed.

<sup>29</sup> Declarations provided at an interview on 27 April 2017 with Alberto Paniagua, director of PROFONANPE.

<sup>30</sup> Article 9 of the Law no. 29785.

<sup>31</sup> The web page of the GCF portal for this project is in: <http://www.greenclimate.fund/-/building-the-resilience-of-wetlands-in-the-province-of-datem-del-maranon-peru> (11-04-17).

<sup>32</sup> CNA, CCP, ONAMIAP, FEMUCARINAP, UNCA and CUNARC belong to the Pacto de Unidad, a linking-up space for national level advocacy.

<sup>33</sup> Approved in 2015.

<sup>34</sup> Available in: [http://www.minam.gob.pe/cambioclimatico/wp-content/uploads/sites/11/2014/05/FIP-ESPA%C3%91OL\\_final\\_10102013.pdf](http://www.minam.gob.pe/cambioclimatico/wp-content/uploads/sites/11/2014/05/FIP-ESPA%C3%91OL_final_10102013.pdf) (Consulted: 11-04-17).

<sup>35</sup> Reported by the FPP in: <http://www.forestpeoples.org/topics/forest-investment-programme-fip/news/2013/11/peruvian-indigenous-organisations-secure-importa> (Consulted: 11-04-17).

<sup>36</sup> Available in: <http://documents.worldbank.org/curated/en/831701488465959665/pdf/ISR-Disclosable-P148499-03-02-2017-1488465951002.pdf> (Consulted 11-04-17).

<sup>37</sup> In May 2017 the 1st Congress of Saweto SDM Implementers was held in Lima, with representatives of both Amazonian organizations and the WWF, which evaluated progress in implementation. At the close of this study, no conclusions had been reached.

<sup>38</sup> Data presented at the meeting 'Early lessons in the implementation of the Saweto SDM' (*Lecciones tempranas en la implementación del MDE Saweto, Memoria Viva*) held in Lima in April 2017. Information available in: <http://www.wwf.org.pe/?298090/mde-saweto-presenta-lecciones-tempranas-implementacion> (Consulted 17-04-17).

<sup>39</sup> At present they are the Asian Peoples' Movement on Debt and Development and Heinrich Böll Stiftung North America.

<sup>40</sup> The analysis in this section is based on a workshop organized by CHIRAPAQ and TEBTEBBA in February 2017, in which indigenous organizations proposed advocacy strategies to strengthen their participation in the Green Climate Fund. The discussion was focused on three agenda points: safeguards and the protection of rights; governance structures; and access to funding.

<sup>41</sup> There are national spaces for dialogue, such as the Indigenous Peoples' Work Group of the Ministry of Culture, where nationwide organizations participate, and the National Commission on Climate Change, with a representative of the indigenous peoples. At regional level, the settlement tables for the Fight against Poverty (MCLCP) have become important. Decisions on the GCF are not taken in these spaces.

<sup>42</sup> COICA, ECMIA and FIMI were identified during the workshop as the organizations with the best chances of being accredited.

<sup>43</sup> At the present time, DAR develops projects for indigenous strengthening and surveillance in conjunction with regional Amazonian organizations. (DAR, 2016). It is necessary to systematize this experience to obtain quantitative data and to test the skills acquired for strengthening the indigenous political proposal. Furthermore, indigenous environmental surveillance has been officially recognized in the Amazonian region of Loreto by means of the Regional Ordinance no. 003-2017.GRL-CR.





# VIETNAM

## Equalizing Opportunities for Ethnic Minority Participation

*by Vu Thi Hien, Luong Thi Truong, Pham Mau Tai,  
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## Introduction

The Green Climate Fund is the main financial mechanism for climate change mitigation and adaptation. At the frontline of the climate change crisis, ethnic minorities and local communities are major stakeholders that have much to gain or lose from programs and projects to be implemented under this so far biggest global climate fund. As such, they are crucial in contributing to the shaping of strategies, proposals and programs towards achieving mitigation and adaptation to climate change.

The scoping study on the Green Climate Fund in Vietnam was in part an attempt to bring out the importance to provide climate finance to ethnic minorities and local communities and to apply fully social and environmental safeguards in implementing GCF processes at country level. Three local nongovernment organizations conducted the study: the Center of Research and Development in Upland Areas (CERDA), Center for Sustainable Development in Mountainous Areas (CSDM) and Rural Development and Poverty Reduction Fund (RDPR). It was done in partnership with experts who provided information and trainings as well as with the representatives and members of the ethnic minorities who participated in the study. These are the H'Mong, Tay, Nung, Van Kieu, Kinh, Dao, Cao Lan, Tho, Thai living in the nine provinces of Thai Nguyen, Lao Cai, Lang Son, Hoa Binh, Dien Bien, Son La, Thanh Hoa, Nghe An,

Quang Binh.

The study probed the following areas of concern: the level of engagement of stakeholders, especially local communities and ethnic minorities including women, in government policies, programs, projects and financing mechanisms relating to climate change; their level of awareness regarding the Green Climate Fund; potential opportunities and challenges they face during the GCF readiness and operational phases and their recommendations regarding the Fund.

Qualitative and quantitative methodologies were used to analyze primary and secondary data to determine levels of participation, participation governance and citizens' engagement<sup>1</sup> in climate change-related policies, programs and financing. Criteria for participation and participation governance are specified in the social and environmental safeguards of REDD+ program (Reducing Emission from Deforestation and Forest Degradation) as well as those of GCF and other legal policies. The study analyzed 98 documents including the draft National REDD+ Action Plan and collected other data through workshops, trainings, group discussions and interviews, through the use of a questionnaire, with 204 individuals from participating ethnic communities.

The study used the following criteria to measure levels of 1) participation and 2) par-



ticipation governance of local stakeholders, specifically local communities, ethnic minorities, women, households and individuals.

## Participation

The following set of criteria was based on participation levels specified in the reviewed documents and papers:

- *Level 1: Provides for stakeholders' participation but is not clear on level of participation:* legal documents, programs, project documents refer to "participation" but do not give information on level of participation.
- *Level 2: One-way information:* Local communities, households, individuals are informed by state programs, project owners about policies, programs, projects, activities, regulations on types and levels of benefits of stakeholders and compensation measure applicable to those affected such as at project sites.
- *Level 3: Consultation:* Local communities, households, individuals are consulted by state programs, project owners during implementation process.
- *Level 4: Stakeholders implement part of the designed program, project:* Local communities, households and individuals are informed about policies, programs, projects and allowed to carry out part of the designed program or project as beneficiaries, to provide comments during implementation but are not involved in the decision making process.
- *Level 5: Cooperation-partnership:* Local communities, households, individuals and the state program or project owners jointly discuss and make decisions on consensus during process of designing, implementing, monitoring and evaluating policies, programs, projects; they can be benefited and bear responsibilities.
- *Level 6: Ownership-authorization:* Local communities, households, individuals with legal status and sufficient resources (for instance, with forest or land use

rights) are eligible to access financial resources of program, project, policy and can be authorized to own, implement, make decisions, benefit from and bear risks and accountability on the program or project.

## Participatory Governance

Ten criteria were used to gauge participatory governance.

*Criteria 1:* Beneficiaries can directly access financial resources of state programs or projects as entities, local communities, households, individuals (including indigenous peoples).

- Local communities, households, individuals (including indigenous peoples)
- Ethnic minorities (separate regulation)
- Private enterprises, civil society organizations (CSOs), NGOs
- State organizations, state agencies

*Criteria 2:* Stakeholders can participate in board of directors or steering committee, program management board (as official member eligible to make decision, or member ineligible to make decision, or observer)

- Local communities, households, individuals (including indigenous peoples)
- Ethnic minorities (separate regulation)
- Private enterprises, CSOs, NGOs
- State organizations, state agencies

*Criteria 3:* Regulation on applying Free Prior Informed Consent (FPIC)

- No related information available in documents
- FPIC regulation is specified

*Criteria 4:* Methods used by state program/project owner to provide information to stakeholders (beneficiaries or affected entities)

- Provide information but no defined method
- Mass media (no clear mode)
- Website
- Radio
- Posted at local sites (Commune People Committee office)

- Meetings

*Criteria 5:* Two-way feedback mechanism between state program/project owner and stakeholders

- No information available in documents
- Regulated

*Criteria 6:* Capacity building for beneficiaries

- Technical capacity, technology transfer
- Institutional development capacity for local people, communities (rural enterprises, new type cooperatives, associations, forest owner associations, etc.)
- Monitoring and evaluation
- Capacity to deal with complaints
- Financial management
- General management (not clearly defined)

*Criteria 7:* Independent monitoring and evaluation (M&E) mechanism

- No information mentioned in related documents
- Provisions available on independent M&E mechanism with indicative participants
- Participants from non-state sector are specified in M&E system:
  - » Representative of local communities (including ethnic minorities)
  - » Representative of ethnic minority (specific provisions)
  - » Women representative
  - » Independent consultant
  - » CSOs, NGOs

*Criteria 8:* Independent grievance system

- No related information available in documents
- Regulation available for independent grievance mechanism and participants
- Provides non-state sector participants in grievance system:
  - » Representative of local communities (including indigenous peoples)
  - » Representative of ethnic minorities (separate regulation available)
  - » Representative of women
  - » Independent consultant
  - » CSO, NGO

*Criteria 9:* Recognition of the right of free prior informed consent of indigenous peoples

- No information mentioned
- Specific provision on recognition of right of FPIC of ethnic minorities

*Criteria 10:* Recognition of indigenous knowledge of ethnic minority on sustainable management and use of natural resources

- No related information available in documents
- Provision on recognition

## Non-State Stakeholders'<sup>2</sup> Participation in Climate Policies, Programs, Projects

Vietnam has a good law on promulgation of legal documents that stipulate gathering of comments and feedback from organizations, agencies and individuals on issued legal documents. Article 6 of this law approved by the National Assembly (NA) in 2015 specifies that the process of development and issuance of legal documents, such as ordinances, regulations, decrees and other government policies and programs, includes collecting and responding to public comments and recommendations. Concerned government authorities and agencies are also responsible for creating conditions favorable for the contribution of comments, such as meetings with affected target groups on development proposals and draft legal papers.

Eighteen entities are authorized to issue legal documents, grouped under 26 types, for which the issuing authority specifies the general process for gathering feedback. The key regulations are:

- For law, resolution, ordinance of the National Assembly; national government resolution, decree; and Provincial People's Council resolution, collection of comments and feedback is mandatory to all processes, from proposal to drafting of policy development. Legal documents are uploaded on the agency's or orga-



nization's website for at least 30 days, applicable for a policy proposal and at least 60 days for the draft document.

- For decree or decision of the Prime Minister, ministry circular, among others, feedback collection starts when the draft version is available and uploaded to website for at least 60 days.
- Agency or organization collecting comments or feedback must indicate clearly the address for uploading or for collecting feedback.
- It is obligatory to collect comments from those directly impacted by the policy or program.
- Issues for comments must be relevant to target informants and focused on important policies directly impacting people or enterprises.
- Provide regulations on modes of collecting feedback: posting on website, mass media, directly through circulating document to organization or individuals, organizing workshops, forums (Provision 2, Art 57). Particularly for proposals to develop provincial people's council resolutions, in case of necessity the host agency must arrange direct dialogue with target groups impacted directly by resolution or policy (Provision 2, Art 113).
- During amendment of document, stakeholders are responsible for studying and processing comments and feedback. The

summary sheet of consolidated comments is attached as supporting document for submission for appraisal and approval.

This law is notable in that it specifies citizens' right to participate through feedback and upholds the principles of transparency and democracy in the development of government policies and programs. It also provides for getting feedback from target and affected groups, the period and mode of collection, and the responsibility of agencies in charge of collecting feedback. However, it does not provide for establishing an independent M&E system to secure this citizens' right and to ensure that the law's terms are respected and fully enforced by all liable parties.

### Level of Participation

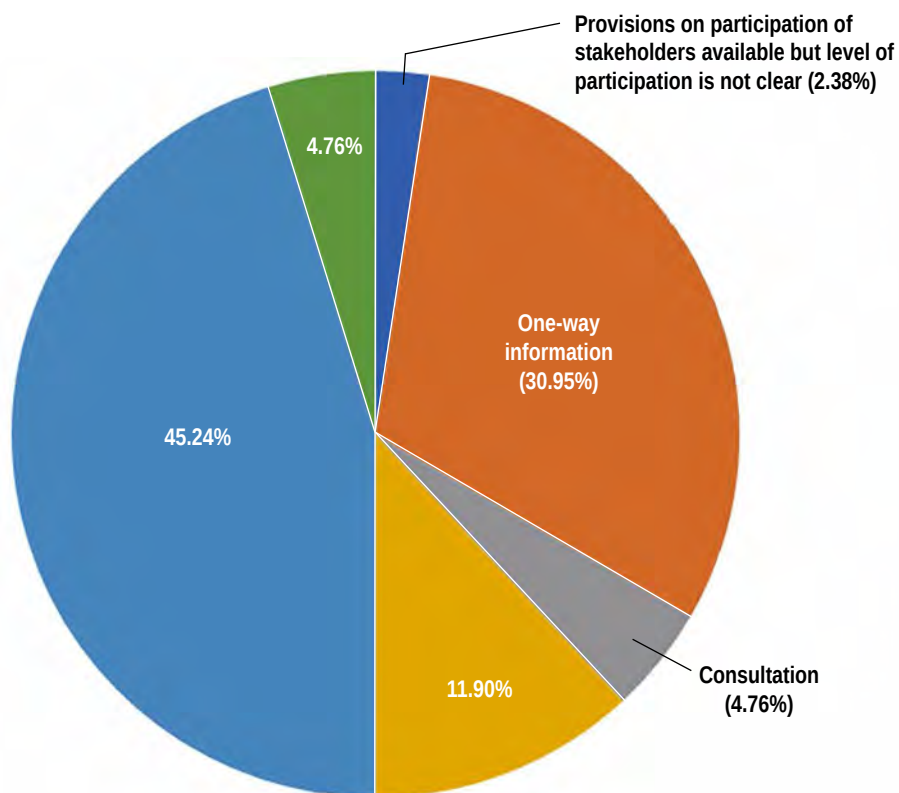
Of 99 legal documents collected by the study, 42 were reviewed pertaining to four climate change-related programs and policies: Climate Change Adaptation and Mitigation (CCM&A), Green Growth (GG), Forest Protection and Development (FP&D), and REDD+. The following tables show the number and type of legal documents reviewed and the provision and level of stakeholder participation these stipulate, if any. If more than one level of participation is present in a single document, the higher level was selected.

**Table 1.** Number and type of reviewed legal document by theme.

	Thematic area	Number of legal documents
1	Climate Change Adaptation and Mitigation	17
2	Green Growth	7
3	Forest Protection and Development	14
4	RE	4
	Total	42

**Table 2.** Level of engagement of local communities, households and individuals stipulated in documents.

No	Level of engagement	Thematic area				Total	(%)
		CCM&A	GG	FP&D	REDD+		
1	Participation of stakeholders available but level of participation is not clear <sup>3</sup>	1	0	0	0	1	2.38
2	One-way information <sup>4</sup>	12	0	1	0	13	30.95
3	Consultation <sup>5</sup>	1	1	0	0	2	4.76
4	Implement part <sup>6</sup> of designed program, project	2	0	3	0	5	11.90
5	Cooperation-partnership <sup>7</sup>	1	6	9	3	19	45.24
6	Authorized-autonomous <sup>8</sup>	1	0	0	1	2	4.76
	Total	18	7	13	4	42	100.00

**Figure 1:** Level of participation in climate change-related programs/projects.

As shown in the tables, around half (45.24%) of reviewed documents cite “cooperation-partnership” opportunities of local communities, households and individuals to participate in decision making in implementation of programs/projects related to green growth, forest protection and development, climate change adaptation and mitigation, and REDD+. Another half provide that the program/project owner is the decision maker, with 31% stipulating only one-way information to stakeholders; 12% some stakeholder participation but no involvement in decision making; and 5% consultation. As such, local communities and households participating in climate change programs and projects do not always have a say in the implementation process.

Local communities and individuals also have little authority or autonomy, the highest level of

program engagement. Only 4.76% of reviewed papers, most of them on REDD+ and Climate Change Adaptation and Mitigation, allow these groups to decide and carry out programs or projects. Notable is that all of the REDD+ documents provide for the two highest levels of community (including households, individuals) participation: “cooperation-partnership” (75%) and “authority-autonomy” (25%).

### Level of Participatory Governance

The following table presents the level of participatory governance of local communities, households and individuals in the four climate change thematic areas.

**Table 3.** Level of participatory governance of local communities, households and individuals in climate change programs and projects.

	Criteria	Reviewed documents	Number of documents by thematic area					%
			FP&D	CCM&A	GG	REDD+	Total	
1	Target groups directly access financial source of policies, state programs to carry out project as entities	42						
	Local communities, households, individuals (including ethnic minorities)		11		6	4	23	54.76
	Ethnic minorities (specifically regulated)		1	0	0	2	3	7.14
	Private enterprises, CSOs, NGOs		9	2	6	4	21	50.00
	State organizations, state agencies		13	18	7	4	42	100.00
2	Participants of Steering Committee Board of Directors, or Program Management Board	20						
	Local communities, hhs, individuals (including ethnic minorities)		0	0	0	0	0	0
	Ethnic minorities		0	0	0	0	1	5.00
	CSOs, NGOs		0	0	0	4	4	20.00
	State organizations, state agencies		7	6	3	4	20	100.00
3	Provisions on FPIC <sup>9</sup>	51						
	No information mentioned		19	19	7	0	45	88.24
	FPIC specified		1	0	0	5	6	11.76

	Criteria	Reviewed documents	Number of documents by thematic area					
			FP&D	CCM&A	GG	REDD+	Total	%
4	Information approach	50						
	Information available but no clearly defined approach		17	13	5	1	36	72.00
	Mass media (not clearly defined approach)		2	3	1	2	8	16.00
	Website		0	3	1	3	7	14.00
	Radio broadcast		1	0	0	0	1	2.00
	Posted at local office (such as CPC office)		1	0	0	1	2	4.00
	Meeting, workshop		1	1	2	3	7	14.00
5	Two-way feedback mechanism between state program/project owner, beneficiaries, other stakeholders	51						
	No information mentioned		20	18	6	0	44	86.27
	Provisions available		0	1	1	5	7	13.73
6	Capacity building for beneficiaries and stakeholders	40						
	Technical capacity, technology transfer		14	16	5	4	39	97.50
	Institutional development capacity of local people, communities (rural enterprise, new-kind cooperative, association, forest owner association, etc.)		1	0	0	0	1	2.50
	M&E capacity		1	1	0	3	5	12.50
	Capacity to deal with complaints		0	0	0	2	2	5.00
	Financial management capacity		1	0	0	0	1	2.50
	General management capacity (no specific issue)		1	1	0	0	2	5.0
7	Independent M&E mechanism for program, project	51						
	No information mentioned		17	12	6	0	35	68.63
	Provisions available on independent M&E mechanism with indicative participants		3	7	1	5	16	31.37
	Participants from non-state sector are specified in M&E system	16						
	Representative of local communities (including ethnic minorities)		2	6	1	4	13	81.25
	Representative of ethnic minorities (provisions)		0	0	0	3	3	18.75



	Criteria	Reviewed documents	Number of documents by thematic area					Total	%
			FP&D	CCM&A	GG	REDD+			
	Women representative		0	0	1	3	4	25.00	
	Independent consultant		0	1	0	5	5	31.37	
	CSOs, NGOs		1	3	0	4	8	50.00	
8	Independent grievance system at state program, project level	51							
	No information mentioned		18	19	6	0	43	84.31	
	Provisions available on independent grievance system but no indicative participants		1	0	0	0	1	1.96	
	Provisions available on grievance system with indicative participants		1	0	1	5	7	13.73	
	Participants from non-state sector in independent grievance system	7							
	Representative of communities (including ethnic minorities)		1	0	0	5	6	85.71	
	Representative of ethnic minorities (specific provisions)		0	0	0	2	2	28.57	
	Women representative		0	0	0	2	2	28.57	
	Independent consultant		0	0	1	1	2	28.57	
	CSOs, NGOs		0	0	0	3	3	42.86	
9	<i>Recognition of right of participation of ethnic minorities</i>	44							
	No information mentioned		17	15	5	0	37	84.09	
	Specific provisions on recognition of participation of ethnic minorities		2	0	0	5	7	15.91	
10	Recognize indigenous knowledge of ethnic minorities on sustainable management and use of natural resources	36							
	No information mentioned		15	9	0	0	24	66.67	
	Recognize indigenous knowledge of ethnic minorities on sustainable use and management of natural resources		3	3	1	5	12	33.33	

### ***Eligibility to direct access to climate funds***

While their access to climate change program finance is differentiated among the four thematic areas, the study findings show more opportunities for the state sector than non-state groups. Opportunities for fund access in Green Growth, REDD+ and Forest Protection and Development projects/programs are fairly equal for 1) community (including households, individuals, indigenous peoples) - private enterprise; 2) CSO, NGO; 3) state organizations, agencies. But for Climate Change Adaptation and Mitigation, the ratio of documents providing this is 2:2:18 among the above groups respectively. Only 7.14% of the documents, mainly on REDD+, allow indigenous peoples direct access to financial sources of programs/projects.

### ***Membership in board of directors or steering committee***

In Green Growth and Climate Change Adaptation and Mitigation programs, non-state actors have no representation in the board of directors (BoD) or steering committee. In REDD+, representatives of ethnic minorities and NGOs are observers in the REDD+ Fund Vietnam Scheme, while representatives of indigenous peoples and CSOs are official members in the Steering Committee of UN-REDD phase II.

### ***FPIC implementation***

All legal documents on REDD+ have reference to free prior informed consent of local communities and ethnic minorities in programs/projects. In comparison, all Climate Change Adaptation and Mitigation and Green Growth documents do not provide for this.

### ***Approaches on project information dissemination to beneficiaries and stakeholders***

REDD+ programs and projects use meetings and postings in communes and websites

to share information with local communities, with meetings as the most popular method since internet access is limited in rural areas. Very few documents (14%) in the other thematic areas refer to ways for providing information to beneficiaries and stakeholders.

### ***Capacity building***

Technical capacity building and technology transfer for non-state beneficiaries and stakeholders are prioritized in all thematic areas, referred to by 97.50% of reviewed documents. But other forms of capacity building are relatively low; M&E was cited by only 12.5% of documents; dealing with complaints, 5%; and financial management, 5%. These are higher for REDD+, with 50 % to 75% of documents citing M&E and grievance mechanisms.

Community institutional development (such as rural enterprise or cooperative) is similarly limited (2.5%). This result can be linked to the low percentage of communities that can have “authority-autonomy” to implement programs and projects. A key reason is that local communities do not have legal status and adequate capacity to maintain organizations and to develop and implement projects. The lack of community institutional development restricts communities to access as entities current climate finance funds and later GCF if policy changes are not made.

### ***Independent M&E mechanism at program, project level***

Around two-thirds (68.63%) of reviewed documents do not provide independent M&E mechanisms, and the rest that do relate to REDD+. All REDD+ documents have provisions on independent M&E system with varied participants: NGOs, CSOs, independent consultant, local communities, with a high level of community engagement especially of indigenous peoples and women. Provision of independent M&E in Green Growth and Forest Protection and Development is comparatively low.

### ***Independent grievance system at program, project level***

Most thematic areas (84.31% of documents) do not have operational regulations for grievance systems at program and project level. Those that provide them pertain to REDD+ which also allows for wide participation in these systems, including independent consultant, community, CSO, NGO, indigenous peoples and women. Under Forest Protection and Development and Green Growth categories, only one document specifies participants (independent consultant and community). No reviewed Climate Change Adaptation and Mitigation document cited this.

### ***Participation of ethnic minorities and women***

Around 84.09% of documents and across most thematic areas contain no specific reference on participation of ethnic minorities and women. The Climate Change Adaptation and Mitigation and Green Growth documents have no such provision at all, while all REDD+ documents recognize the right of these particular groups to participate in programs and projects.

### ***Recognition of indigenous knowledge on sustainable resource use and management***

Two-thirds (66.67%) of documents do not cite ethnic minorities' indigenous knowledge on use and management of natural resources. All documents on REDD+ however recognize this indigenous knowledge.

Overall the study shows that REDD+ responds well to all criteria of participatory governance, with engagement of non-state entities, in particular ethnic minorities, much higher than in the other three climate change areas. The only limitation is that current policies and REDD+ programs do not yet focus on supporting communities to develop organizations with legal status, such as the new type of cooperative (Vietnam has a Law on cooperative) or rural enterprise and to build their administration, management and technical capacities to enable them to access directly the REDD+ Fund (Vietnam

REDD+ Fund Scheme). While communities are eligible for this fund, they are required to have legal status and technical capabilities.

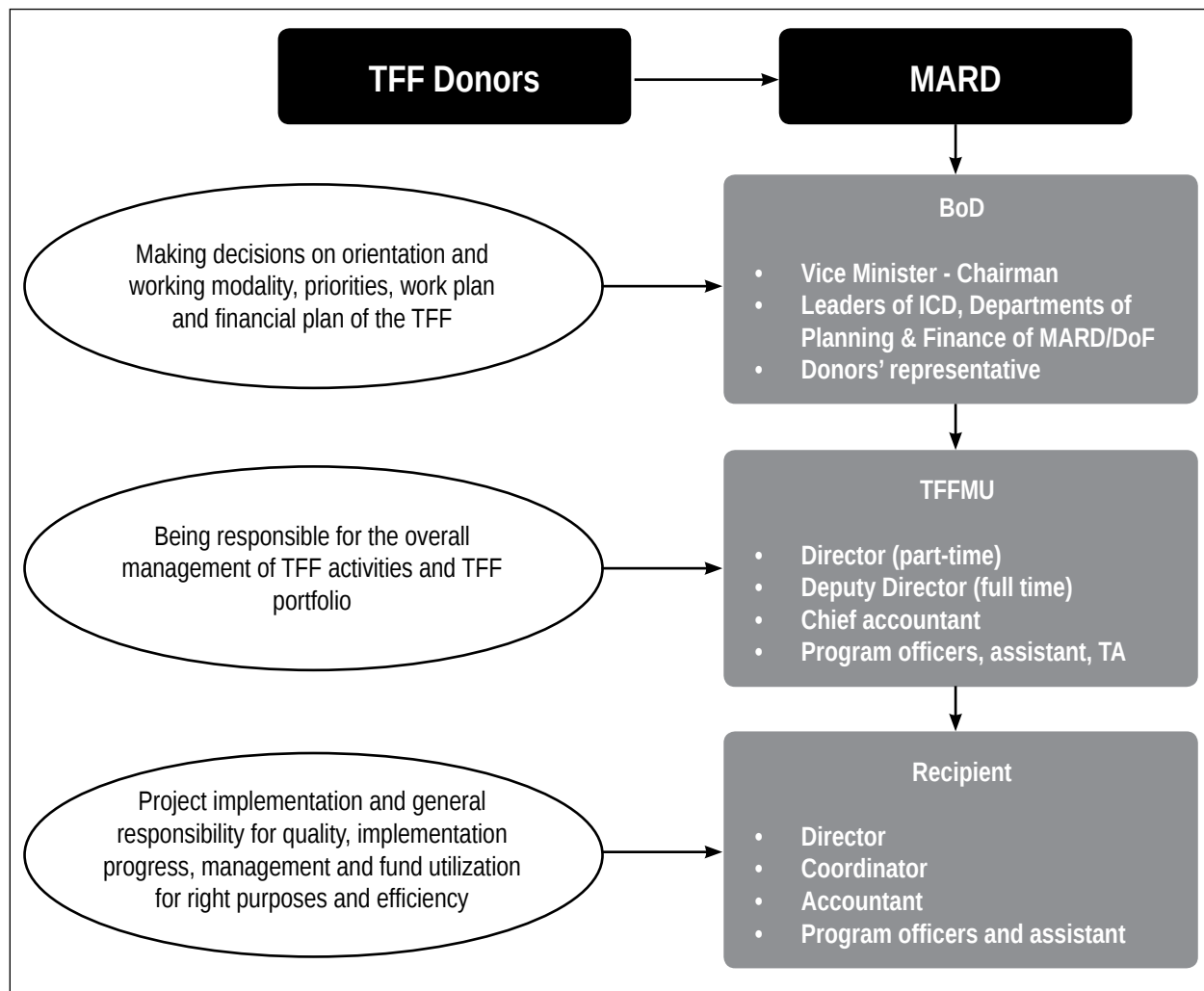
## **Engagement in Climate Finance Mechanisms**

Some of the climate funds operating in Vietnam are the Trust Fund for Forests (TFF), Vietnam Environment Protection Fund (VEPF), Forest Protection and Development Fund (VNFF), Green Growth Strategy Facility (GGSF), Green Credit Trust Fund (GCTF), and Clean Technology Fund (CTF). In addition is the Scheme for Vietnam REDD+ Fund (VRF) approved by the Ministry of Agriculture and Rural Development (MARD) on 23 December 2015 (Decision no. 5337/QĐ-BNN-TCLN).

Financial sources for climate change initiatives are mainly mobilized from the state budget, government loans, ODA projects and programs, studies, technical support and global funds. Three funds selected for this study are those that have been operating for years in Vietnam: 1) Trust Fund for Forests; 2) Vietnam Environment Protection Fund; 3) Forest Protection and Development Fund and the Scheme for REDD+ Fund Vietnam.

### **Trust Fund for Forests**

The Trust Fund for Forests or TFF was set up upon signing of the Memorandum of Understanding (MOU) on 23 June 2004 between the government of Vietnam and the governments of Finland, Sweden, Switzerland and the Netherlands and technically committed to by German Development Cooperation (GIZ). On 29 January 2007 the Ministry of Agriculture and Rural Development issued Decision no. 254/2007/QĐ-BNN-TCCB establishing the Trust Fund for Forests and on 18 July 2012 approved the scheme handing over its administration to the Vietnam Forest Protection and Development Fund (Decision no. 1667/QĐ-BNN-TCLN).

**Figure 2:** TFF Organizational Structure (Source: Operational Manual of TFF).

The TFF board of directors consists of the MARD Vice Minister as president and representatives of related MARD departments—International Cooperation Department, Finance Department, Planning Department—and the donors' representative as members.

The TFF's financial sources are mainly the donors and state counterpart contributions, in addition to other possible financial sources. Its funding priorities are sustainable forest management towards poverty reduction, environment protection/climate change, improved management of the forestry sector, and enhanced administration of the TFF portfolio.

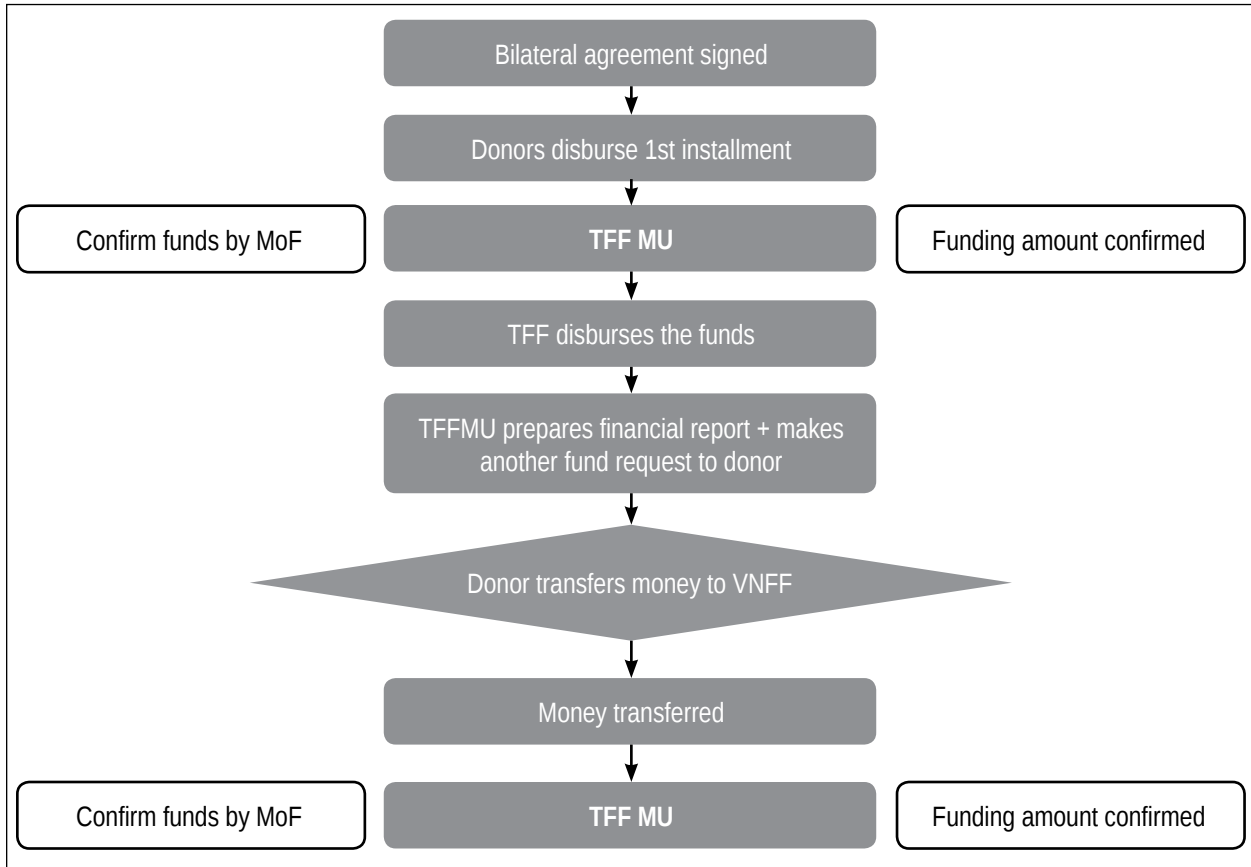
Parties and objects relating to the fund include agencies and organizations donating the TFF fund, agencies and organizations granted by

the fund; and state agencies, organizations and individuals receiving, managing and using the fund. Article 3, Decision no. 2646/QĐ-BNN-LN (21 September 2009) stipulates the direct beneficiaries are program/project owners—units of the Ministry of Agriculture and Rural Development directly responsible for receiving, managing and using TFF grants and counterpart funds approved by MARD to pursue the objectives of the National Forest Development Strategy.

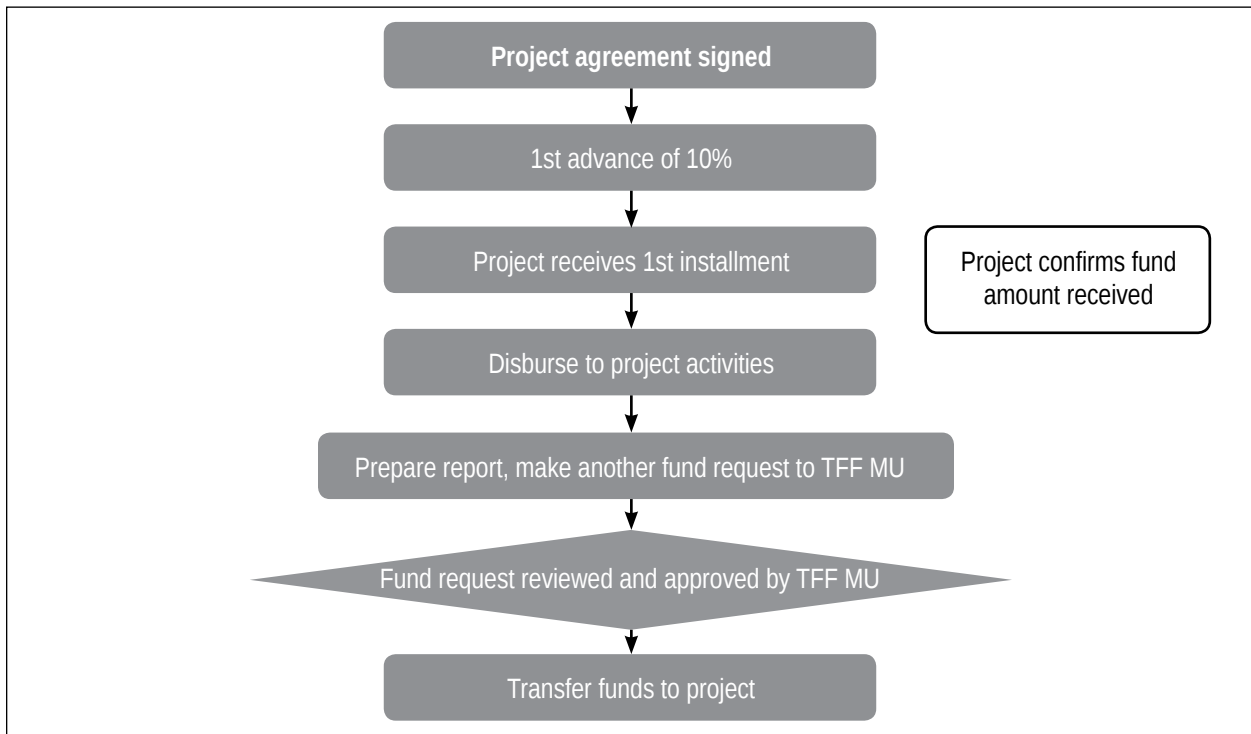
The TFF is directed to programs/projects prioritized for implementing the National Forest Development Strategy (2006-2020) and based on the priority areas specified in the MOU and bilateral agreements between the governments of Vietnam and Finland, Netherlands, Sweden and Switzerland.



**Figure 3:** Process of receiving funds from donors (Source: TFF Operational Manual).



**Figure 4:** Fund disbursement from TFF to projects (Source: TFF Operational Manual).



The Trust Fund for Forests Management Unit (TFFMU) developed a website (<http://www.vietnamforestry.org.vn>) in both English and Vietnamese which posts working papers including updates of BoD membership; TFFMU reports, annual plans, funding priorities, funded activities, project proposals; ongoing and completed projects; and project reports, among others.

### *Non-state stakeholder participation in TFF*

The Trust Fund for Forests does not adequately provide for full and effective participation of non-state stakeholders, especially the ethnic people who have a close connection to the forest and women during the operational process and in grant development and implementation. In addition, the beneficiaries are state agencies. From 2004-2015, TFF funded 40 projects valued at 34,851,474 Euro and US\$1,201,876, but none was granted to non-state organizations. Further, the non-state sector does not have any representation in the board of directors.

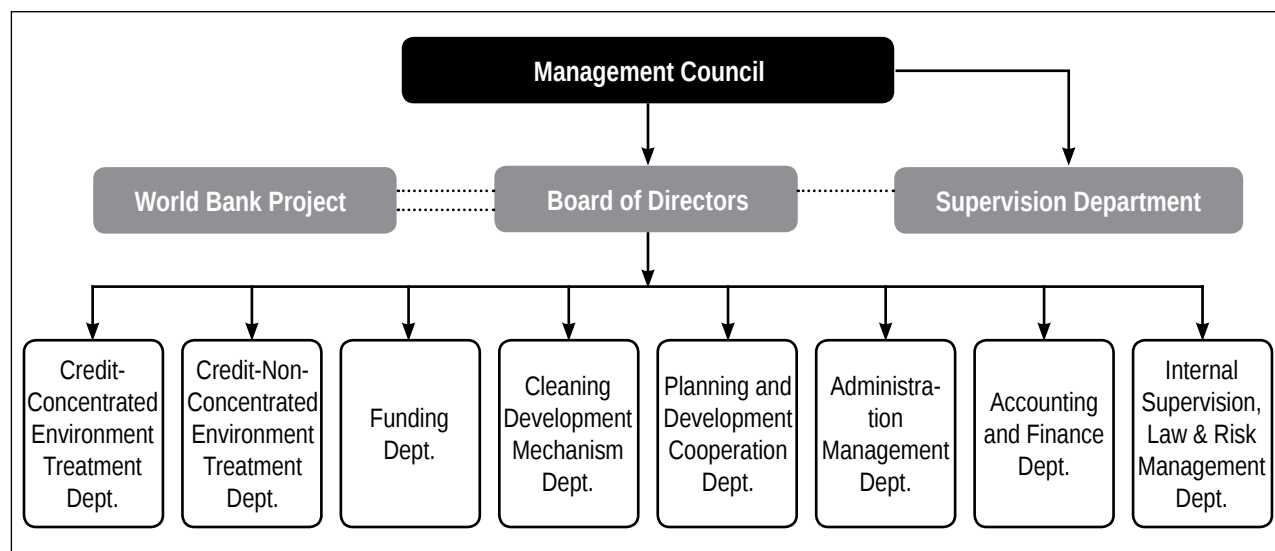
The TFF introduced M&E mechanisms applicable to state agencies including MARD, BoD, TFFMU grantees, project management units and project implementation units. However, it does not provide clear regulations on social and

environmental impact assessment for project formulation and implementation. Nor does it specify independent M&E mechanisms, feedback and grievance mechanisms and compensation regulations for negative project impacts on individuals, households, communities and organizations. While all related information on the TFF is available on its website, access is a problem for local and ethnic communities who have limited understanding of information technology, live in remote areas which lack or do not have internet facilities, and have no TFF-funded project.

### **Vietnam Environment Protection Fund**

The Vietnam Environment Protection Fund is a state financial organization operating under the Ministry of Natural Resources and Environment (MONRE). The VEPF receives funds from the state budget and other donor funds, contributions, entrustments of national and international organizations and individuals. It then provides loans with preferential interest and grants to programs, projects, activities, and tasks that serve environment protection and climate change responses. Its operation is not for profit; it preserves the charter capital, covers management costs, is free from tax and other

**Figure 5:** Organizational Structure of Vietnam Environment Protection Fund (Source: [www.vepf.vn](http://www.vepf.vn)).



obligations applicable to environment protection activities. It supposedly operates under an open, transparent and equal manner.

The VEPF board of directors consists of the MONRE vice minister as chair, and its members are the department leaders of MONRE, Ministry of Finance (MoF), Ministry of Planning and Investment (MPI), and State Bank of Vietnam. The MONRE minister approves the list of members.

The VEPF has a Control Unit and a Fund Management Unit. The Control Unit is comprised by a leader, appointed by the BoD chair who also decides on the members, not exceeding five, proposed by the leader. The Fund Management Unit includes a director, one deputy director, accountant and functional departments. The director is appointed and can be dismissed by the MONRE minister upon proposal of the BoD chair. The deputy director and chief accountant are recommended by the director, reviewed by the BoD chair for submission to the MONRE minister for appointment or dismissal. The organizational structure, functions and tasks of the functional departments are approved by the VEPF director after being endorsed by the BoD chair.

The Vietnam Environment Protection Fund's financial sources are mainly mobilized from the state budget and other sources such as: compensation for environment damages (goes to state budget) collected from organizations and individuals as regulated by law; use of 50% of environment protection budget as regulated by law; use of 10% budget for state administration of environment protection annually; voluntary contributions of national and international organizations and individuals; donor funds and grants financed by national and international organizations and individuals; other collections as regulated by law.

The VEPF priorities are to: provide preferential loans for projects on environment protection nationwide and preferential interest to loans for environmental protection projects credited by credit institutions according to law; fund and co-fund environment protection related projects; receive deposits for environment restora-

tion of mining projects from organizations and individuals licensed for mining exploitation; receive deposits to secure imported wastes from organizations and individuals involved in this; carry out some financial mechanisms and policies for investment projects using the Clean Development Mechanism (CDM); support electricity price of wind energy projects in accordance with Prime Minister's decisions and the law; and provide financial support for climate change responses as prescribed by law.

The beneficiaries are organizations and individuals who submit for financial support investment programs/projects on environment protection, natural conservation and biodiversity themes; investment projects for pollution prevention, anti-pollution, pollution damage recovery, environment degradation and incidents at national, regional, interdisciplinary scopes or address local environmental issues but cause broader impact scope; and activities addressing climate change responses at national level.

The VEPF has its own website at <http://www.vepf.vn> in Vietnamese. Its website provides all information related to its organizational structure, operational mechanism, funding priorities, loan interest rate, guidelines for preparing project document, among others. It also has a feedback mechanism through the website's "question and answer" item.

### *Non-state stakeholder participation in VEPF*

Beneficiaries of the VEPF include state and non-state entities. Organizations and individuals in all economic sectors with adequate civil legal capacity as regulated by law are all eligible for accessing the VEPF through submission of project proposals. But while poverty reduction and gender equity are main government targets, the VEPF has no specific provisions in favor of the ethnic people, vulnerable groups and women as beneficiaries. The local communities in general and the ethnic people in particular must compete with state organizations and enterprises with much stronger capacity, such as in project proposal preparation, project management, financial management, and other related techni-

cal capacities. Legal organizations are rare or virtually non-existent in remote and rural areas where the ethnic people live. Further, the VEPF has no policy on capacity building and support for local and forest dependent communities, making it difficult or impossible for them to access its financial sources. Of 175<sup>10</sup> projects receiving VEPF loans, none is implemented by local communities and ethnic people.

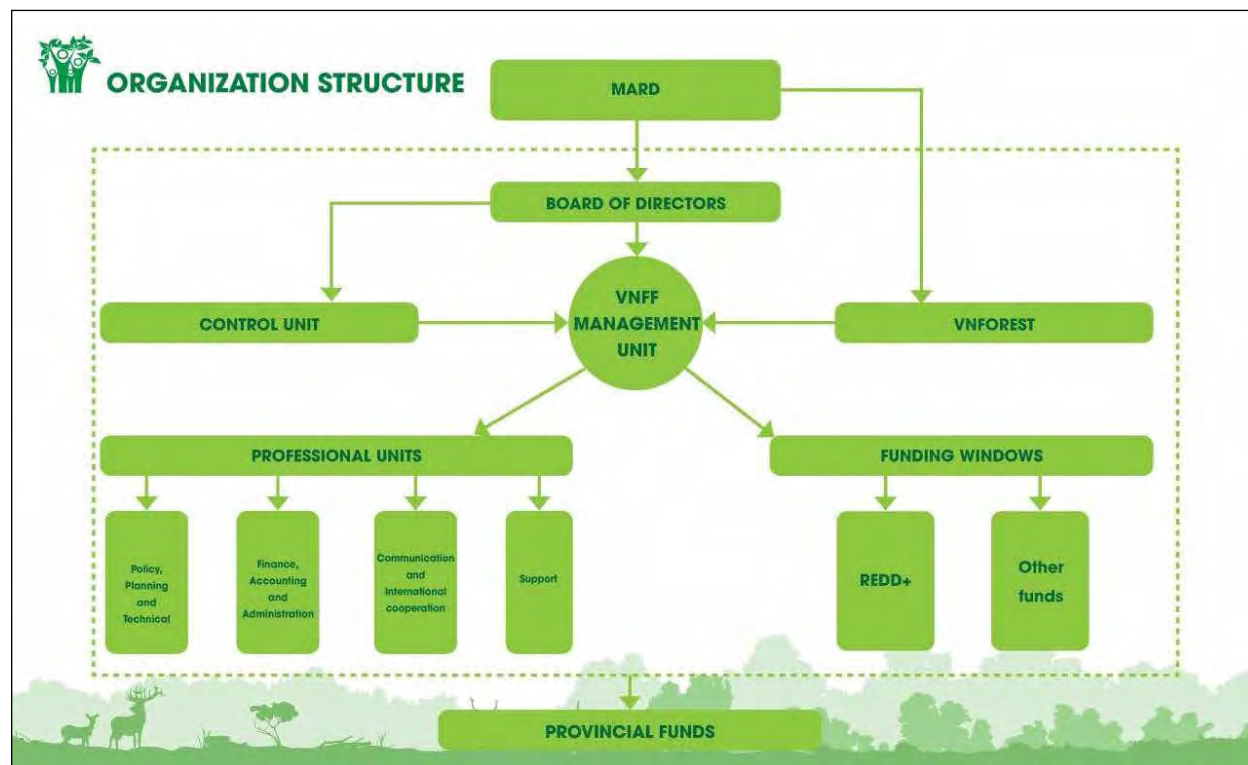
The VEPF also does not have clear mechanisms for social and environmental impact assessment for project preparation and implementation and independent mechanisms for M&E and feedback and grievance responses. Neither does it provide compensation measures for negative impacts that may be caused by programs or projects. The VEPF board of directors has participation only from state organizations, and its website is its main channel of information, thus limiting access to information by vulnerable groups, especially the ethnic people and women, in remote, rural areas.

## Vietnam Forest Protection and Development Fund

The Vietnam Forest Protection and Development Fund or VNFF is a state financial organization established in 2008 under the Ministry of Agriculture and Rural Development (Decision no. 114/2008/QĐ-BNN). Its mandate is to mobilize social resources for forest protection and development, contribute to socialized forestry activities, raise awareness of and responsibility for forest protection and development, improve capacity and effective use of budget and management to implement the forest development strategy by 2020. It is not for profit and its function is to mobilize, manage and coordinate different sources for forest management and protection and development of the forestry sector.

The VNFF's organizational structure consists of two levels: central and provincial. At the central level VNFF is established and managed directly by MARD.

**Figure 6:** Organizational structure of Vietnam Forest Protection and Development Fund (Source: vnff).





At this level the VNFF has a board of directors with nine members: MARD vice minister as chair and leaders of MARD forest departments and representatives from the Ministry of Finance and Ministry of Planning and Investment as members. It has a Control Unit comprised of three members (MARD Finance Department deputy director as leader and experts of MARD Planning and Forest Departments as members). This Unit assists the BoD in controlling operations of the VNFF Management Unit, which is in charge of the fund's daily tasks and consists of a director, deputy director, chief accountant and functional units.

The provincial level of the Forest Protection and Development Fund (PFPDF) is established by the Provincial People's Committee. The PFPDF may belong to the PPC or the provincial Department of Agriculture and Rural Development (DARD). The fund management and organizational structure at this level are regulated by the PPC chair or DARD director. The government also encourages establishment of the fund at district and commune levels, and its structure, rights and obligations are regulated by the PPC chair. Funding priorities are to provide financial support to programs/projects and non-project activities.

The financial sources of the Central Fund or VNFF are the initial state budget of VND100 billion. Other sources are voluntary contributions, entrusted funds from international organizations, national organizations and individuals, and other funds and financial sources.

For the Provincial Forest Protection and Development Fund, the state financed an initial budget after its establishment and approved by the PPC. Other sources are compulsory contributions from actors as regulated in Article 10 of Decree no. 05/2008/NĐ-CP (2008), including forest owner harvesting timber for trade; agencies doing business on landscape, resort, ecotourism-forest environment; investment projects cutting forest for site clearance and cannot do forest replanting themselves; voluntary funding, contributions or entrusted funds of national and international organizations and individuals; other funds and financial sources; and funding support from the Central Fund.

Beneficiaries of the VNFF are state agencies, local organizations, households, communities, individuals contributing, donating or receiving grants from the fund; international organizations and individuals; Vietnamese citizens residing abroad contributing and donating to the fund.

Stakeholders can access information on the VNFF through mass media and its website <http://vnff.vn>. The website provides information on related laws, decrees and other policies, guidelines, procedures on checking, validation for making payment, financial management mechanism, use of Payments for Forest Environment Services (PFES) money, contracts signed between the fund and users of Forest Environment Services (FES), among others. Households and communities can also avail of PFES information through the communication activities conducted by VNFF, state forest owners and when signing contracts for forest protection with state forest owners, among others

### *Non-state stakeholder participation in VNFF*

The advantages of VNPF are that applicants can be both state and non-state entities—state forest owner, community, household, individual, enterprise participating in providing FES. The approach can also be direct between the FES user and provider or indirect via the Forest Protection and Development Fund. Further, it allows several ways of accessing information: through its website, which has a feedback mechanism, through the local VNFF or through the state forest owner (if signing contract for forest protection with the state forest owner).

This fund however does not provide for full and effective participation of stakeholders by implementing free, prior and informed consent (FPIC) during the operational process and in developing and implementing projects. While it pursues poverty reduction and diversity of applicants, it does not specify vulnerable groups, such as the ethnic people, forest dependent communities and women. The BoD membership also comes only from state agencies without any representation of the private sector, CSOs,

communities especially forest dependent communities, and ethnic people, the key FES providers. Moreover, the VNFF does not provide for social and environmental impact assessment for project design and implementation, and mechanisms for M&E, feedback including grievances, and compensation for any damage the project may cause households, communities, individuals or organizations.

### Proposed Vietnam REDD+ Fund

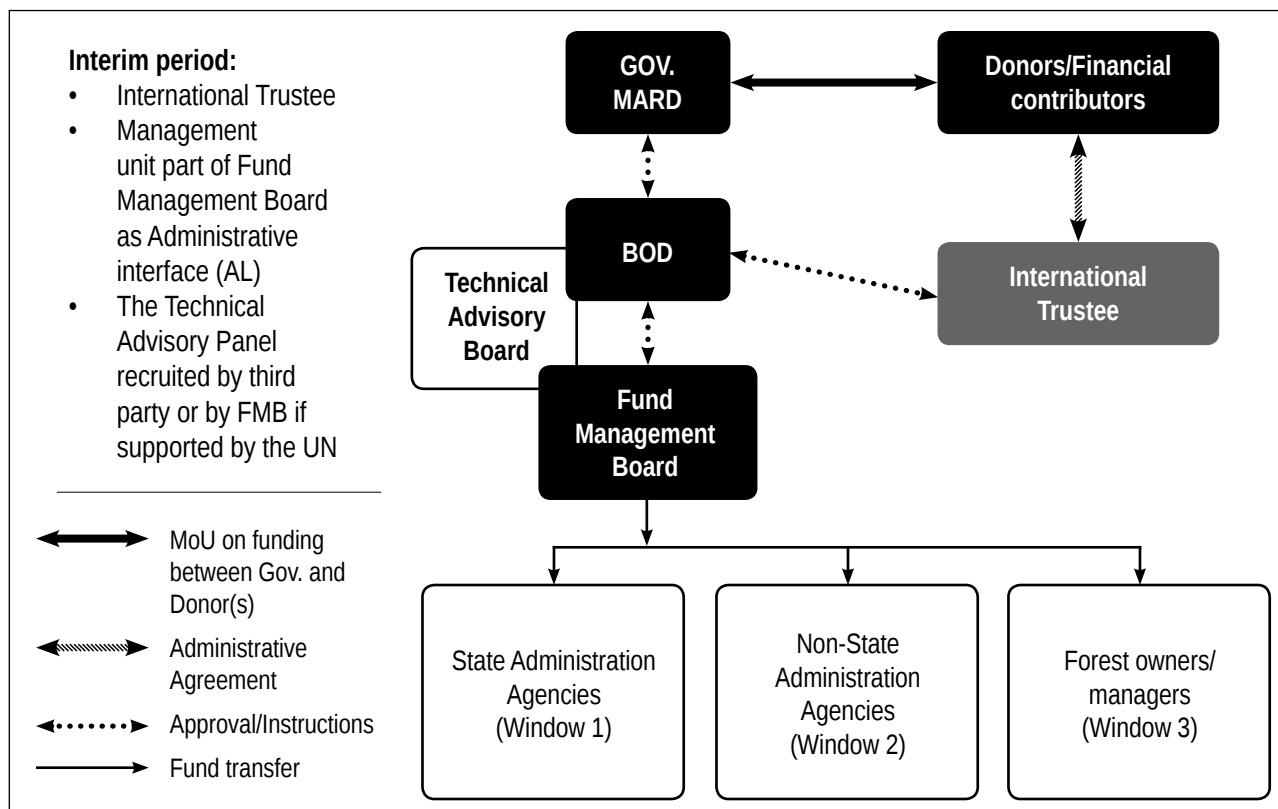
Decision no. 5337/QĐ-BNN-TCLN, signed by the MARD Minister, approved the scheme for establishing the Vietnam REDD+ Fund (VRF). The VRF is an off-budget financial fund operating under the VNFF system, with functions and tasks in conformity with REDD+ goals. An off-budget financial fund is independent from the state budget and intended to fulfill certain tasks prescribed by law. The VRF is for non-profit and uses an organizational structure and regulations consistent with the agreement signed between

the government and partners, international donors, and entrusted parties.

Among its tasks are operating and managing the National REDD+ Action Plan (NRAP), including financial planning and operations of emissions reduction and GHG emission absorption programs and strengthening capacity on forest law enforcement, operation and management of protection and special use forest systems; measuring, reporting and verifying (MRV); National Forest Management System (NFMS); Safeguards Information System (SIS); Benefit Distribution System (BDS) organizational operations of the fund; support for amendment, supplement and development of policies and capacity building to create favorable legal environment enabling REDD+ activities. It also implements BDS plans of emission reduction programs approved by the third party and recognized by the government (for instance, World Bank’s Forest Carbon Fund).

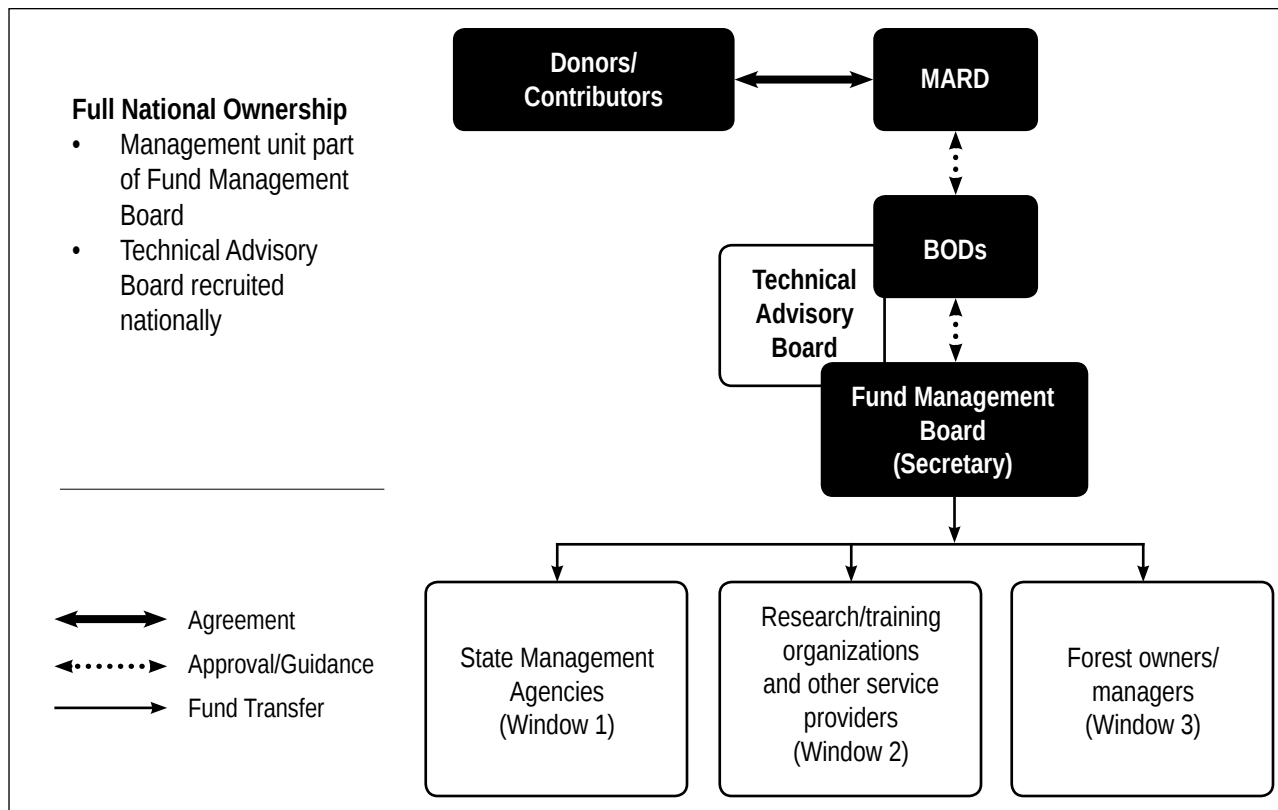
The VRF’s interim governance arrangement is shown in the following figure.

**Figure 7:** Interim arrangement of Vietnam REDD+ Fund (Source: Annex 4, Decision no. 5337/QĐ-BNN-TCLN).



After the interim period, the VRF’s arrangement for full national ownership is proposed as below:

**Figure 8:** Vietnam REDD+ Fund arrangement for full national ownership (Source: Annex 4, Decision no. 5337/QĐ-BNN-TCLN).



The NRF’s 9-member BoD consists of the MARD vice minister as chair, one representative from international donors as co-chair; deputy director general of Vietnam Administration of Forestry

(VNForest); director of MARD International Cooperation Department; department leaders of Ministry of Natural Resources and Environment, Ministry of Planning and Investment, Ministry of Industry and Trade (MOIT) and representatives of national and international organizations and individuals contributing finance to REDD+ Fund (if any).

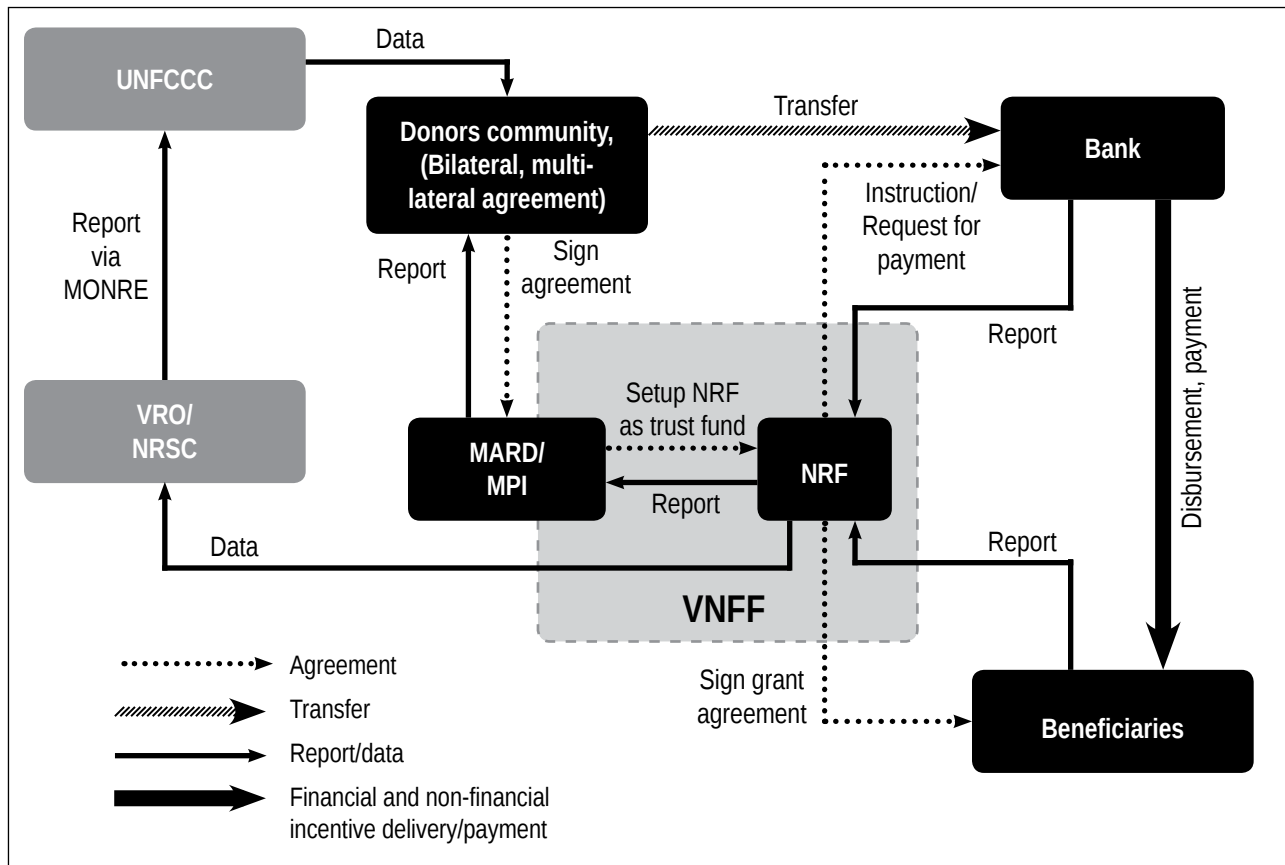
Observers are representatives of CSOs, associations (self selected), private sector, UN-REDD program, international trustee, Fund Management Unit. The VRF also has a technical advisory panel comprised by at least two independent experts selected by the BoD from a roster of national consultants.

The following figure show the key relationships, governance structure, disbursement windows and project cycles of the Vietnam REDD+ Fund.

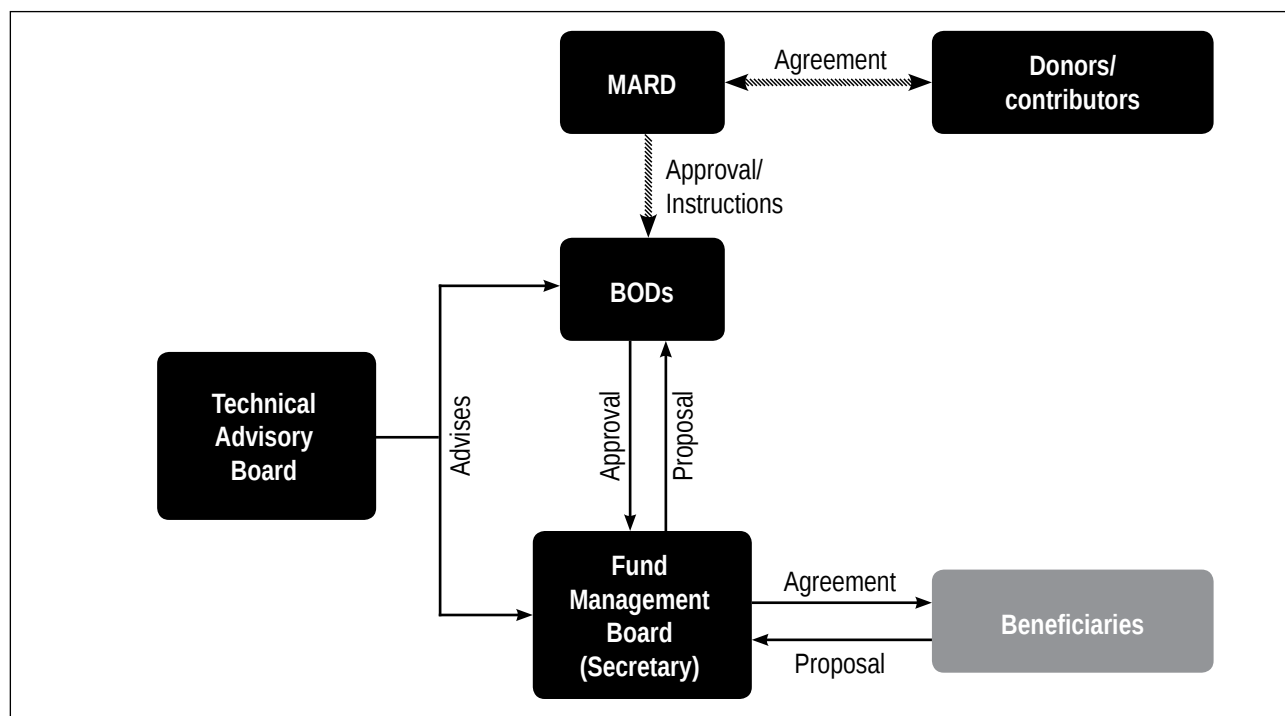
The Vietnam REDD+ Fund has the following financial sources: contributions of international organizations, including revenue from emission reductions credited to REDD+ implementation results; ODA; NGOs; entrusted funds from national and international organizations and individuals through REDD+ programs/projects; state counterpart contributions to programs/projects as specified in agreement with funding donors.

The direct beneficiaries of this fund are households, local communities participating directly in REDD+ activities, of which special attention is given to local forest owners and users who are direct beneficiaries of these activities at local level and whose participation would

**Figure 9:** Key relationships in Vietnam REDD+ Fund (Source: Annex 4, Decision no. 5337/QĐ-BNN-TCLN).

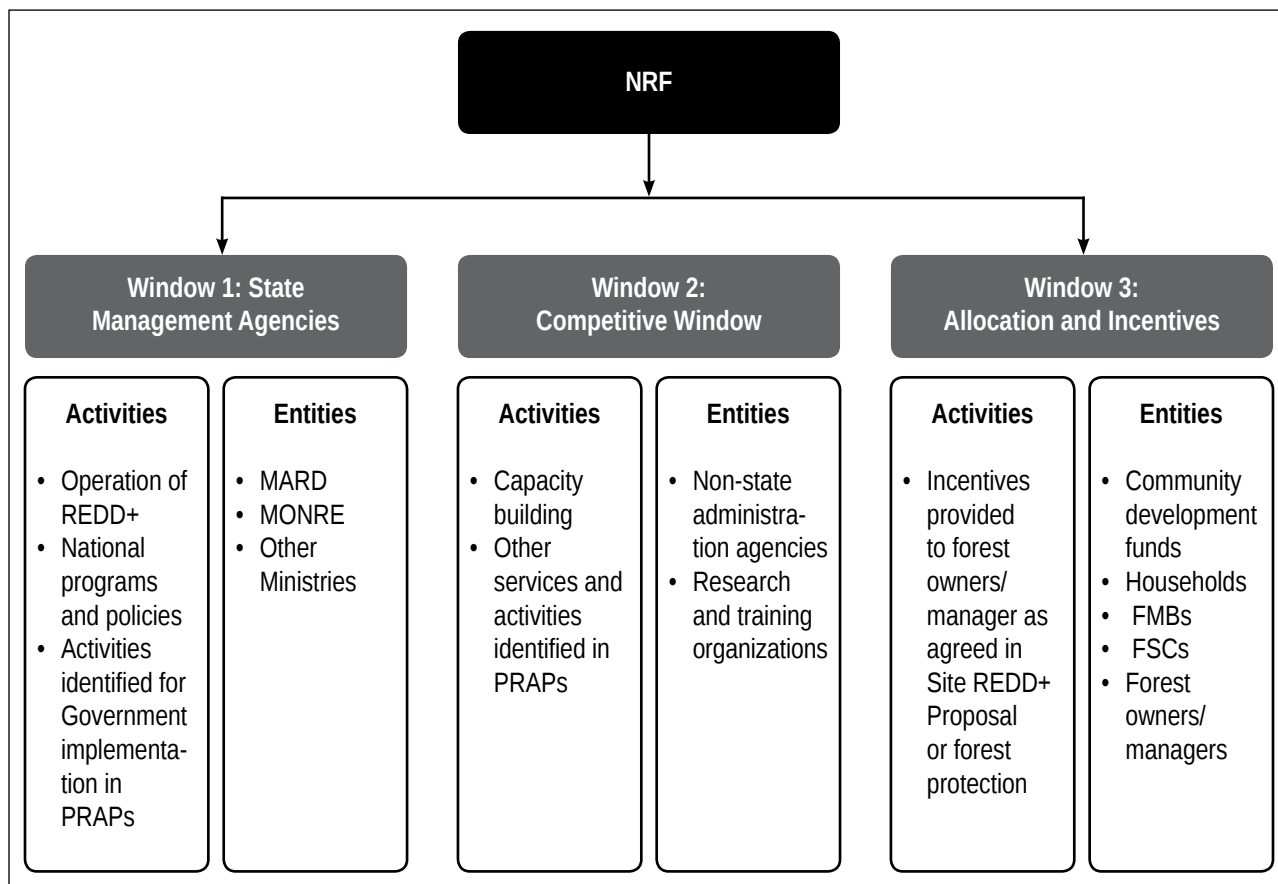


**Figure 10:** Governance arrangement of Vietnam REDD+ Fund.





**Figure 11:** Disbursement windows of Vietnam REDD+ Fund (Source: Annex attached to Decision no. 5337/QĐ-BNN-TCLN).



impact strongly on results of carbon emission and absorption. The indirect beneficiaries are legal agencies, units, and organizations signing a contract directly with the REDD+ Fund, who are technically and financially responsible for the programs or projects supported by the fund. Proposals by these entities include mechanisms for monitoring and evaluating the project activities, including benefit sharing and distribution to direct beneficiaries.

All entities having legal status (such as NGOs, research and training institutes, among others) can submit project proposals to the VRF which are screened and assessed by the Management Unit and approved by the BoD. Funded activities include: policy development and capacity building for REDD+; technical or scientific researches to carry out national programs to contribute to emission reduction or GHG emission absorption and capacity building; implementation of the National REDD+ Action Plan or provincial

forest protection and development plans that integrate REDD+ activities.

Also eligible for fund support are forest owners or managers who sign contracts for forest protection and are paid upon results delivered (for example, community development fund, household, management unit, forest enterprise, forest owner and stakeholders participating in forest management). The benefit sharing refers to the following bases: i) REDD+ plan at local level or proposals that directly or indirectly tackle deforestation and forest degradation, sustainable management of forest resources, biodiversity conservation and carbon stock enhancement with indicators supportive of the Provincial REDD+ Action Plan (PRAP); ii) forest land use right certificate; iii) contract for forest protection. Funded activities include implementation of PRAP or similar REDD+ plan at provincial level and implementation of benefit sharing plan of emission reduction programs.

The Vietnam REDD+ Fund scheme provides independent M&E mechanism and stakeholder participation. It also specifies that regular reports on the fund are submitted to the MARD minister, funding donors, REDD+ Steering Committee membership including UNFCCC national focal point (MONRE), focal point agency for the Green Climate Fund (MPI) and posted on its website.

The proposed M&E framework consists of internal and external mechanisms applicable at both fund and program levels. The M&E plan also details the roles and responsibilities of the REDD+ Fund units, structure of the National REDD+ Fund and target groups eligible to access financial support. It would also help evaluate the effects and any damage caused by violations during the monitoring process. The REDD+ Fund Units will implement M&E mechanisms appropriate to the institution and mechanism of the national REDD+, national laws and requirements of UNFCCC, including indicators of implementing safeguards.

Financial issues will be checked through financial reports, internal audit and independent audit reports, with auditing done in accordance with Vietnam laws and regulations on project

management, management and use of ODA, and decision of the Prime Minister on the National REDD+ Action Plan and agreement signed with financing donors.

### *Non-state stakeholder participation in Vietnam REDD+ Fund*

The REDD+ Fund Scheme stipulates inclusion of stakeholders, especially political and social organizations during the operational process. It further defines the structure that needs to secure a participatory decision making process and ensures stakeholders' legal rights and benefits, particularly the ethnic people, local communities and women. Among the climate change funds probed by this study, the Vietnam REDD+ Fund is the only case that specifies participation of these particular groups.

Being forest owners, the local community in general and the ethnic people in particular can access the REDD+ Fund by submitting project proposals, and if approved, may sign a contract directly with it through the channel, "results-based payment." They can also access it indirectly if the contract for forest protection is



with the state forest owner with whom REDD+ activities are implemented. Equally eligible are NGOs and training and research institutions through the channel, “competitive financing mechanism,” to carry out activities such as capacity building, services and activities identified in the Provincial REDD+ Action Plan.

However, forest dependent communities, especially the ethnic groups, face big limitations in meeting the REDD+ Fund requirements. For instance, they must be a forest owner with adequate legal capacity, but on rural and remote areas where ethnic people live, community organizations with legal status are rare. Moreover, they should have the capability to develop, manage and monitor projects as well as the technical expertise to successfully implement REDD+ activities. Such requirements limit or make it almost impossible for these groups to access the fund. While all REDD+ Fund activities must be public, transparent and should provide information through direct reporting or through its website, ethnic communities including women also lack the necessary IT skills and internet access in their rural communities.

Another drawback is that while the Scheme provides for a M&E framework including a feedback and grievance mechanism at fund and program levels, it does not require social and environmental impact assessments for developing and implementing projects, regulating mechanisms and modes for compensation if the program/project causes adverse impacts on communities.

A new feature in the REDD+ Fund Scheme not present in the three other studied funds is the inclusion of observers representing political and social organizations (self nomination), the private sector, and other entities such as the international UN-REDD+ program. However, this is not the case in the BoD membership where the Scheme does not specify the need for direct participation of representatives of vulnerable groups specifically local communities, ethnic people and women. The only representation comes from national and international organizations and individuals contributing financial support to the fund.

## Summary of Participation in the Three Funds

*Membership in Board of Directors.* The Board of Directors of the Trust Fund for Forests, Vietnam Environment Protection Fund and Vietnam Forest Protection and Development Fund only includes representatives of state agencies, without engagement of the private sector especially of local communities and indigenous peoples. The proposed Vietnam REDD+ Fund’s organizational structure includes observers representing CSOs (self nominated) and the private sector. It specifies the need to secure decision-making engagement of stakeholders representing the voice of local communities, ethnic minorities and women but does not confirm the need for direct engagement of representatives of these specific groups.

*Direct access to financial sources.* Access to these funds’ financial sources by the private sector, CSOs, local communities, households, indigenous peoples varies. Under TFF, local communities, households and indigenous peoples are ineligible for direct access to its financial sources. In contrast, these groups are allowed fund access under VEPF to carry out investment projects in prioritized categories and they can also receive preferential loans (majority) or donations as regulated by the fund. For VNFF, households and communities, being forest owners and providing forest environmental services, receive payment for such services under the VNFF or sign contracts directly with the FES user for providing FES voluntarily. In this case, the payment rate is negotiable but not less than the regulated rate by the government.

For the Vietnam REDD+ Fund Scheme, NGOs may access financial sources via the “competitive channel” while local communities and ethnic minority groups can access the REDD+ Fund directly through the “results-based payment” channel.

*Access to information.* Websites are the main information channel of the TFF, VEPF and VNFF. Additionally, project owners share information to stakeholders during project activities. Local communities in general, and ethnic minority men and women in particular, mainly access information when they participate in projects.

They can hardly access online information due to lack of knowledge, IT skills and facilities, and no internet access in some rural areas. Thus, a full and correct understanding of documents posted on websites is restricted. Language is another barrier for local communities when all documents are prepared in Vietnamese.

In summary, the opportunity for direct access to the funds' financial sources is rather high (3 of 4 funds including proposed REDD+ scheme), But a big limiting factor is that communities and households need to have legal status and adequate capacity to develop, implement and manage projects, requirements they currently cannot meet. Participation in decision making is also low, as local communities, especially indigenous communities and women, are not involved directly even as observer in BoDs including under the REDD+ Fund Scheme. Another challenge is access and understanding of information posted online.

## Vietnam and the Green Climate Fund

The Vietnam Government has started preparatory work to qualify for access to the Green Climate Fund. Among the actions it has taken are: legal framework reform, institutional arrangements, review of public financial regulations, procedures alignment, engagement of private sector, technical preparation and awareness raising. This scoping study focused only on the issues of institutional arrangement, and technical preparation and capacity building.

### Institutional Arrangement

The Government has set up several bodies as part of the readiness phase. In 2014 the Ministry of Planning and Investment was officially appointed as the National Designated Authority or focal point for GCF in Vietnam. (Official Dispatch No. 4478/VPCP-QHQT, 18 June 2014 and Letter Ref. No. GCF/Readiness/

NDA, 15 July 2014) Further approved was the Inter-ministerial Coordinating Board (ICB) under the National Committee on Climate Change (NCCC) to guide the Vietnam Green Growth Strategy (VGGG). The ICB is headed by the Deputy Prime Minister, with the MPI Minister as Permanent Vice President. Another body is the Climate Finance Task Force (CFTF) formed by MPI to study approaches to international funds for Green Growth and Climate Change, which advises MPI and ICB, among other government bodies. The Vietnam Steering Committee for GCF has also been set up.

A climate finance initiative expected to mobilize and manage resources to support the VGGG is the Vietnam Green Growth Strategy Facility (VGGSF) under a project developed by MPI and supported by the Belgian Technical Cooperation (BTC). The national climate finance governance structure has also been restructured to facilitate access to international climate funds, such as GCF and Adaptation Fund. The key players include the Ministries of Planning and Investment, of Natural Resources and Environment, of Agriculture and Rural Development, of Industry and Trade, of Transportation (MOT), of Finance, State Bank of Vietnam, and Vietnam Development Bank.

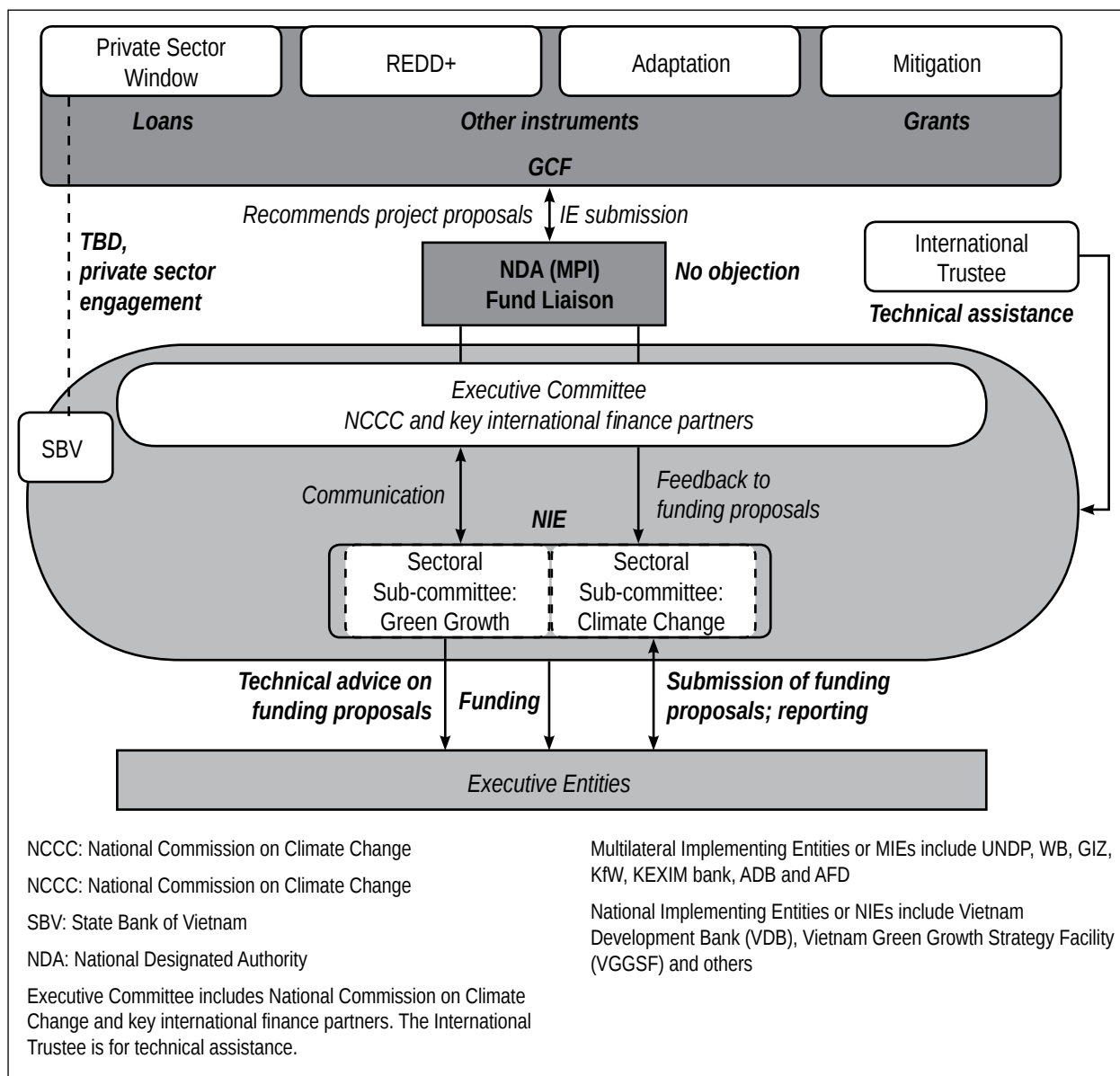
### Technical Preparation and Capacity Building

The Ministry of Planning and Investment as the National Designated Authority has made efforts to enhance capacities and knowledge on the Green Climate Fund to help Vietnam optimally exploit this multilateral resource to cope with climate change impacts, reduce risks and implement the national green growth strategy.

In preparation for Vietnam's Readiness Program, the GCF organized a mission to Vietnam (12-16 January 2015) to work with MPI and other relevant agencies to determine opportunities supporting Vietnam's access to GCF. The GCF worked with pertinent government agencies (such as MPI, MoF, MOIT, MARD,



**Figure 12:** Vietnam's climate finance governance structure.



MONRE, VCCI, SBV, VDB), commercial banks (BIDV, Techcombank, Vietcombank, Vietinbank, Sacombank, Agribank, Bank for Social Policy, ACB), private enterprises (Vietnam Electricity (EVN), Vinacomin, VNSteel, PetroVietnam, Vinatex and others), and development partners (UNDP, World Bank, AFD, German Development Cooperation or GIZ, Belgium, Korea International Cooperation Agency or KOICA, JICA). Through plenary sessions and individual meetings with these entities, the GCF disseminated its requirements, opportunities

and ways to access GCF as well as identified potential projects and priority areas, potential National Implementing Entities (NIEs) for accreditation, and necessary support for Vietnam's readiness.

According to GCF's initial assessment, World Bank and UNDP can become Multilateral Implementing Entities (MIEs) in the early stage to access GCF. These two agencies work with MPI to select projects from the available list to send to GCF for accreditation. In addition, MPI

determines the capability and plan to accelerate the accreditation process for VDB, BIDV and VGGSF to be the National Implementing Entities as well as to support preparation and completion of prioritized projects, such as those of MARD, VNSteel, Vinacomin and others. Based on GCF's initial assessment, VDB and BIDV are potential NIEs to reach GCF accreditation for their strong experience and proven financial management.

The list of projects is divided into four areas: (i) mitigation, (ii) adaptation, (iii) interdisciplinary, and (iv) technical support. The GCF is keen on public-private projects, such as smart grid projects (EVN), greening landfill and mine wastewater treatment project (Vinacomin), new rural development project (BIDV), ecological housing project (ViDeBridge) and energy efficiency for SMEs, among others.

With regard to preparation and readiness, GCF evaluates that Vietnam has been very active and has potential to be supported by GCF's Readiness Program while building the project/program. This process could also be combined with organizing workshops to disseminate information and raise awareness for SMEs and the private sector, which can be coordinated with the Vietnam Chamber of Commerce and Industry (VCCI).

On the general preparation for international foundation, Vietnam is working closely with development partners such as KOICA, GIZ, World Bank, Belgium and UNDP to continue the preparation of conditions, technical and enhanced access to GCF with participation of all relevant agencies and implementation of pilot projects, and designation of the Vietnam Green Growth Strategy Facility with €5 million from Belgian aid. The VGGSF is expected to have goals and operational criteria in line with GCF requirements so that it can become a focal point for direct support from GCF.

The MPI is coordinating with development partners to: i) research choices and institutions to access finance for climate change and green growth, firstly the GCF; ii) implement the Report on the Review of Investment and Public Expenditure on Climate Change (CPEIR); iii) develop guidelines for green investment; iv)

adopt Adaptation Prioritization Tool (APRT); v) establish information about Climate Finance Options (CFO); coordinate with the Ministry of Finance and government offices to work with development partners to boost access to GCF including content to strengthen the capacity of relevant ministries, implement pilot projects and extend raising capital method for the Fund in the early stage following the Trust Fund model while Vietnam has no experience in managing such funds.

## Non-State Stakeholder Participation in Readiness Preparation

One government project "Improving the resilience of vulnerable coastal communities to climate change related impacts in Viet Nam" has been funded by GCF at \$29.5 millions for a 5-year period. The MIE is UNDP and the Executing Entity (EE) is the Ministry of Agriculture and Rural Development. Other beneficiaries include the Ministry of Construction, Provincial People's Committee of participating provinces, 20,000 people for climate resilient housing, and 3,865,100 people in the target coastal provinces.

However, some limitations have been observed in the country's preparation to access the Green Climate Fund. The lack of full and effective application of social and environment safeguards and governing instrument of the GCF from the beginning of the readiness phase, reduces the opportunity for local communities, ethnic minorities, CSOs and NGOs to participate in the awareness raising activities on GCF. These groups so far have not yet been involved in the readiness activities. No CSO/NGO representative met and worked with GCF during its 2015 mission to Vietnam. While there was a plan to organize a workshop for this purpose for SMEs and the private sector through the Vietnam Chamber of Commerce and Industry, no similar workshop was set for NGOs, local people and ethnic minority entities. The latter groups also

have no representation in the GCF National Executive Committee, which only includes state entities and key international finance partners.

Further, with the internet being a main channel of information distribution, the local communities and ethnic minorities have limited knowledge about the GCF, NDA relevant projects and other related information. Thus they do not understand their own opportunities from the Fund. There is also the lack of governing instruments or guidance on how to apply the environmental and social safeguards in GCF-funded projects, how to promote, strengthen or encourage engagement at country level through effective involvement of relevant institutions and stakeholders including vulnerable groups, and how to address gender aspects as defined in the GCF's governing instrument.

An example to illustrate the above are the limitations in local and ethnic community participation found in the GCF project “Improving the resilience of vulnerable coastal communities to climate change related impacts in Viet Nam”:

- Executing entities include only state entities such as ministries, provincial governments, state research institutes; there is no engagement of non-state actors.
- Lack of participation of CSOs, NGOs and legal ethnic minority/community-based entities in the project design phase. Only political and social organizations like the Women Union and state social organizations like Red Cross, Disabled People Organization took part.
- Project organizational structure includes only representatives of state entities and UNDP; it has no representative or observer from CSO, NGO, target ethnic minorities and local people in the intervention area.
- Non-state organizations/CSO/NGO have very slim opportunity to participate in the implementation phase as service provider.



- Independent monitoring system has no clarity on participation of CSO, NGO and legal ethnic minority/community-based entities.

## Awareness of Local Communities and Ethnic Minorities on GCF and NDA

The study results confirm the very low level of understanding of local communities and indigenous peoples on the Green Climate Fund and National Designated Authority (Table 4). Of 204 interviewees, 201 (98.5%) had no information on GCF in general, and almost all (99.5%) had no idea of the national GCF and NDA. Very

**Table 4:** Level of understanding on GCF of local communities and indigenous peoples.

	Locality	Information on GCF (n = 204)		Information on national GCF and NDA (n = 204)	
		No information (x)	Informed (x)	No information (x)	Informed (x)
1	Thai Nguyen	87	0	87	0
2	Binh Thuan	10	0	10	0
3	Quang Binh	12	0	12	0
4	Son La	11	0	11	0
5	Thanh Hoa	15	0	15	0
6	Nghe An	8	1	9	0
7	Hoa Binh	9	2	10	1
8	Lang Son	21	0	21	0
9	Đien Bien	1	0	1	0
10	Lao Cai	27	0	27	0
	Total	201	3	203	1

few interviewees who participated in the REDD+ training courses organized in their localities had heard of the Fund. This is similarly the case on climate change-related funds. All the interviewees among different ethnic groups responded “no information” on the Trust Fund for Forests and the Vietnam Environment Protection Fund.

## Challenges and Opportunities

Despite limiting factors, opportunities remain for the ethnic minorities to gain from the Green Climate Fund. The GCF Governing Instrument encourages the “involvement of relevant stakeholders, including vulnerable groups and addressing gender aspects.” Ethnic minority men and women and local communities have the right and opportunity to access and benefit from the GCF by submitting project proposals. Organizations of local communities in general and ethnic minorities in particular having legal status can access the GCF directly upon addressing its requirements and conditions. Their organizations can function as Implementing Entity and have direct access to the Fund. Another channel they can access indirectly is to assume the position of Executing Entity by cooperating

with the IE. Another way is to be the beneficiaries of projects implemented by the EE.

The local and ethnic communities relying on the forest are also eligible to participate in and benefit from GCF funded projects via REDD+, Green Growth, Climate Change Adaptation and Mitigation initiatives. They are allocated the use right of natural forest for a longterm period or become the owner of the wood and long rotation plantation forests. These communities have experiences and customary law to manage natural resources in an effective and sustainable manner.

Results from discussions with representatives of ethnic minorities and local communities and those trained on GCF (through this study) confirm that local communities are confident of their capability to contribute effectively to climate change adaptation and mitigation with their resources and customary knowledge. They also expressed expectation to receive further capacity building support to enable them to address GCF requirements for acting as executing entities. This is the justifiable and feasible demand that needs due attention of the state and for consideration in the policies and strategy for interventions.

With regard CSOs and NGOs legally operating in Vietnam, the local government and local people are increasingly recognizing their contri-



butions along with local authorities to address the social and environmental issues/problems at grassroots level and to policy improvement and enforcement. Many CSOs and NGOs have effectively implemented development and environmental programs and projects funded by international donors through creative and innovative approaches. They are also forming non-official networks and alliances that operate effectively at grassroots level, and their scope of operation is not only within the country but regionwide. The voices of these networks and alliances are taken into account by state agencies or they jointly cooperate in some areas including the environment. This confirms that NGOs/CSOs are capable of becoming implementing or executing partners of GCF. Not only can their knowledge and experiences in working with local authorities, local and ethnic communities, and the poor support the NDA by providing information and facilitating stakeholder consultation. They can also capacitate local and ethnic communities to participate in GCF activities as entities.

However, local communities and ethnic minorities as well as NGOs/CSOs still face a number of challenges, among these:

*High requirements for access to fund sources.* To address the six assessment factors the GCF Board uses in deciding whether to fund proposed activities, stakeholders including local communities and ethnic minorities are required to form organizations with legal status and resources (e.g., longterm forest use right, among others) and to have governance, legal and technical capacities. This is an opportunity but also a challenge for the IE, EE, local and ethnic communities. The assessment bases are impact potential, paradigm shift potential, sustainable development potential, being responsive to recipients' needs, promoting country ownership, and efficiency and effectiveness.

*Lack of involvement of local communities, ethnic minorities and CSOs in information dissemination and awareness raising on GCF during readiness preparation phase.* Up to the present, interventions undertaken by MPI and NDA as well as some donors have not yet facilitated full participation of all stakeholders in awareness raising and

information dissemination activities on GCF as mandated by the GCF governing instrument. During the 2015 GCF mission in Vietnam (UNFCCC), representatives of CSOs, NGOs and local communities and ethnic minorities did not have a chance to participate in such activities, which focused mainly on the central agencies, state corporations, big enterprises, state and commercial banks. Projects of development organizations such as GIZ, KOICA and others similarly do not have awareness raising activities on GCF for these non-state groups. As such, the expectations and demands of the local communities and ethnic minorities may not be addressed in related national strategic and institutional frameworks, policies, programs and projects.

*Policy risks due to NDA's limited understanding of local communities, ethnic minorities and potential National Implementing Entities.* One of the challenges the NDAs face is the full and timely understanding of the local issues at grassroots level, especially of vulnerable groups and potential NIEs for use in drafting the strategic and institutional framework, portfolio, project and area priorities and selection of NIE, among others. This challenge is creating risks of gaps and inappropriateness of policies for securing the legal rights and benefits of local communities, ethnic women and men, CSOs, NGOs.

*Potential policy risk due to lack of participation of local communities, ethnic minorities, CSOs, private enterprises in GCF Steering Committee.* In relation to the Vietnam climate finance governance structure (Fig 1), the GCF Steering Committee does not have representatives (as member or observer) of the private sector, ethnic minorities, local communities, CSOs and NGOs and includes only representatives of the public sector and key funding donors. Without their representation, policies relating to them may miss or not fully reflect their potential and possible contributions, perspectives, points of view, concerns, difficulties, challenges and practical demands.

*Risk of lack of protection of legal rights and benefits of local communities and ethnic minorities if social and environmental safeguards are not respected and fully enforced.* If local communities and households in project impacted areas lack the capacity

to protect their legal rights and benefits, if the Implementing Entities and Executing Entities do not fully respect and enforce the social and environmental safeguards during project implementation, and without effective grievance and M&E systems, then the legal rights and benefits of the local communities and indigenous peoples would be affected negatively.

*Communities' difficulty to obtain readiness capacity to participate in GCF activities due to limited access to Fund information during readiness preparation phase.* Information accessibility of local and ethnic communities on the GCF and related details such as NDA, social and environmental safeguards, country ownership approach, governance instruments and other related documents is very limited. This is a big barrier to enable them to be fully aware of the Fund, and opportunities and challenges. Ethnic and local communities would thus be limited in taking initiative in building readiness capacity for accessing the Fund and contributing to achieve its targets.

*Inadequate response to demands of local communities and ethnic minorities due to limited investment and inappropriate training.* The national legal framework is good, local communities have rich knowledge and experiences in sustainable and effective use and management of forests and longterm forest and land use right, and forest dependent communities and ethnic minorities are eligible to participate in, become Executing Entities and benefit from the GCF via REDD+, Green Growth, Climate Change Adaptation and Mitigation initiatives. However, local and ethnic communities cannot take on the role of EE as expected if they are not supported effectively in building up their capacities to respond to requirements of the Fund and IEs.

## Recommendations

In light of the foregoing and other findings of this study, the Ministry of Planning and Implementation as the National Designated Authority should ensure:

1. The GCF Social and Environment Safeguards are fully respected and ap-

plied at all levels—the strategic and institutional framework, budget allocation, plans, programs and projects; the guidelines to implement these safeguards and the monitoring indicators are developed concretely; monitoring is independent and the results are publicized.

2. The Governing Instrument of the Green Climate Fund is fully respected and applied at similarly all levels as mentioned in recommendation 1.
3. Both the GCF Social and Environment Safeguards and the Governing Instrument are applied in the readiness phase to ensure that from the beginning of the phase, all stakeholders (both non-state and state actors) have equal opportunity to participate in GCF activities, and not merely the state sector, state and big commercial banks and big corporations.
4. The relevant strategies, policies, programs and projects should include the following elements: a) commitment to follow the ethical investment, human rights-based approach and collective rights; b) commitment to be gender responsive; c) respect and adherence to the right of Free, prior and informed consent, d) full and effective participation of ethnic minorities and local people, e) acknowledgement of traditional knowledge and contribution of ethnic minorities to climate adaptation and mitigation and sustainable resources management.
5. The perspectives, rights, legal interests and concerns of ethnic minorities, local communities and women should be reflected in the national strategic and institutional framework, budget allocation, plans and projects by the commitment to the following:
  - Representation as formal representative or observer of ethnic minorities, local communities, CSOs, NGOs in the GCF National Executive Committee;
  - Convening of ethnic minorities, local communities, CSOs and NGOs by the Ministry of

- Planning and Implementation as National Designated Authority in the process of completing the strategic and institutional framework of GCF in Vietnam and of potential projects and priority areas to ensure their perspectives are reflected in the instruments;
- Formulating policies for the full and effective participation of ethnic minority men and women and forest dependent people at national level with budget designated for their participation;
  - Setting up a platform for exchange between the NDA, GCF National Executive Committee and representatives of local people, ethnic minority men and women for the former to know and understand the latter's perspectives and concerns;
  - Inclusion in the list of potential projects and priority areas all the disadvantages faced by ethnic minority men and women like poor information access, limited capacity, being the most vulnerable and negatively affected by climate change;
  - Specific budget allocation for capacity building at the high level investment for ethnic minority men and women and local communities to meet their concerns to be Executing Entities.
6. The state actors and non-state actors should have equal opportunity to access the Fund and the priorities should be given to community ownership based projects.
  7. The state actors and non-state actors have equal opportunity to capacity building through the GCF's activities in the readiness phase.
  8. Effective mechanisms for information dissemination and information feedback should be set up to ensure the rights to access to information of ethnic minority groups of men and women are fully respected.
  9. The Ministry of Planning and Implementation/National Designated Authority guarantees that future projects approved for GCF funding in Vietnam implement independent monitoring and grievance mechanisms with the participation of stakeholders, including ethnic minority men and women, local communities, CSOs and NGOs.
  10. The NDA only provides "No objection letter" to those proposals that follow country driven, social and environment safeguards; are gender responsive, prove social and environment risk control; provide strong support evidence of civil society, local communities and ethnic minorities; and prove real and positive change at the national and local level.
  11. The Implementing Entities (both MIE and NIE) should be knowledgeable of rights issues; understand the local situations, local communities, ethnic minority issues; gender responsive and meet the social and environment safeguards and Governing Instruments of GCF.
  12. Recognize local NGOs as active actors/practitioners in terms of capacity building for the ethnic minorities, the poor and the women to help them meet their concerns to be Executing Entities and as a bridge to connect the NDA to the vulnerable groups, ethnic minority men and women and local communities.



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Website of VNFF: <http://vnff.vn/>; <http://vnff.vn/quy-tff/danh-muc-du-an>.

Website <http://vietnam-redd.org/Web/Default.aspx?lang=en-US>.



## Government Decisions

No	Date of issue	Title	Issued by
<b>Forest protection and development</b>			
1	1998	Decision no.661/QĐ-TTg on targets, tasks, policies and implementation arrangement of the 5 Million Hectare Reforestation Program (5MHRP);	Prime Minister (PM)
2	2004	Forest protection and development law 2004	National Assembly (NA)
3	2006	Decree no. 23/2006/NĐ-CP dated 03/3/2006 on enforcement of the forest protection and development law	Government (GoV)
4	2006	Decision no.186/2006/QĐ-TTg dated 14/8/2006 of the Prime Minister on issuing forest management regulations	PM
5	2006	Decision no.106/2006/QĐ-BNN on community forestry management guidelines	MARD
6	2007	Decision no. 18/2007/QĐ-TTg approving the National forest development strategy 2008 – 2020	PM
7	2007	Decision no. 100/2007/QĐ-TTg amending Decision no. 661/QĐ-TTg in 1998 on targets, tasks, policies and implementation arrangement of the 5MHRP	PM
8	2008	Decree no. 05/2008/NĐ-CP on 14/01/2008 of the GoV on Forest Protection and Development Fund	GoV
9	2008	Decision no. 114/2008/QĐ-BNN on establishment of the Forest Protection and Development Fund	MARD
10	2008	Joint circular no. 58/2008/TTLT-BNN-KHĐT-TC guiding implementation of the PM Decision on targets, tasks, policies and implementation arrangement of the 5MHRP 2007 – 2010	MARD, MPI and MoF
11	2008	Joint circular no. 52/2008/TTLT-BNN-BTC guiding rice subsidy to ethnic communities in mountainous areas for afforestation for replacing farming cultivation	MARD, MoF
12	2010	Decree no. 99/2010/NĐ-CP dated 24/9/2010 on Payment for forest environmental services	GoV
13	2011	Decree no. 29/2011/NĐ-CP regulating Strategic Environment Assessment, Environmental Impact Assessment, Environment Protection Commitment	GoV
14	2011	Decision no. 34/2011/QĐ-TTg dated 24/06/2011 on amendment, supplement of Decision no. 186/2006/QĐ-TTg	PM
15	2012	Decision no. 07/2012/QĐ-TTg dated 08/02/2012 issuing policies on forest protection enhancement	PM
16	2012	Decision no. 57/QĐ-TTg dated 2012 approving the Forest protection and development plan 2011 - 2020 issued by the PM	PM
17	2012	Joint circular no. 62/2012/TTLN-BNNPTNT-BTC dated 16/11/2012 on guidelines for use and management of PFES money	MARD, MoF
18	2013	Decision no. 1565/QĐ-BNN-TCLN in 2013 approving the Forestry sector restructure scheme issued by MARD minister	MARD
19	2013	Joint circular no. 10/2013/TTLT-BNNPTNT-BKHĐT on guidelines for use and management of state budget for implementing the Forest protection and development plan 2011 - 2020 according to the Decision 57/QĐ-TTg	MARD, MoF
20	2014	Circular no. 38/2014/TT-BNNPTNT dated 3/11/2014 on guidelines for sustainable forest management option	MARD
21	2015	Decree no. 75/2015/NĐ-CP dated 09/09/2015 on Mechanism, policies for forest protection and development in connection with the policy on sustainable and rapid poverty reduction and supporting for the ethnic communities period 2015 – 2020	GoV

No	Date of issue	Title	Issued by
22	2016	Decree no. 147/2016/NĐ-CP dated 02/11/2016 on amendment and supplement of articles of Decree no. 99/2010/NĐ-CP dated 24/9/2010 of the Government on PFES	GoV
23	2016	Decision no. 44/2016/QĐ-TTg dated 19/10/2016 on full-time forest protection force of the forest owner	PM
24	2016	Joint circular no. 93/2016/TTLT-BTC-BNNPTNT dated 27/6/2016 on guidelines for use and management of state budget for operational costs as implementing the Decree no. 75/2015/NĐ-CP dated 09/9/2015 of the Government on Forest protection and management policy and mechanism in connection with the policy on sustainable and rapid poverty reduction and support for the ethnic communities period 2015 – 2020	MoF and MARD
25	2016	Decision no. 38/2016/QĐ-TTg on amendment and supplement of some forest protection and development policies and investment policies on support for infrastructure development, public task assignment to forest, agriculture companies	PM
		Environment protection – Climate changes adaptation and mitigation	
26	2002	Decision no. 82/2002/QĐ-TTg on establishment and organizational arrangement of the Vietnam Forest Protection and Development Fund	PM
27	2006	Decision no. 81/2006/QĐ-TTg dated 14/4/2006 on approving the National strategy for water resources up to 2020	PM
28	2007	Decision no. 47/2007/QĐ-TTg on approving the Plan for implementing the Kyoto Protocol under the UNFCCC period 2007 - 2010	PM
29	2007	Decision no. 172/QĐ-TTg dated 16/11/2007 on the National strategy for natural disaster prevention, fighting and mitigation up to 2020	PM
30	2008	Decision no. 158/2008/QĐ-TTg dated 02/12/2008 approving the National target program for climate changes response	PM
31	2008	Decision no. 2730/QĐ-BNN-KHCN in 2008 on issuing Action plan framework for climate changes adaptation for agriculture and rural development sector period 2008-2020	MARD
32	2010	Joint circular no. 07/2010/TTLT-BTNMT-BTC-BKHĐT on guidelines for using and managing state budget for implementing the National target program for climate changes response period 2009 - 2015	MONRE, MOF, MPI
33	2011	Instruction no. 809/CT-BNN-KHCN in 2011 on integrating climate changes into developing, implementing strategy, planning, plans, programs, projects, schemes for agriculture and rural development period 2011-2015	MARD
34	2011	Decision no. 2139/QĐ-TTg in 2011 approving the national strategy for climate changes issued by the PM	PM
35	2011	Decision no. 543/QĐ-BNN-KHCN dated 23/3/2011 on Action plan for climate changes response of the agriculture and rural development sector period 2011-2015 and vision up to 2050	MARD
36	2011	Decision no. 3119/QĐ-BNN-KHCN in 2011 approving GHG emission reduction scheme for agriculture and rural development sector up to 2020	MARD
37	2011	Decision no. 2081/QĐ-BNN-KHCN in 2011 on assigning task to implement the policy matrix cycle 3 (2011) under the Program to respond to climate changes (SP-RCC)	MARD
38	2011	Decision no. 1410/QĐ-TTg in 2011 approving the policy matrix cycle 3 920110 under the Program to respond to the climate changes (SP-RCC)	PM
39	2011	Decision no. 1719/QĐ-TTg dated 4/10/2011 approving Criteria to assess prioritized projects under the Program to respond to the climate changes (SP-RCC)	PM
40	2012	Decision no. 1474/QĐ-TTg on National action plan to respond to the climate changes period 2012-2020	PM

No	Date of issue	Title	Issued by
41	2012	Decision no. 432/QĐ-TTg on approving the National strategy for sustainable development of Vietnam period 2011 – 2020	PM
42	2012	Decision no. 1183/QĐ-TTg in 2012 on approving the National target program for responding to the climate changes period 2012 - 2015	PM
43	2012	Decision no. 1775/QĐ-TTg dated 21/11/2012 on approving the Scheme for overseeing GHG emission; managing carbon credit trading businesses in the world market	PM
44	2012	Decision no. 43/QĐ-TTg in 2012 on Establishment of the National committee for climate changes	PM
45	2012	Decision no. 80/QĐ-TTg in 2012 on establishing the Task force to negotiate the climate change issue of Vietnam	PM
46	2012	Dispatch no. 1443/TTg-QHQT in 2012 on approving the List of prioritized projects under the SP-RCC dated 19/9/2012	PM
47	2012	Decision no. 511/QĐ-BNN-HTQT on approving the Action plan for 2012, Project "strengthening national capacity to respond to the climate changes in Vietnam aiming for mitigating impact and controlling GHG emission"	MARD
48	2012	Decision no. 1788/QĐ-BTNMT on issuing M&E indicators for the National target program to respond to the climate changes period 2012 – 2015	MONRE
49	2013	Resolution no. 24-NQ/TW in 2013 on actively responding to the climate changes, enhancing natural resources management and protecting environment issued by the Central Executing Committee	Central Executing Committee
50	2013	Decision no. 1651/QĐ-BTNMT in 2013 approving the component projects under the National target program to respond to the climate changes period 2012 – 2015	MONRE
51	2013	Decision no. 1725/QĐ-BTNMT in 2013 on establishing the Steering Committee to implement the UNFCCC and the Kyoto Protocol	MONRE
52	2013	Decision no. 1628/QĐ-TTg on Approving the Policy matrix in 2013 under the Program to respond to the climate changes (SP-RCC)	PM
53	2013	Joint circular no. 03/2013/TTLT-BTNMT-BTC-BKHĐT on budget management mechanism guidelines for Program supporting for responding to the climate changes	MONRE, MOF, MPI
54	2014	Decision no. 78/2014/QĐ-TTg on Regulations for organization and operation of the Vietnam Environment Protection Fund	PM
55	2014	Decision no. 414/QĐ-TTg in 2014 on approving the portfolio funded by UNDP – Project "capacity building for implementing the climate change strategy (CBICS)	PM
56	2014	Decision no. 44/QĐ-TTg in 2014 approving Support program to respond to the climate changes (SP-RCC)	PM
57	2014	Decision no.1824/QĐ-TTg in 2014 approving document on amending the Support program to respond to the climate changes (SP-RCC)	PM
58	2014	Environment protection law no. 55/2014/QH13 dated 23/6/2014	NA
59	2015	Decision no. 899/QĐ-BTNMT issuing Charter for organization and operation of the Vietnam Environment Protection Fund	MONRE
60	2015	Decision no. 132/2015/TT-BTC on financial management mechanism guidelines for the Vietnam Environment Protection Fund	MOF
61	2015	Decree no. 18/2015/NĐ-CP dated 14/2/2015 stipulating the Planning for environment protection, strategic environment protection, environment impact assessment and environment protection plan	GoV
62	2015	Decision no. 2359/QĐ-TTg on approving the National system for GHG emission inventory	PM

No	Date of issue	Title	Issued by
63	2015	Decision no. 120/QĐ-TTg on approving the Scheme for coastal forest protection and development to respond to the climate changes period 2015-2020	MONRE
64	2016	Decision no. 41/2016/QĐ-TTg on issuing Regulations for managing and coordinating implementation of the target programs	PM
65	2016	Decision no. 819/QĐ-BNN-KHCN on Action Plan to respond to the climate changes of the agriculture and rural development sector period 2016 - 2020, vision to 2050 issued by MARD	MARD
66	2016	Decision no. 2044/QĐ-TTg approving the Policy framework 2016 (supplementary), Policy framework 2017 and Document of support program to respond to the climate changes period 2016-2020	PM
67	2017	Project "Sustainable environment of the coastal cities Đong Hoi, Quy Nhon, Nha Trang and Phan Rang – Thap Cham".	
		<b>Green growth</b>	
68	2012	Decision no. 1393/QĐ-TTg dated 25/9/2012 approving the National strategy for green growth period 2011- 2020 and vision to 2050	PM
69	2013	Decision no.2612/QĐ-TTg dated 30/12/2013 approving the Strategy for using clean technology up to 2020 and vision to 2030	PM
70	2014	Decision no. 403/QĐ-TTg dated 20/2/2014 approving the National action plan on green growth period 2014 – 2020	PM
71	2014	Project "capacity building and institutional reform for implementing the green growth and sustainable development in Vietnam"	
72	2015	Instructive no.03/CT-NHNN dated 24/3/2015 "promote green credit growth and social-environmental risk management for credit granting"	State Bank of Vietnam (SBV)
73	2015	Decision no. 2183/QĐ-BTC dated 20/10/2015 on "issuing the Action plan of the financial sector to implement the national strategy for green growth up to 2020"	MOF
74	2015	Decision no. 13443/QĐ-BCT dated 08/12/2015 approving the Action plan for green growth of the Industry and Trade sector period 2015 – 2020	MOIT
75	2016	Resolution no. 73/ND-CP dated 26/8/2016 approving the policy on investment in the target programs period 02016-2020	GoV
76	2016	MPI is uploading the Guidelines for drafting the green growth action plan for provinces and municipals on website for comments	Website of MPI
77	2016	Project "strengthening resistant capacity of the vulnerable coastal communities impacted by climate changes' related causes in Vietnam"	
78	2016	Project "social target of the sustainable green growth in Vietnam" approved on 28/11/2016 granted by German government	PM
79	2014	Project: Capacity building for policy research, education and training serving for green growth promotion	
80	2015	Project: Renovate macro economy and support for green growth	
81	2013	Notice no. 10/2014/TB-LPQT on enforcement effect of the project agreement "Technical support committee of project – water resource management and urban development in Hà Tĩnh, Binh Thuan and Ninh Thuan" signed by Vietnam and Belgium	
		REDD+ Vietnam	
82	2012	Decision no. 799 /QĐ-TTg dated 27/6/2012 on approving the National action program for "GHG emission reduction through deforestation and forest degradation mitigation, conservation and enhanced forest carbon stock" period 2011 – 2020	PM



No	Date of issue	Title	Issued by
83	2013	Decision no. 1214/QĐ-TTg dated 23/7/2013 approving the UN-REDD Cooperation program – phase II";	PM
84	2013	Decision no. 1724/QĐ-BNN-HTQT dated 29/7/2013 approving the UN-REDD project document- phase II	MARD
85	2013	Decision no. 2226/QĐ-BNN-TCCB dated 30/9/2013 on establishment of the Steering Committee of UN-REDD program - phase II	MARD
86	2013	UNREDD program, phase II (2013-2015)	
87	2015	Decision no. 5399/QĐ BNN-TCLN in 2015 issuing regulations on piloting benefit sharing mechanism for REDD+ under the UN-REDD program phase II	MARD
88	2014	Decision no. 955/QĐ BNN-HTQT in 2014 approving the List of supplementary agencies co-plementing the UN-REDD program in Vietnam, phase II	MARD
89	2015	Decision no. 5414/QĐ-BNN-TCLN dated 25/12/2015 approving the Provincial REDD+ action plan (PRAP) guidelines	MARD
90	2015	Decision no. 5337/QĐ-BNN-TCLN dated 23/12/2015 approving the REDD+ Fund Scheme	MARD
91	2015	Project Implementation Guidelines for UN-REDD program in Vietnam, phase II	MARD- UNREDD programme
92	2016	Draft decision on approving the national program for GHG emission reduction through deforestation and forest degradation mitigation; conservation, enhanced forest carbon stock up to 2030 (to replace Decision no. 799)	Draft decision of GoV
		<b>Other legal papers</b>	
93	2004	Dispatch no. 850/CP-NN dated 23/6/2004 on establishment of the Trust Fund for Forests	PM
94	2007	Decision no. 254/2007/QĐ-BNN-TCCB dated 29/1/2007 on establishment of the Trust Fund for Forests	MARD
95	2009	Decision no. 2646/QĐ-BNN-LN dated 21/9/2009 on issuing Regulations on management and use of the Trust Fund for Forests	MARD
96	2010	Decision no. 1602/QĐ-BNN-LN dated 15/6/2010 on issuing the Operational Manual of the Trust Fund for Forests	MARD
97	2012	Decision no. 1667/QĐ-BNN-TCLN dated 18/7/2012 approving the Scheme for handing over the TFF to the VNFF	MARD
98	2015	State budget law	NA
99	2016	Laws on access to information, dated 6/4/2016	National Assembly

## Endnotes

<sup>1</sup> Using the following definitions: 'For the purpose of the present note, *governance* entails processes and institutions that contribute to public decision-making. When those processes and institutions concern the public sector, the term *public governance* is used. It can be argued that there are three categories of public governance: civic, political and development. *Civic and political governance* deal with issues that are related to human rights. *Development governance* mainly pertains to planning, budgeting, monitoring and accountability of socio-economic development policies and programmes. *Participatory governance* is one of many institutional strategies of development governance. *Citizen engagement* is the desired outcome or logical end of participatory governance' - Participatory governance and citizens' engagement in policy development, service delivery and budgeting - Committee of Experts on Public Administration Sixth session, New York, 10-13 April 2007, United Nations.

<sup>2</sup> Non-state stakeholders in this study refer to local communities, ethnic minorities, women, households and individuals.

<sup>3</sup> Legal policies, programs, projects refer to the term "participation" but no information on level of participation.

<sup>4</sup> Local communities, households (hhs), individuals provided information by program, project owners on implementation progress, regulations on types and levels of benefits of beneficiary, compensation mode applicable for impacted target groups, etc. at sites carrying out programs, projects, policies.

<sup>5</sup> Local communities, hhs, individuals consulted by program/project owners during implementation process.

<sup>6</sup> Local communities, hhs, individuals provided information on policies, programs, projects and participate in part of the designed program, project as beneficiaries, are eligible to contribute comments during process of carrying out program, project but not be involved in decision process.

<sup>7</sup> Local communities, hhs, individuals and program, project owners jointly discuss, share viewpoints and make decision upon consensus during development, implementation, monitoring, evaluating policies, programs, projects, beneficiaries and liabilities.

<sup>8</sup> Local communities, hhs, individuals with legal status and adequate resource (for example, forest and land use rights) are eligible to access financial source of programs, projects, can be delegated power and responsibility to own program, project, be authorized to make decision, implement, benefit, bear risk and liability.

<sup>9</sup> FPIC: Recognition of FPIC of local communities and indigenous peoples.

<sup>10</sup> VEPF website.

# NICARAGUA

## GCF Barely Known Among Non-State Stakeholders

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## Background

The scoping study in Nicaragua was carried out at subnational level (Autonomous Region and central level). The participation by indigenous leaders representing indigenous territories in the Autonomous Regions was limited from the outset due to their extremely low knowledge on many aspects of climate finance at the national or subnational level.

The study methodology was mostly qualitative, utilizing secondary data analysis. The study also tried focus group discussions but the participants did not have enough information to give an opinion or had wrong information. This situation led the study team to prepare two pamphlets on the Green Climate Fund: one, with general information on the organization of the GCF, including organizational structure, operation, goals and objectives, among others. The second publication was on women and the GCF, especially the access they should have to GCF resources.

Key informant interviews were conducted with the Ministry of Environment and Natural Resources (MARENA), specifically the unit of climate change. The study team also made visits to the Autonomous Regions; they worked with officials of the South Autonomous Regional Council and held meetings with the Forestry and Environmental Advisory Council (CCFA) in the North Caribbean Coast Autonomous Region as well as interviews with the MARENA Deputy

Minister and officials of the Climate Change Unit in the city of Managua. With regard to civil society, only the Humboldt Center has been involved in the issues which were the subject of the study. In general neither academia nor other NGOs know the subject.

At the international level a member of the Center for the Autonomy and Development of Indigenous Peoples (CADPI) joined the team on climate finance of the Indigenous Peoples' Global Partnership on Climate Change, Forests and Sustainable Development. This allowed her to participate as an observer in the GCF sessions in 2016 and 2017 and enabled the consolidation of the political positions of indigenous peoples vis a vis the GCF. During this time, lobbying and exploratory discussions were held with official delegations of the participating governments in the GCF sessions, and agendas and action plans were shared with civil society delegate observers in the GCF sessions.

The scoping study was guided by the principles of the Indigenous Peoples' Sustainable, Self-Determined Development framework and the UN Declaration on the Rights of Indigenous Peoples. It also referred to Law 28 of Nicaragua on the process of Regional Autonomy that provides for the establishment of autonomous regions with legal personality in public law that follow as appropriate, policies, plans and guidelines (Art 8). The autonomous regions



through their administrative bodies have the general responsibility to effectively participate in the elaboration and implementation of plans and programs for national development in their region in order to harmonize them with the interests of the Communities of the Caribbean Coast.

## Climate Finance Framework

### Global Level<sup>1</sup>

World Bank President Jim Yong Kim called climate change “a fundamental threat to development,” calling on governments to act now “to limit global warming and finance policies that promote sustainable development.” The main multilateral banks mobilized US\$81 billion in 2015 to combat climate change, \$25 billion in direct funding and \$56 billion in combined funds, according to a report prepared by the Inter-American Development Bank (IDB) with the Asian Development Bank (ADB), African Development Bank (AfDB), European Bank for Reconstruction and Development (BRED), European Investment Bank (EIB), and the World Bank Group. Of the direct funds, \$20 billion was spent on mitigation activities and the remaining \$5 billion for adaptation, while the \$56 billion combined funds involved collaborations with other institutions and the private sector. These banks are committed to raising the annual figure to \$100 billion by 2020.

By region, according to the same report, 20% of the total fund went to Central Asia, followed by South Asia (19%), Latin America and the Caribbean (15%), East Asia and the Pacific (14%), European Union (13%), sub-Saharan Africa (9%) and the Middle East and North Africa (9%).

The main sectors receiving adaptation funds were water and wastewater treatment systems (27%), followed by energy, transport and infrastructure (24%), and crops and food production

(18%). For mitigation, most of the funding went to renewable energy (30%), low carbon transport (26%), and energy efficiency activities (14%). According to the report, these efforts will help countries meet their commitments under the Paris Agreement, moving to lower carbon emissions and toward a more sustainable future. A study by the UNFCCC Secretariat on investment flows required for the global adaptation of the most vulnerable sectors pointed out an adaptation deficit, if one takes as an indicator the continuous increase of derived losses from extreme weather events (ECLAC and GTZ, 2009).<sup>2</sup>

### Latin America

In Latin America and the Caribbean where population, forests and land are intimately linked, the overexploitation of natural resources has led to the loss of almost 64 million hectares between 2000 and 2010, which represents 7% of the forest area.<sup>3</sup> In 2013, the Latin America and Caribbean countries received a total of \$4.382 billion for climate change projects, of which Nicaragua received only \$3.7 million from the Inter-American Development Bank. A recently published report by the Economic Commission for Latin America and the Caribbean (ECLAC) indicates that this figure represented only 0.01% of the total resources earmarked for the financing of projects aimed at mitigating climate change. Approval of these resources refers to reimbursable and non-refundable loans and grants. Panama received \$358.6 million; Costa Rica, \$70.8 million; Honduras, \$13.09 million and Guatemala, \$10.01 million, for climate changes projects granted by Climate Funds and the IDB.

Nicaragua representative at the UNFCCC, Paúl Oquist, stressed that in order to tackle climate change, it is necessary to have clear implementation mechanisms and, above all, the economic resources necessary for adaptation (June 2016). According to the United Nations agency, climate financing flows amounted to \$333 billion in 2013, the main source of financing being the private sector, which contributed \$193 billion, and \$140 billion from the public sector, of which

\$126 billion came from financial institutions for multilateral and bilateral development.<sup>4</sup>

## Central America

In Central America, Nicaragua is part of the (Central American) Regional Strategy for Climate Change developed by the Central American Commission on Environment and Development (CCDA) and the Central American Integration System (SICA).

Nicaragua supported the CARICOM initiative to create a Caribbean Community Reparations Commission during the ministerial meeting held as part of the VII Summit of the Association of Caribbean States (ACS) in Havana. The country reiterated that the struggle against climate change has to be cultural, political, economic, social and legal. It considers this summit “is the real political space to declare the need for compensation to the Caribbean countries for the losses and damages of climate change, given the high vulnerability of these nations.” Nicaragua also committed itself to increasing efforts to strengthen cooperation within the framework of the ACS, as well as with other international agencies.<sup>5</sup>

## Nicaragua

The Republic of Nicaragua covers an area of 129,494 km and has a population of 6.17 million people (IFAD). Experiencing macroeconomic stability and sustained economic growth over recent decades, its GDP increased between 2010 and 2014 by a yearly average of 4.7%, reaching a US\$1,904 per capita in 2014. The agricultural sector accounted for 17% of GDP in 2014, following a gradual decline that began in the 1990s. The sector generates 31% of employment and 70% of overall exports, indicating that Nicaragua’s economy which remains in transition has significant support in the productive agricultural sector. About 32% of producers however are subsistence farmers, and their poverty, lack of

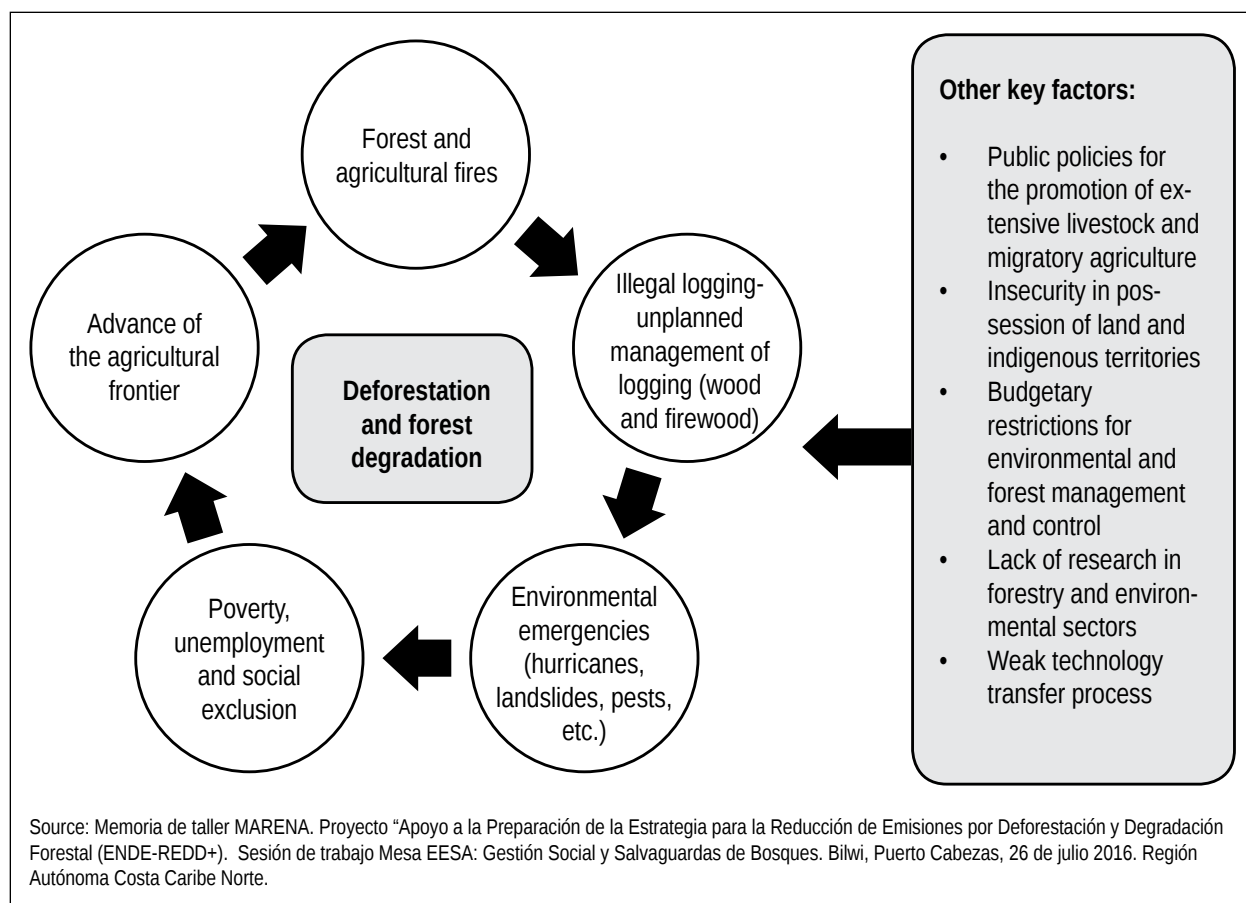
access to the market and information, and especially scarce infrastructure make it very difficult for them to cope with adverse consequences of climate change.<sup>6</sup> The 2014 National Household Living Standards Survey (NHLSS) found 8.3% in extreme poverty and 29.6% living below the poverty line, although this greatly improved from 42.5% and 14.6% respectively in 2009.<sup>7</sup>

Nicaragua ranks fourth among the countries most affected by extreme events between 1994 and 2013, as reported in the Global Climate Risk Index 2015. Globally it was surpassed only by Honduras, Myanmar and Haiti in terms of occurrence of extreme events. According to ECLAC,<sup>8</sup> Nicaragua is a highly vulnerable country to earthquakes, volcanic eruptions, floods, hurricanes and droughts. One-fourth of its population lives in locations at risk of hurricanes and tropical storms (1.3 million people<sup>9</sup>) while 40% is affected by recurrent drought, with Dry Corridor inhabitants and food production feeling the greatest effects.<sup>10</sup>

Noting climate change as a public liability affecting governments’ public finances for generations to come, the Economic Commission for Latin America and the Caribbean estimates that “by 2030 Central America will still produce less than 0.5% of the world’s greenhouse gas (GHG) emissions, but at the same time it is already one of the regions most vulnerable to the impacts of climate change.”<sup>10</sup>

## *Forest Situation*<sup>12</sup>

Nicaragua’s forest cover has suffered gradual reduction over time. In 1950 it was found that an estimated 6,450,000 hectares were considerably reduced. It is believed that by 2007-2008 the forest cover had decreased by some 3,254,145 hectares, which means a difference of 3,193,855 hectares, which represent 62.7% natural forest that is concentrated in the Autonomous Regions (INAFOR, 2009).



In general terms, the data (see table) suggest a process of systematic reduction through the decades, only interrupted for some years in the 1980s due to the Contra war. At present, more than 60% of agricultural activity is carried out in soils whose potential use is forestry or agroforestry. This has generated a massive inconsistency between the potential use of land and its current use, which has resulted in high percentages of overutilization of forest or agroforestry soils that are being devoted to intensive agricultural exploitation.<sup>13</sup>

Period	Reduced Area (in ha)
1992 - 2000	43,927.41
2000 - 2005	132,665
2006 - 2010	85,357
2011 - 2013	63,270

Of the total national forest coverage, the North Caribbean Coast Autonomous Region (RACCN) has 43.4%; the South Caribbean Coast Autonomous Region (RACCS) 19.3%; Jinotega 9.3% and Río San Juan 8.9%. This means that nearly 80.9% of the forest in the country is located in territories with low inhabited areas and with high percentage of poverty. From those areas, the natural forest or 49% belongs to indigenous communities (INAFOR, 2009).<sup>14</sup>

The main cause of deforestation is poverty caused by structural, social, environmental and economic factors, as found by the Ministry of the Environment and Natural Resources after consultations in the Autonomous Regions with leaders of the indigenous peoples Mayangnas, Miskitus, Rama, Creol and Garífunas and mestizo population. Attendant to poverty are unemployment and social exclusion. This situation makes the poorest people search for options in new lands through agriculture and livestock raising, causing agricultural expansion. The

resulting problem is the invasion of duly titled indigenous territories, giving rise to serious social concerns. Illegal logging and the extraction of wood in turn cause changes in land use, generating other types of problems.<sup>15</sup>

Also affecting the environment and national health is the common use of firewood as fuel for cooking. Approximately 900,000 Nicaraguan households cook with firewood on traditional stoves. Firewood consumption reached 44.4% of total final energy consumption in 2012, surpassing oil, leading the Ministry of Energy and Mines (MEM) to develop the Firewood and Charcoal Strategy for 2012-2022 and a National Program for Sustainable Use of Firewood and Charcoal for 2014-2022.

### ***Avoided Deforestation and Forest Degradation National Strategy/ENDE-REDD+***

Against this background, the government has proposed the national program, ENDE-REDD+ or Avoided Deforestation and Forest Degradation strategy, to reduce deforestation and greenhouse gas emissions with activities to be initiated in stages. Two important milestones have been achieved to date: approval of the Readiness Plan Idea Note (ER-PIN/R-PIN) in 2015 and signing of the “Letter of Intent for the Preparation of a Program focused on Reducing Emissions from Deforestation and Environmental Degradation” in January 2016.

The ENDE-REDD+ program began in November 2008 when Nicaragua became a member of the Forest Carbon Partnership Facility (FCPF) by signing the Participation Agreement. This led to FCPF’s approval of an R-PIN for preparation for REDD+ presented by the government. The R-PIN has three key aspects: a preliminary assessment of the patterns and causes of deforestation, a look at the stakeholder consultation process to develop a national ENDE-REDD+ program, and potential institutional arrangements to implement the mechanism in the country.

As a result of the approval of R-PIN, the FCPF allocated \$200,000 to the MARENA for the formulation of the Readiness Preparation Plan (R-PP). This allowed the initiation of an

intense process of collective preparation of the R-PP, which was endorsed three and a half years later by the FCPF during its twelfth meeting in June 2012. The presentation of an acceptable R-PP to the FCPF enabled the allocation of other financial resources (US\$3.6 million) to implement it. The legal agreement between MARENA and the World Bank was signed in December 2013 for four years, ending October 31, 2017.<sup>16</sup>

The implementation of ENDE-REDD+ took into account the results of the R-PP, which served as the basis for the analysis of the R-PIN. Both studies coincide in defining five sub-zones of the country: Caribbean Coast, Rio San Juan, North, Center-North and Pacific. At present, these five sub-areas are regrouped in three regions: (1) region 1 formed by the North Caribbean autonomous region and municipalities of Jinotega, San José de Bocay, Wiwili of Jinotega and Wiwili of Nueva Segovia, and Cua; (2) region 2 formed by the autonomous region of South Caribbean, including San Juan del Norte; and (3) region 3 conformed by the Dry Corridor, which includes areas of the Pacific, North-Central of the country.

The ENDE-REDD+ represents a unique opportunity to strengthen the forest sector of Nicaragua. The country has a National Policy for the Sustainable Development of the Forest Sector covered by Decree No. 69-2008. This policy mandates, among others, the creation of a National Environmental Fund that capitalizes the National Forest Development Fund (FONADEFO).

Other national programs address related issues such as: 1) promotion of healthy habits, which consists of campaigns that promote awareness of the dangers of warming to human health and facilitate the development of healthy habits, especially those related to hygiene, food and food preservation; 2) preparation and organization of families and communities in the face of disasters caused by meteorological phenomena (hurricanes, heavy rains, landslides); and 3) strengthening health systems as it is urgent to identify the weaknesses of health services and build capacities to reduce health vulnerability to climate change.



The National Forestry Institute (INAFOR) and MARENA also launched the National Reforestation Plan in 2007 to raise public awareness of the importance of reversing the deforestation process, increasing forest cover, and maintaining/improving the production of environmental services provided by forests, including carbon storage. According to official figures in 2007-2015, 1,236,878 hectares were reforested. In addition, the government has initiated a comprehensive training process on climate change aimed at all public servants, which will allow a better understanding of the problem and greater commitment to deal responsibly with the causes and consequences of climate variability in the country.

The dry corridor of Nicaragua comprises 27 municipalities, sectors that represent 30% of the national production. For that reason the central government has already been executing projects and programs that allow environmentally friendly production, countering impacts and constraints generated by climate change.

## National and International Legal Frameworks Related to Climate Change

**H**uman rights include the rights of people to information, to full and effective participation, and to express their concerns and interests in the instances of consultation and decision making of political programs and projects that are relevant to them. In particular, vulnerable groups such as indigenous peoples and local communities have the right to present proposals, suggestions, complaints, concerns about the actions of officials, institution or program itself. It is the state's obligation to respond to such approaches, and communications must be two-way and culturally relevant. In that sense Nicaragua has a set of laws that support the right to participation.

The Political Constitution of Nicaragua in Article 2 states:

*National sovereignty resides in the people and exercises it through democratic instruments freely deciding and participating in the construction and improvement of the economic, political, cultural and social system of the nation. This right can be exercised through the Territorial Councils, territorial and communal assemblies of the native and Afro-descendant peoples.*

Article 52 further states:

*Citizens have the right to petition, denounce anomaly and make constructive criticism, either individually or collectively, of the State Powers or any authority; to obtain an early resolution or response and to notify them of the resolution within the periods established by law.*

In relation to climate change, the government approved in 2010 the National Environmental and Climate Change Strategy and Plan of Action 2010-2015. The five guidelines of this Strategy are: Environmental education for life; Defense and environmental protection of natural resources; Conservation, recovery and harvesting of water; Mitigation, adaptation and risk management in the face of climate change; and Sustainable land management.

In this way, the country started to define policies and programs more specifically to address the consequences of climate change. As indigenous and Afro-descendant peoples reside in the forested areas of the country, these policies and programs have serious implications on and for respect of the rights of the indigenous peoples. Significant progress has been achieved in the legal recognition of customary rights of indigenous peoples and local communities to forest lands. Nicaragua has a national legal framework that recognizes the rights to communal property and the natural resources on their lands, especially their use, administration and conservation. On the implementation of the safeguards for indigenous peoples, the country has robust regulations that guarantees the rights of indigenous and Afro-descendant peoples sup-

ported by the Political Constitution of Nicaragua, Laws 28 and 445, ILO Convention 169 and United Nations Declaration on the Rights of Indigenous Peoples.

Other related national legal instruments are:

- Law 475 on Citizen Participation published in La Gaceta No. 241 of December 19, 2003;
- Law 621, Law on Access to Public Information, published in La Gaceta No. 241 of December 19, 2003. It provides for public access to public information offices and promotes the exercise of access to public information;
- Law 28 or Statute of Autonomy of the Regions of the Coast of Nicaragua; article 8, paragraph 1 indicates the right of the Autonomous Regions: “To participate effectively in the elaboration and execution of national development plans and programs in Their region, in order to harmonize them with the interests of the Communities of the Caribbean Coast;”
- Law 445, Law on Community Property Regime for Indigenous Peoples, Afro-descendants and Ethnic Communities of the Autonomous Regions of the Coast of Nicaragua and the Coco, Indio and Maíz Rivers.

Nicaragua has made regional and international commitments by adopting and implementing a series of administrative, legislative and policy adjustments aimed at addressing the phenomenon of climate change under three main principles: precaution, common but differentiated responsibilities, and sustainable development within three pillars (social, environmental and economic). Nicaragua has stood out since 1993 in its approval and ratification of the Regional Convention on Climate Change. This agreement commits the Central American countries to establish regional mechanisms for economic integration and cooperation for the rational use of the environment in order to protect the climate system for the benefit of present and future generations. The Convention states that States, according to their capabilities, will implement national programs and take measures to ensure climate conservation within and

beyond their jurisdiction.

Part of the national legislation are the international treaties and conventions that Nicaragua has adopted and ratified in relation to the environment and sustainable development, which are diverse: forest, biodiversity, climate change, against desertification, indigenous peoples, protection of the ozone layer, control of dangerous substances, among others. Some of these ratified treaties, conventions and declarations relevant to the implementation of ENDE-REDD+ are:

### *Universal Declaration of the Common Good of the Earth and Humanity*

Nicaragua was the first to sign the Universal Declaration of the Common Good of the Earth and Humanity as a commitment of the government and the country for future generations of Nicaraguans to inherit a healthy environment that allows sustainable human development. It is hoped to strengthen the principles, practices, values and capacities with and for the benefit of the Nicaraguan population through the protection of Mother Earth, adaptation to climate change, and comprehensive disaster risk management in the Citizen Power model.<sup>17</sup> It is part of the Political Constitution of Nicaragua. The declaration stresses “climates to the Common Good of Mother Earth and Humanity because they are the essential condition of life support and climate changes must be treated globally and with a shared responsibility.”

### *UNFCCC*

Nicaragua signed and ratified the United Nations Framework Convention on Climate Change, which aims to achieve “the stabilization of concentrations of greenhouse gases in the atmosphere at a level that prevents dangerous anthropogenic interference with the climate system” (UN, 1992, Article 2). The UNFCCC-COP in Cancun also decided on the “b” REDD+ safeguard which provides for access to information, transparency and accountability in the national forest governance structures. Nicaragua

recognizes the importance of leading actions that are intended to actively and concertedly engage the efforts of the international community to ensure stability in the global climate.

### ***Kyoto Protocol***

A historic first step towards controlling greenhouse gases, the Protocol provides a basic framework for action to combat climate change. It obligates many industrialized countries to put in place the institutions and policies necessary to achieve emissions reductions. This agreement contains binding commitments to reduce greenhouse gas emissions, as well as financial commitments, technology transfer and capacity building in developing countries.

In compliance with the Kyoto agreements, the government created under Decree 21-2002 the National Office of Clean Development, ONDL. It also set up the National Carbon Account whose main objective is to finance plans, programs, strategies and projects necessary to achieve the objectives of UNFCCC and the provisions of the Kyoto Protocol, especially the Clean Development Mechanism (CDM) (Article 10, Chapter III, Decree 21-2002).<sup>18</sup>

### ***Convention on International Trade in Endangered Species of Wild Fauna and Flora***

Under CITES, Nicaragua has committed to ensure that international trade in specimens of wild animals and plants does not constitute a threat to their survival. Law 217 establishes a system of annual closure that seeks to ensure the protection of species at risk and danger of extinction.

### ***ILO Convention 169***

Nicaragua is characterized by its multi-ethnicity and has made significant progress in recognizing indigenous peoples' rights of ownership and possession over the lands they have traditionally occupied, demarcating and titling

on the Caribbean Coast in favor of indigenous and Afro-descendant peoples.

### ***UNDRIP***

The United Nations Declaration on the Rights of Indigenous Peoples is a legal instrument that Nicaragua has made practically a law. Its importance lies in ensuring important safeguards for indigenous peoples to their rights to land, territory and natural resources.

With this legal framework, Nicaragua could develop a major effort to ensure broad knowledge of the population on issues of climate change and climate finance. The guiding principles on which the government has designed the mechanism for programs such as REDD+ are: respect for the common good, respect and promotion of the worldview of indigenous peoples, accessibility, transparency, legitimacy, and equity.

The following scheme shows the relationship between macro policies and specific laws related to climate change but within the framework of the rights of indigenous and Afro-descendant peoples. This relation between international and national legal frameworks shows a political will to address the issue of climate change in an integral

### **Safeguards**

Similar political will is shown when comparing the safeguards of Nicaragua's legal framework with the safeguards of the World Bank and of Cancun-UNFCCC. With law 28 on regional autonomy and law 445 on communal land tenure, Nicaragua has strengthened regional autonomy processes in its Caribbean region where most of the country's forests are located, which implies having the political will to ensure the participation of indigenous peoples through their traditional authorities.

The importance of being clear about the status of safeguards is that in the implementation of the ENDE-REDD+ strategy, it will ensure to combine the objectives of protecting national

forests with economic development, while collaborating in the fight against and adaptation to climate change to overcome poverty. But the risks are present because it is now recognized that the investments that occur within the framework of ENDE-REDD+ can generate negative social and environmental impacts.

The implications of these risks and the intentions of putting safeguards into practice require their basis on a solid national and international legal structure that guarantees the legitimacy of land use rights, ownership, mechanisms for citizen participation and determination of the domain of shared benefits. That is, to obtain a perfect network of laws for the governance of REDD +, which goes beyond environmental and forestry laws and includes fields such as ownership, investment and the right of access to resources.

The environmental legal framework of Nicaragua is quite strong and includes principles of international environmental laws it has ratified, which manifest the restitution of the rights of indigenous peoples and Afro-descendant communities.

The Political Constitution of Nicaragua recognizes the importance of environmental protection and the services provided by forests and other ecosystems, which creates an instrumental basis for REDD+ and contains the approach of restoring the rights of indigenous peoples and Afro-descendants of the Caribbean Coast and their functional autonomy. The governance platform for indigenous territories is governed by a very solid structure of communal authorities that play a transcendental role in the administration of natural resources in general.

For its part, the World Bank for the REDD+ program has a principle of inclusion of safeguards and operative regulations, consistent with the principles and policies of the Nicaraguan government that restore the right to full and effective participation of the protagonists, as well as the right to free, prior and informed consent (FPIC).

This framework has an article and legal instruments, some of these described earlier: articles 5, 7, 50 and 60 of the Political

Constitution of Nicaragua, as well as Law No. 28 of Autonomy, Law No. 445, regime owned by indigenous peoples and ethnic communities as an expression of the recognition of participatory and representative democracy and the right to participate on equal terms in matters of public management of the State.

Nicaragua ratified ILO Convention 169 on May 6, 2010, with the objective of protecting the rights of indigenous peoples and Afro-descendants and guaranteeing respect for their cultural integrity and right of access to natural resources. In addition, it signed the United Nations Declaration on the Rights of Indigenous Peoples, which although not binding, has many articles based on binding international instruments. In any case, the National Assembly assumed the commitment to promote actions that take up the legal premises of this Declaration and urges the executive branch to promote pertinent actions (articles 2 and 3).<sup>19</sup>

### **Initiatives for Institutional Changes in Forestry Sector Management**

In the forestry sector, sticks for the blind<sup>20</sup> have been going on since 1992 with the awareness that deforestation must be stopped, which reaches an average of 70,000 hectares per year. If that trend continues, within 30 years the country would be left without natural forest resources.

Over the last 25 years, new laws have been passed, reforms made in the legal system, commissions created and have disappeared and new ones set up that are inoperative, and institutions established from one entity to another. Nothing apparently has worked to stop deforestation.

On the other hand, the financial flows that have come to the country through the official route and through civil society decreased during those 25 years. Cooperation agencies have left, moving to other countries with higher priority for cooperation. The Ministry of the Environment and the Ministry of Finance in the last eight years have been dedicated to creating the readiness package for REDD+ under the tutelage of Forest Carbon Partnership Facility-



WB. It is expected that from 2018 Nicaragua will increase its capacity to apply funds from other climate fund sources, such as the Green Climate Fund, Climate Investment Fund, Global Environment Facility, Adaptation Fund and others.

In 1999 the Climate Change Comisión<sup>21</sup> was created specifically to follow up on the situation caused by climate change, but despite having a defined mission, vision and strategic lines, this study could not find any evidence of its operation during the last 17 years.<sup>22</sup> One of its functions is supposedly to provide support in the search for national and international financial resources to realize projects on climate change within the framework of sustainable development. It has a board of directors consisting of: the Minister of Environment and Natural Resources or his delegate who will preside; a delegate each from the Ministry of Foreign Relations, Ministry of Agriculture and Forestry, Central Bank of Nicaragua and Nicaraguan Institute of Territorial Studies; two notable personalities from the private sector, and a representative each from organized civil society and of national universities.

Both at this level and in the plenary of the Commission, no mention is made of indigenous peoples or communities in the Caribbean of Nicaragua. The Regional Autonomous Councils are in the list of participants only of the plenary but not in the board of directors. Perhaps this was an important factor for the non-operation of this commission.

Another institution is the Fondo Nacional del Ambiente–FNA<sup>23</sup> or National Environment Fund (FNA), created by Law No. 217, General Law of the Environment and Natural Resources. The FNA was designed as a financial institution to access and manage private and public funds for the development and financing of programs and projects for the protection, conservation and restoration of the environment for the purpose of sustainable development.

Reflecting the difficulties in the management of the forest sector, another commission was set up, the National Forestry Commission (CONAFOR). At its first ordinary session in 2007,

the Commission formed the Forest Governance Committee (GOFO) as its technical entity. The CONAFOR, which heads the forestry sector in Nicaragua for elaboration of the national policy for sustainable development in the sector, defined two strategic actions.

One of these actions is the consolidation of financial mechanisms and instruments in the forestry sector that are already in place. This involves mechanisms that are partially functioning, related to payment for environmental services, carbon sequestration, CO<sub>2</sub> storage, landscape restoration, protection of biodiversity and other similar activities. Interestingly, this was also intended to reactivate and capitalize the National Environmental Fund as well as to replenish the National Fund for Forest Development or FONADEFO for management of water basins.

Another interesting aspect is that, in parallel, the Bank for the Promotion of Production (Produzcamos) was created by Law 640 which was amended by the National Assembly in May 2009. The Produzcamos is assumed to be the only specialized public entity to receive, channel and perform financial and credit administration of funds from the international community for the granting of credits for promoting and developing medium-sized, small and micro producers in the agricultural and industrial sectors.

Article 3 of Law 640 modifies Article 7 of the Ministerial Agreement 07-2005 or regulation of administration and operation of FONADEFO. Article 7 provides that FONADEFO may establish concessional credit mechanisms to finance priority forestry projects, for which its regulatory committee must carry out a prior classification. The priority projects will be financed with the resources granted for this purpose, according to the sustainable forest development policy issued by the Ministry of Agriculture and Forestry.

A distinction must be made in the character and functions of Produzcamos and FONADEFO. The Produzcamos is a development bank specializing in credits specifically for the productive development of agricultural and industrial medium, small and micro producers. The FONADEFO on the other hand is a fund to promote the sustainable management of the forest sector “in order to increase national



economic development, conservation of natural resources, development of the market for payment for environmental services (PES) and improvement of the environment.”

The legal framework in which both institutions operate overlaps in terms of credit activities and therefore must be adjusted by FONADEFO. But on the other hand, not all areas and areas of action overlap in non-reimbursable financing, priority projects, and special projects.

### *Forest information systems*

Another area for initiatives is information systems. Although effort was made to develop information systems along the chain—such as forest census, forest policy department, Export and Investment Center (CIS), Nicaraguan investment promotion agency (ProNicaragua), Forestry National Institute or INAFOR, and National Agricultural University (UNA)—none of these instruments and entities have been able to establish functional forest information systems and much less market intelligence centers that provide key information for successful negotiations in the forest sector both individually and at country level.

Likewise, the Official Guides developed so far (including the 2010 MIFIC (Ministry of Finance and Public Credit)/ProNicaragua/AMCHAM Investor’s Guide) in the forestry sector present significant gaps or errors of basic interpretations, which makes the information aspect crucial in developing a sustainable forestry sector a bottleneck. Instead of complementing the investments provided by financial mechanisms and economic instruments, these obstruct the achievement of a greater impact from these instruments.<sup>24</sup>

### *Organizational structure*

The last initiative on institutional changes occurred recently on April 26, 2017 through Law 947 or Partial Reform Law issued by the National Assembly. This law amends Law no. 290 on organization, competence and procedures of the executive power; Law no. 462 on conservation, promotion and sustainable development of the forestry sector; and Law no. 862 creating the institute of protection and agricultural health. Under the reforms, 23 autonomous entities are directly subordinated to the Presidency of the Republic, including the Nicaraguan Institute of Territorial Studies or INETER; INAFOR; Energy, Fisheries and

Aquaculture; Pro-Nicaragua and Control of Toxic Substances. Under the sectoral rectory of the Ministry of Agriculture is the National Institute for Agricultural Technology (INTA).

This means the country's forestry administration is now handed over to the Presidency of the Republic and will be implemented through INAFOR. The National Forestry Commission or CONAFOR is also placed as the highest level forum for social consultation in the forestry sector, which will participate in the formulation, monitoring, control and approval of policy, strategy and other regulations on forestry matters. However, what is important is that greater participation has been given to the relevant actors, including two representatives of the Autonomous Regions, reforestation organizations, forest owners, environmental NGOs, forest professionals from both the Pacific and the Caribbean, among others.

Also notable in these reforms is the creation (again) of the National Forest Development Fund or FONADEFO within the organizational structure of INAFOR. The weakness in this is that its Regulatory Committee consists only of MARENA, Ministry of Finance and INAFOR itself, and excludes the authorities of the Autonomous Regions.

Among the specific objectives of the Forest Policy is implementation of fiduciary mechanisms as economic devices for the growth of value chains in the use and management of forest ecosystems. That is why the FONADEFO funds are destined at financing programs and projects in the forestry sector, promotion of forest plantations, agroforestry and silvo-pastoral systems, technological innovation in the production chain and good management of the forest sector.<sup>25</sup>

These funds received by the State are placed in a special account in the General Treasury. In the case of financial resources received in the form of payments for exploitation rights, fines, enforcement rights and auctions for confiscation in the Caribbean, they are distributed as follows within a period no greater than 30 days: 25% for the community or communities where the resources are used, 25% for the Regional Council and corresponding Regional Government, 25%

for the municipality where the community is located and 25% for the National Treasury.

The strategic guidelines of FONADEFO are:

- Increasing forest cover. This guideline, started in 2012, is intended to reach the goal of 5,000 hectares of natural regeneration of the forest by 2016 and seeks the establishment of co-financing for forest, agroforestry and silvo-pastoral plantations.
- Avoided deforestation and forest degradation. This seeks to promote the process of restoration of forests and diversified management of forest ecosystems, for which co-financing is sought for diversified forest management in at least 10,000 hectares in indigenous and rural communities. The MARENA has taken charge of designing the program and strategy of ENDE-REDD+. The relationship between FONADEFO and MARENA however is still unclear.
- Market for ecosystem services and products. FONADEFO seeks the development of the ecosystem services market (valuation and commercialization of products and services). Some specific areas include water regulation, carbon sequestration, biodiversity conservation, landscape restoration, bio-trade, oxygen production, ecotourism, soil conservation and slope stabilization. The goal is to achieve 2,500 hectares of forest and / or plantations for the market for ecosystem products and services.

## Dialogue and Participation of Stakeholders

The Avoided Deforestation National Strategy - ENDE is a national political platform to carry out actions to reduce emissions from forest destruction and degradation. It is the State's political and strategic framework to integrate national, regional, territorial and local actions. It implies a process of dialogue and experiences



exchange with the involved stakeholders by considering the restitution of rights of indigenous peoples, Afro descendants and the Nicaraguan people in general to benefit from the natural resources on a rational and sustainable basis.

To guarantee the involvement and commitment of stakeholders as well as to enrich the different aspects of the ENDE-REDD+, three working groups, which share responsibility in dealing with the effects of climate change from deforestation and forest degradation, were formed as follows:

Group I has a strategic political role in the processes of decision-making at the highest level. The group proposes political reforms and strategic guidelines needed to address the causes and impacts of deforestation and forest degradation on the environment and natural resources. It is necessary to emphasize that aside from participating ministers of different agencies or their delegates, the group's membership includes three indigenous leaders selected by the indigenous territorial governments from the Autonomous Regions.

Group II oversees all the technical processes for planning and implementation to achieve the objectives and goals of ENDE-REDD+. It plays an important role in coordinating political and strategic implementation and dialogue with stakeholders. The territorial indigenous governments from the North Autonomous Region participate indirectly in this group through the Natural Resources Secretariat (SERENA). However, it should be noted that SERENA implements a mechanism called the Forest and Environmental Advisory Committee, which proposes environmental public policies for the North Autonomous Region. From here arise the proposals or demands that indigenous and Afro peoples make to Group II. In the case of the Autonomous Region of the Southern Caribbean Coast, they do so through the Autonomous Regional Council.

Group III has an advisory role and direct dialogue with the stakeholders. It is a more open channel convened by the government that facilitates representation of all sectors at regional, municipal, territorial, and community or local area levels. This group implements actions in

the field and addresses the demands and needs of the stakeholders involved in the management, use and exploitation of natural resources, among others.

The groups' structure is functional and has been very successful at least in Groups II and III where indigenous peoples with delegates coming from indigenous territorial governments have representative presence and participation. The MARENA has shown great consistency and clarity regarding the participation of the indigenous peoples and has highly valued their contributions and official autonomous structures. Group I also has space for representation of indigenous peoples, although the frequency of meetings is very sporadic and depends on the results of the studies carried out by the Department of Climate Change and the results obtained at the more operational levels II and III.

## Civil Society

A group of 43 civil society organizations involved in climate change has consolidated around the Nicaraguan Alliance on Climate Change (ANACC). This alliance is self-appointed, comprehensive, and inclusive of all sectors (productive, youth, women, indigenous, academic, cultural, religious, among others) on a voluntary basis. Its objective is to promote the articulation of the social and environmental movement of Nicaragua to face the challenges of climate change in a concerted way. It is a space for ongoing intersectorial dialogue between civil society organizations and began its advocacy work in 2009 under the guidelines set in its governing document entitled "For Life and in Gratitude to Mother Earth!" issued in February 2010.

The ANACC has been able to discuss, analyze, influence and build collectively proposals from the different actors of civil society. It aims to influence public policies that contribute to reduce climate change's adverse effects and works towards the official recognition of Central America as a highly vulnerable region. It also promotes the implementation of adaptation actions in the territories. The ANACC's activities include:





1. Communication, sensitization and mobilization vis a vis climate change;
2. Building public-private partnerships for defining adaptation policies and strategies on climate change;
3. Promoting territorial and sectoral adaptation strategies to climate change and mitigation, according to national capacities;
4. Monitoring and advocacy in regional and global processes on climate change.

An important limitation of ANACC is the low level of participation of indigenous organizations and communities from the Caribbean of Nicaragua, which has 60% of the country's forests. The Alliance has expressed that this is due to budget lack to cover transport costs for delegates of the communities and organizations from the Autonomous Regions.

At the time of writing this report, MARENA was launching the latest version of ENDE-REDD+ at a national level in a series of workshops (between April 24 and May 22, 2017). The call to civil society and the private and public sectors has been made; hopefully everything goes well.

### Public Information and Consultation

The information dissemination on climate change issues for the general public, such as on UNFCCC, REDD+ and Green Climate Fund in Nicaragua, is extremely limited. Unless one belongs to an organization that works on the subject, very few people know about it beyond what radio or TV convey. For that reason, MARENA in 2013 conducted 10 national workshops (during the R-PP formulation and before the R-PIN) on what was to become the avoided deforestation strategy for Nicaragua, now known as the Avoided Deforestation National Strategy or ENDE-REDD+. Much effort was devoted to the areas inhabited by the indigenous peoples of the Caribbean of Nicaragua, being the location of 60% of the country's forests. These actions were one of the conditions for the beginning of MARENA's relations with the Forest Carbon Partnership Facility.

The MARENA's project staff (20 technicians) has strengthened their institutional management of natural resources and forests. It has also helped to strengthen institutional presence in 19 municipalities to broaden the dialogue and direct participation of indigenous and African-

descendant peoples and stakeholders from the Caribbean Coast in the design of the strategy.

Some \$500,000 are requested to strengthen the intersectoral communication and the strategic link of ENDE-REDD+ with policies and programs on sustainable development related to natural resources and the forest.

To expand information dissemination on the Green Climate Fund, REDD+ and other related activities and issues, CADPI and Tebtebba dedicated some resources to the following:

### *Videos*

The CADPI contracted outreach services with Channel TV 22, which covers only the capital city of Bilwi in the Autonomous Region of the North Caribbean Coast. Three videos were selected to circulate information and expand knowledge about what the GCF is, how it is organized, and how it works. These are:

- 0:42 minutes: <https://www.youtube.com/watch?v=KeNL5bTPsgw>;
- 2.14 minutes: [https://www.youtube.com/watch?v=\\_tgxrGBezSM](https://www.youtube.com/watch?v=_tgxrGBezSM);
- 38 minutes: <https://www.youtube.com/watch?v=2xEypnuhJQM>.

These videos were broadcast on Chanel 22 TV continuously once a week for three weeks over three months. The broadcast is estimated to have reached only the subscribers to the cable company, or some 3,300 families in the city of Bilwi. This initiative is clearly not enough and more effort is needed to achieve greater coverage to bring knowledge and create capacities for more people on climate change and GCF.

### *Consultation Workshops*

Two information workshops on GCF were held in Bilwi with the Consultative Committee on Forestry and Environment established by the Secretariat of Natural Resources-Autonomous Government. This committee is an open participation body in which the two universities in the

Autonomous Region organized loggers, timber vendors, delegations of government ministries and indigenous territorial governments to participate. The two workshops managed to convene 67 representatives of those organizations. In the Autonomous Region of the Southern Caribbean Coast, an informative workshop was held with the participation of 27 people. The call was made through the Autonomous Regional Council and SERENA.

The workshops showed that prior knowledge of the people, government officials and representatives of indigenous organizations on the GCF is absolutely zero. This was not surprising as climate finance is an issue that no NGO or the government in the region has tackled. At the national level, CADPI and Centro Humboldt are the only organizations that carried out a study on the financial resources dedicated to climate by international cooperation and the Nicaragua government. This study covered the years from 2010 to 2015.

Given the low or absence of information on GCF among the workshop participants, CADPI was limited to reporting on the existence of the Fund, its headquarters, organizational structure, mission and vision, approved projects, operation and procedures in relation to the National Designated Authority and Accredited Entities. The problem with this is that expectations are created among participants.

### *Publications*

To partly overcome the low level of knowledge about GCF by the population and stakeholders, CADPI produced two informative brochures, one describing the GCF, its headquarters, its vision and mission, mandate, its way of operating and other details, and the second on women's access to climate funds. These were distributed to participants to the workshops and also to the SERENA offices in both autonomous regions where peoples and stakeholders could get copies.

In relation to government efforts, MARENA in March 2017 issued an informative, illustrated

and popular version of ENDE-REDD+, which has been distributed in consultation workshops that are part of the consultation process being carried out. To further broaden the information on climate change, the General Directorate of Climate Change<sup>26</sup> coordinates a website with a group of experts who provide information that meets the standards and procedures established by the National Environmental Information System (SINIA). The webpage is updated every Thursday of each week. All documents generated by the Climate Change Directorate-ENDE REDD, such as meeting reports and minutes, press releases, documents in the process of being formulated, and others related to the project, are uploaded to this website.

[http://www.sinia.net.ni/multisites/  
NodoCambioClimatico/](http://www.sinia.net.ni/multisites/NodoCambioClimatico/)

<http://enderedd.sinia.net.ni/index.php/en/>

## Identification of Institutional and/or Policy Gaps

As has been said, Nicaragua is characterized by a high degree of exposure and vulnerability to the potential impacts of climate change. Given that the factors behind this high vulnerability have deep structural roots, it is imperative to articulate policies for climate change adaptation and mitigation with high levels of participation of all sectors, including state institutions, civil society, private sector, indigenous peoples and their organizations.

### Interinstitutional Coordination

The different sectors of the public sector are seen as highly fragmented and dispersed, with attributes and functions that often overlap with respect to implementation of actions, programs and projects on climate change. This largely hap-

pens perhaps because one does not see a strong coordination to ensure coherent and integrated institutional efforts, despite the presidency's call for concerned sectors to work in a coordinated way.

As noted earlier, since 1990 following the Sandanista National Liberation Front's (FSLN) political defeat in the electoral ballot, Nicaragua has been defining and redefining its institutional and public policy framework for the forestry sector to preserve, sustain and regulate it and to reduce illegal deforestation. Since then the government has created national commissions which later proved to be non-operational. For the same purpose, over the last almost 30 years institutional arrangements have been made which, despite political will, are non-functional and have continued to the present. Although the structuring of sectoral cabinets represents progress towards greater coordination within each sector, in order to meet a national challenge of such a tremendous magnitude as climate change, a coordinating body is needed and necessary to ensure the integrity and coherence in the use of resources.

The efforts made by MARENA's Climate Change Division to bring other institutions to the table have had a low result. With the exception of the Ministry of Finance and Public Credit, it has been very difficult to integrate and get the participation of important institutions, such as the Ministry for Family, Community, Cooperative and Associative Economy (MEFCCA), INTA, Ministry of Agriculture and Cattle Breeding (MAG) and others in the consultations and discussions on ENDE-REDD+.

In all cases, ministries received a presidential order to work together and provide financial, human and technical resources for the proper functioning of the projects under systems of efficient use of the State's resources. This modality makes it difficult to track detailed or disaggregated data on financial resources devoted to climate.

In the case of the International Fund for Agricultural Development, for example, the main counterpart was MEFCCA in implementing the Caribbean Coast Development Program



(NICARIBE) and Small-Scale Producers in Value Chains and Market Access Project (PROCAVAL), where MAG led the forest sector policy and the Secretariat of the Caribbean Coast on specific policies in that part of the country. Other partners included INTA, Banco Produzcamos, MIFIC and Pro-Nicaragua. Farmers organizations were key partners, as the private sector has developed successful work experiences.<sup>27</sup> The performance of the projects was subjected to a complex web of institutions and needs to maintain relations at different levels, making them very different from other projects implemented by MEFCCA. However, the most affected project during the last year was the Adapting to Markets and Climate Change Project (NICADAPTA) because it is a new project that requires the authorities to have a strategic vision if it is to become operational.<sup>28</sup>

### Engagement of Social Actors

Another gap is the absence of a robust body that assures national coordination at the highest level of the different sectors of society in dealing with the effects of climate change. These sectors need to be involved in platforms for broad participation, as each with its own interests, criteria and specific needs can contribute to the design of environmental policies and climate change. This national coordinating role could be represented by MARENA with its Department of Climate Change, but it has not been so. The call MARENA has made to official sectors has not given the expected result, as was the case in the consultations of the ENDE-REDD+ process in February and March 2017.

A convening body could ensure that various policies are integrated from all sectors, clear priorities are set and recognized by all, there is consistency and effectiveness, and the implementation and impact of joint actions can be assessed. This body must have counterparts in the different territories of the country, and articulate and contribute to the coordination of local efforts and organizations including those of indigenous peoples, women, youth, disabled and others.

### Policies and Public Budget Investment

Another major gap is between strategy and policy formulation and the annual and multiyear planning, programming and budgeting process. As long as this link is not established through clear institutional processes, mechanisms and procedures, policy documents will only be expressions of goodwill and aspirations. In this way, actions aimed at tackling climate change will be programmed and budgeted only after financial resources are obtained from international cooperation. As noted, investment to address climate change depends almost strictly on financial resources from external cooperation. This fact creates possible volatility, as projects disappear when implementation ends or are discontinued by the lack of additional resources. This process reduces the impact of initial actions.

#### *Total amount of resources from international sources*

Table 1 shows the financial resources that entered the country for climate change and related issues for 2010-2015 amounted to \$322,387,546.28 coming from 36 different sources, such as governments, UN agencies, international cooperation agencies and international banks, among others. Of this amount, \$130,736,222.06 corresponded to loans and \$191,651,324.22 to donations.

Table 2 presents the amount of funding received by the country during the 2010-2015 period reflected in the public budget. The amount is \$193.709.255.76.

Table 3 shows the funds received by Nicaragua by source of resources, in addition to those included in the Public Budget. These resources have been allocated to municipalities, nongovernmental organizations and other private actors. The total funds received amount to \$128,678,290.52.



**Table 1:** Funds for climate change in 2010-2015 according to source of funding.

No.	Source	Loan	Donation	Total US\$	%
	<b>Incluidos en el Presupuesto</b>				
1	BCIE	9,869,578.49	0.00	9,869,578.49	3.06
2	BANCO DE DE EXPORTACIÓN COREA	2,090,845.94	0.00	2,090,845.94	0.65
3	BID	22,792,448.09	1,425,840.78	24,218,288.87	7.51
4	BANCO MUNDIAL	5,825,935.38	46,411,880.57	52,237,815.95	16.02
5	FIDA	1,390,015.84	0.00	1,390,015.84	0.43
6	THE OPEP FUND FOR INTERNATIONAL DEVELOPMENT	2,085,334.27	0.00	2,085,334.27	0.65
7	ACDI-CANADÁ	0.00	3,279,261.79	3,279,261.79	1.02
8	AECID	0.00	118,412.33	118,412.33	0.04
9	ASDI-SUECIA	0.00	821,367.06	821,367.06	.25
10	COSUDE	0.00	21,333,995.96	21,333,995.96	6.62
11	FONDO NÓRDICO	0.00	13,757,088.95	13,757,088.95	4.27
12	UNICEF	0.00	1,201,223.84	1,201,223.84	0.37
13	UNFPA	0.00	74,414.72	74,414.72	0.02
14	FONDO MUNDIAL PARA EL MEDIO AMBIENTE	0.00	6,121,424.62	6,121,424.62	1.90
15	GOBIERNO DE ALEMANIA	0.00	170,510.43	170,510.43	0.05
16	GOBIERNO DE AUSTRIA	0.00	927,498.57	927,498.57	0.29
17	GOBIERNO DE BRASIL	0.00	40,174.15	40,174.15	0.01
18	GOBIERNO DE CANADÁ	0.00	2,006,669.26	2,006,669.26	0.62
19	GOBIERNO DE COREA DEL SUR	0.00	241,406.23	241,406.23	0.07
20	GOBIERNO DE ESPAÑA	0.00	3,078,075.22	3,078,075.22	0.95
21	GOBIERNO DE ISLANDIA	0.00	1,340,491.43	1,340,491.43	0.42
22	GOBIERNO DE JAPÓN	651,180.25	7,219,867.22	7,871,047.47	2.44
23	GOBIERNO DE NORUEGA	0.00	5,126,090.07	5,126,090.07	1.59
24	GOBIERNO BILATERALES FONDO COMÚN PRORURAL	0.00	8,827,233.72	8,827,233.72	2.74
25	KREDITANSTALT FUR WIEDERAUFBAU	0.00	3,084,814.85	3,084,814.85	0.96
26	PNUD	0.00	3,752,162.46	3,752,162.46	1.16
27	PMA	0.00	5,574,413.50	5,574,413.50	1.73
28	UNIÓN EUROPEA	0.00	13,069,602.79	13,069,602.79	4.05
	<b>No Incluidos en el Presupuesto</b>				
29	SNV, BID FOMIN, el Fondo Nórdico de Desarrollo e Hivos	0.00	6,300,000.00	6,300,000.00	1.95
30	Suiza - PNUD	0.00	3,300,000.00	3,300,000.00	1.02
31	Fondo de Adaptación/PNUD	0.00	5,180,000.00	5,180,000.00	1.61
32	AECID	26,065,883.81	15,792,904.67	15,792,904.67	12.98
33	Gobierno de Noruega	0.00	2,381,502.05	2,381,502.05	0.74

34	COSUDE/PNUD	0.00	3,382,000.00	3,382,000.00	1.05
35	GEF-BCIE	59,965,000.00	2,783,500.00	2,783,500.00	19.49
36	BID	0.00	3,437,500.00	3,437,500.00	1.07
<b>Total US\$</b>		<b>130,736,222.06</b>	<b>191,651,324.22</b>	<b>322,387,546.28</b>	<b>100.00</b>

**Table 2:** Funds for climate change in national budget in 2010-2015 according to source of funding.

No.	Source	Loan	Donation	Total US\$	%
1	BCIE	9,869,578.49	0.00	9,869,578.49	5.10
2	BANCO DE EXPORTACIÓN DE COREA	2,090,845.94	0.00	2,090,845.94	1.08
3	BID	22,792,448.09	1,425,840.78	24,218,288.87	12.50
4	BANCO MUNDIAL	5,825,935.38	46,411,880.57	52,237,815.95	26.97
5	FIDA	1,390,015.84	0.00	1,390,015.84	0.72
6	THE OPEP FUND FOR INTERNATIONAL DEVELOPMENT	2,085,334.27	0.00	2,085,334.27	1.08
7	ACDI-CANADÁ	0.00	3,279,261.79	3,279,261.79	1.69
8	AECID	0.00	118,412.33	118,412.33	0.06
9	ASDI-SUECIA	0.00	821,367.06	821,367.06	0.42
10	COSUDE	0.00	21,333,995.96	21,333,995.96	11.01
11	FONDO NÓRDICO	0.00	13,757,088.95	13,757,088.95	7.10
12	UNICEF	0.00	1,201,223.84	1,201,223.84	0.62
13	UNFPA	0.00	74,414.72	74,414.72	0.04
14	FONDO MUNDIAL PARA EL MEDIO AMBIENTE	0.00	6,121,424.62	6,121,424.62	3.16
15	GOBIERNO DE ALEMANIA	0.00	170,510.43	170,510.43	0.09
16	GOBIERNO DE AUSTRIA	0.00	927,498.57	927,498.57	0.48
17	GOBIERNO DE BRASIL	0.00	40,174.15	40,174.15	0.02
18	GOBIERNO DE CANADÁ	0.00	2,006,669.26	2,006,669.26	1.04
19	GOBIERNO DE COREA DEL SUR	0.00	241,403.23	241,403.23	0.12
20	GOBIERNO DE ESPAÑA	0.00	3,078,075.22	3,078,075.22	1.59
21	GOBIERNO DE ISLANDIA	0.00	1,340,491.43	1,340,491.43	0.69
22	GOBIERNO DE JAPÓN	651,180.55	7,219,867.22	7,871,047.47	4.06
23	GOBIERNO DE NORUEGA	0.00	5,126,090.07	5,126,090.07	2.65
24	GOBIERNO BILATERALES FONDO COMÚN PRORURAL	0.00	8,827,233.72	8,827,233.72	4.56
25	KREDITANSTALT FÜR WIEDERAUFBAU	0.00	3,084,814.85	3,084,814.85	1.59
26	PNUD	0.00	3,752,162.46	3,752,162.46	1.94
27	PMA	0.00	5,574,413.50	5,574,413.50	2.88
28	UNIÓN EUROPEA	0.00	13,069,602.79	13,069,602.79	6.75
<b>Total US\$</b>		<b>44,705,338.26</b>	<b>149,003,917.50</b>	<b>193,709,255.76</b>	<b>100.00</b>

**Table 3:** Summary of finance cooperation in 2010-2015 not included in national budget.

Source	Period	Amount US\$	%	Loan	Donation
SNV, BID FOMIN, el fondo Nórdico de desarrollo e Hivos	2012-2016	6,300,000.00	4.90	0.00	6,300,000.00
Suiza - PNUD	2012-2015	3,300,000.00	2.56	0.00	3,300,000.00
Fondo de Adaptación/PNUD	2011-2015	5,180,000.00	4.03	0.00	5,180,000.00
AECID	2010-2015	41,858,788.47	32.53	26,065,883.81	15,792,904.67
Gobierno de Noruega	2014-2018	2,381,502.05	1.85	0.00	2,381,502.05
COSUDE/PNUD	2011-2014	3,382,000.00	2.63	0.00	3,382,000.00
GEF-BCIE	2010-2014	62,838,500.00	48.83	59,965,000.00	2,873,500.00
BID	2012-2017	3,437,500.00	2.67	0.00	3,347,500.00
Total US\$		128,678,290.52	100.00	86,030,883.81	42,647,406.72

### *Origin of international financing resources*

A basic characteristic on climate finance in the country is that the funding sources are external, since no national funds contribute to the implementation of mitigation and adaptation actions. Of the 28 identified actors that provided funds included in the public budgets for the 2010-2015 period to implement adaptation and mitigation actions to tackle climate change, the following stand out:

1. World Bank;
2. Inter-American Development Bank (IDB);
3. Government of Japan;
4. Bilateral Governments - PRORURAL Common Fund;
5. European Union;
6. Swiss Agency for Development and Cooperation-SDC;
7. IFAD;
8. Nordic Fund;
9. Global Environment Fund;
10. CABEI-BCIE.

The following table shows the 10 main sources of funds granted as loans and donations and their level of participation reflected in the public budgets for 2010-2015.

**Table 4:** Main international sources of funding for climate change in national budget.

No.	Source	Loan	Donation	Total US\$	%
1	BCIE	9,869,578.49	0.00	9,869,578.49	5.10
2	BID	22,792,448.09	1,425,840.78	24,218,288.87	12.50
3	BANCO MUNDIAL	5,825,935.38	46,411,880.57	52,237,815.95	26.97
4	COSUDE	0.00	21,333,995.96	21,333,995.96	11.01
5	FONDO NÓRDICO	0.00	13,757,088.95	13,757,088.95	7.10
6	FONDO MUNDIAL PARA EL MEDIO AMBIENTE	0.00	6,121,424.62	6,121,424.62	3.16
7	GOBIERNO DE JAPÓN	651,180.25	7,219,867.22	7,871,047.47	4.06
8	GOBIERNOS BILATERALES FONDO COMÚN PRORURAL	0.00	8,827,233.72	8,827,233.72	4.56
9	PMA	0.00	5,574,413.50	5,574,413.50	2.88
10	UNIÓN EUROPEA	0.00	13,069,602.79	13,069,602.79	6.75

### *Types of financing resources*

Among the modalities for obtaining resources are donations and loans. The amount received as loans in the analyzed period which is reflected in public budgets and outside them is \$130,736,222.06. Table 5 shows the different sources and amounts received from each of them.

**Table 5:** Amount of international loans for climate change in 2010-2015.

No.	Source	Amount US\$	%
	Incluido en Presupuesto Públicos		
1	BCIE	9,869,578.49	7.55
2	BANCO DE EXPORTACIÓN DE COREA	2,090,845.94	1.60
3	BID	22,792,448.09	17.43
4	BANCO MUNDIAL	5,825,935.38	4.46
5	FIDA	1,390,015.84	1.06
6	THE OPEP FUND FOR INTERNATIONAL DEVELOPMENT	2,085,334.27	1.60
7	GOBIERNO DE JAPÓN	651,180.25	0.50
	No Incluido en Presupuestos Públicos		
8	AECID	26,065,883.81	19.94
9	GEF-BCIE	59,965,000.00	45.87
	Total US\$	130,736,222.06	100.00

The value of the grants received in the 2010-2015 period is \$191,651,324.22. Table 6 shows the sources of these grants and amounts received from each.

**Table 6:** International donations for climate change in 2010-2015.

No.	Source	Amount US\$	%
	Incluido en el Presupuesto		
1	BID	1,425,840.78	0.74
2	BANCO MUNDIAL	46,411,880.57	24.22
3	ACDI-CANADÁ	3,279,261.79	24.22
4	AECID	118,412.33	0.06
5	ASDI-SUECIA	821,367.06	0.43
6	COSUDE	21,333,995.96	11.13
7	FONDO NÓRDICO	13,757,088.95	7.18
8	UNICEF	1,201,223.84	0.63
9	UNFPA	74,414.72	0.04
10	FONDO MUNDIAL PARA EL MEDIO AMBIENTE	6,121,424.62	3.19
11	GOBIERNO DE ALEMANIA	170,510.43	0.09
12	GOBIERNO DE AUSTRIA	927,498.57	0.48
13	GOBIERNO DE BRASIL	40,174.15	0.02
14	GOBIERNO DE CANADA	2,009,669.26	1.05
15	GOBIERNO DE COREA DEL SUR	241,403.23	0.13



16	GOBIERNO DE ESPAÑA	3,078,075.72	1.61
17	GOBIERNO DE ISLANDIA	1,340,491.43	0.70
18	GOBIERNO DE JAPÓN	7,219,867.22	3.77
19	GOBIERNO DE NORUEGA	5,126,090.07	2.67
20	GOBIERNOS BILATERALES FONDO COMÚN PRORURAL	8,827,233.72	4.61
21	KREDITANSTALT FUR WIEDERAUFBAU	3,084,814.85	1.61
22	PNUD	3,752,162.46	1.96
23	PMA	5,574,413.50	2.91
24	UNIÓN EUROPEA	13,069,602.79	6.82
	No Incluido en el Presupuesto		
25	SNV, BID FOMIN, EL FONDO NÓRDECO DE DESAROLLO E HIVOS	6,300,000.00	3.29
26	SUIZA, PNUD	3,300,000.00	1.72
27	FONDO DE ADAPTACIÓN/PNUD	5,180,000.00	2.70
28	AECID	15,792,904.67	8.24
29	GOBIERNO DE NORUEGA	2,381,502.05	1.24
30	COSUDE/PNUD	3,382,000.00	1.76
31	GEF-BCEI	2,873,500.00	1.50
32	BID	3,437,500.00	1.79
Total US\$		191,651,324.22	100.00

### *Incentives for forest investment in Nicaragua*

To encourage investments in the forestry sector, Nicaragua has established fiscal regulations such as Law No. 453 on Fiscal Equity and Forest Law No. 462 on taxes and direct payments.

An efficient and effective operation of funds dedicated to the forestry sector requires the strong participation and coordination of the following agencies, all under the National Human Development Plan, in order to achieve the goals of the National Policy for the Sustainable Development of the Forestry Sector. These agencies are the Ministry of the Presidency as policy maker, MAG for the agricultural sector, INAFOR as an executing and operative institution, MARENA as standards maker, FONADEFO as a financial entity of the sector, and producers, indigenous communities, leaders and local authorities as the recipients and implementers of the forest legal framework.

The earlier discussion cited the funds, including the main sources, received by the

country for climate change and related issues in the years 2010-2015. Another source<sup>29</sup> indicates that public expenditure by MARENA in the same period for national adaptation to climate change is as follows: 2011 - \$20,286.00, 2012 - \$66,798.00, 2013 - \$120,432.00, 2014 - \$119,020.00, 2015 - \$139,577.00.

The figures are slightly higher than previously indicated by IFAD, which shows a reliable level of data. The difficulty with regard these data however is that the identification of funds in function of the economic sectors was not achieved due to lack of data disaggregation in the sources. The figures indicated above have not taken into account the resources that MARENA obtained from the FCPF for the R-PP and R-PIN phases, which are more than US\$ 4 million.

According to IFAD,<sup>30</sup> it has collaborated with the Government of Nicaragua since 1980s and has mobilized \$250 million, of which \$104 million was co-funding. Between 2005 and 2012, IFAD financed \$52.4 million of a total

\$ 90 million cost for implementation of three earlier cited projects: Small-Scale Producers in Value Chains and Market Access Project or PROCAVAL, Caribbean Coast Development Program or NICARIBE and Adapting to Markets and Climate Change Project or NICADAPTA.<sup>31</sup> The additional \$37.6 million came from other sources. The projects benefitted 102,488 people (25,904 rural households) of which 47.6% were women who participated in an economic and community empowering process that has turned them into community leaders.

### ***REDD+ – Avoided deforestation program***

For the next proposal to the World Bank, in the framework of the FCPF Nicaragua is seeking additional funds to finish the readiness package to start the carbon market.

### ***MARENA as National Designated Authority***

The Ministry of Natural Resources and Environment indicated that it intends to perform as the National Designated Authority for GCF in the country and at the same time as an Accredited Entity (AE).<sup>32</sup> A ministry official opined that foreigners, especially international NGOs, would not be authorized to perform as AEs. MARENA is aware of the high GCF requirements for potential NDAs but Nicaragua is preparing for it. The government however has not presented data from the NDA, unlike other countries that have publicized NDA data to facilitate contacts.

Nicaragua is taking the issue of climate finance with great seriousness to such a degree that from 2016 the Ministry of Finance and Public Credit initiated the design of a national accounting system of financial resources dedicated to mitigation and adaptation in the public sector. It is expected that by 2018 this system would be functional.

It is notable that MARENA and the Ministry of Finance have made a major effort to unify criteria and work together to better reflect public sector investments made in the country for

### **Amount invested by financial resources sector from international sources (Figures in millions of \$).**

Year	Energy	Agricultural – Forestry	Hidric Resources
2014	9.94	11.09	1.99
2015	6.65	17.19	2.67
Total	16.59	28.28	4.66

adaptation and mitigation. The limited information available indicates four classifications for financial resources dedicated to climate change: by institutional sector, by theme (adaptation and mitigation), by region of the country and by source of funds.

## **Conclusions and Recommendations**

In summary, the study makes the following conclusions and recommendations on the Green Climate Fund in Nicaragua:

1. The forestry sector in Nicaragua has been doing *batons of the blind* since 1992 with the awareness that deforestation must be stopped, which reaches an average of 70,000 hectares per year. If this rate continues, within 30 years the country would remain without natural forest resources.
2. Over the last 25 years, new laws have been created and reforms made in the legal system; commissions have been formed and have disappeared and new ones set up that are inoperative; institutions have been established from one entity to another. Apparently, nothing works to stop deforestation.
3. On the other hand, the financial flows into the country through the official channel and through civil society decreased during the last 25 years. Cooperation agencies have left the country and moved to other countries in Africa. For example, the Ministry of Environment and Natural Resources and the Ministry of Finance over the last eight years have

been dedicated to creating the readiness package for REDD+ under the tutelage of FCPF-WB. It is expected that from 2018 Nicaragua will increase its capacity to apply funds to other climate funds, such as the GCF, CIF, GEF, Adaptation Fund and others.

4. The generation of information by the State or at least to publicize the progress and achievements in activities related to tackling climate change is very slow. For example, the Budget Framework Report 2014-2017 generated by the Ministry of Finance and Public Credit contains data

only up to 2012.

5. The Ministry of Finance has initiated a national accounting process of financial resources dedicated to climate change (adaptation and mitigation) mainly in the most forest related institutions, such as MARS, INAFOR, INETER, MAG and MEFCCA. It is expected that registration in the Ministry of Education, Ministry of Health and others will continue in 2018.
6. The process of involving indigenous populations has been through the structures of territorial governments, facilitating a certain level of specialization among

#### Detailed budget of additional funds required by ENDE-REDD+ program.

Indicator	Components	Amount US\$	Total Amount US\$
Component 1			1,623,000.00
Subcomponent 1.a		1,171,000	
4	Strengthening technical coordination, monitoring and national supervision of ENDE-REDD+ and ERPD	400,000	
	Hiring professional staff to support implementation of communication strategy	50,000	
	Equipment for mobilization to strengthen coordination, supervision in the territories.	208,000	
	Equipment to continue technological strengthening for MRV implementation	150,000	
5	Support to Ministry of Finance for management of Environmental Projects (Thematic Table of the Climate Fund)	363,000	
Subcomponent 1.b		452,000	
7	Dialogue and training workshops, exchange visits and communication at national level to follow up on preparation of the country	100,000	
	Workshops to promote inter-sectoral coordination and with civil society organizations under the framework of ENDE-REDD+	52,000	
	South-South exchange to motivate adoption of good practices that promote good practices in forests, livestock / farmers / miners / loggers.	50,000	
8	Consultation on ENDE-REDD+ program	100,000	
9	Communication through mass media. public information	150,000	
Component 2			118,000
Subcomponent 2.a		38,000	
11	Strengthening capacities for strategic planning and preparation of public policies	20,000	
13	Base studies to define strategy guidelines	18,000	
Subcomponent 2.b		80,000	

some indigenous leaders, considering there are only 25 indigenous territories in the Caribbean of Nicaragua. While this ensures that the government meets the levels of dialogue and consultation, it is still necessary to democratize information at the community level. Other indigenous peoples in the rest of the country have not had levels of representation as in the Caribbean.

7. A huge gap clearly exists in the level of knowledge of indigenous peoples and the general population on all aspects of the GCF. Thus, the recommendation is to reinforce or provide more information, training and public information campaigns to give greater clarity, especially in the instruments on climate finance to facilitate indigenous people's adaptation and mitigation actions.
8. Nicaragua's legal framework is quite strong and robust in relation to the rights of indigenous peoples over forests, which allows the country to have an adequate framework in relation to the Cancun and World Bank safeguards. The weakness lies in its ability to implement or enforce this legal framework.
9. The Ministry for the Environment and Natural Resources needs to assume its role as National Designated Authority with greater commitment and clarity. In the list of existing NDA in the GCF website, all countries present information about the ministry assigned as NDA, with name and surname of the focal point, position, telephone numbers, emails, postal address, but in the case of Nicaragua only the name MARENA is indicated. This situation could generate uncertainty in civil society and indigenous peoples organizations about the roles and procedures to be followed to have access to information or to present project proposals. In this way the information could be widely popularized and used in our national and local education and policy advocacy work.
10. Considering that Nicaragua for about eight years has been working with WB-

FCPF on climate change issues, what route will Nicaragua (MARENA) take to the GCF? What will the political, strategic and technical approach be to the proposals that MARENA may submit to the GCF? What mechanisms and instruments will it use to access GCF funds? How will these proposals be developed, considering that there are structures of the Ministry of Finance and Public Credit, FNA, FONADEFO, MEFCCA and the Banco Produzcamos? How will the autonomous governments of the Caribbean of Nicaragua be served? What will be the role of the Indigenous Territorial Government? These and other questions should be answered over time for which it is necessary to monitor the process.

11. The involvement of other state institutions or ministries is low despite MARENA's efforts to involve important government ministries in defining policies on avoided deforestation and despite guidelines from the highest political level to coordinate institutional efforts. This low capacity to convene, at least within the public sector, may jeopardize the effective implementation of ENDE-REDD+.
12. The Ministry of Finance and Public Credit and the Ministry of Environment and Natural Resources are the institutions at the forefront of the issue of climate change and avoided deforestation policies or ENDE-REDD+. The Nicaraguan Institute for Territorial Studies or INETER has been participating sporadically with MARENA, providing information on maps.
13. The case study authors have indicated in the past that the Nicaraguan government must create capacities and make an extra effort to systematize, harmonize and analyze financial data dedicated to climate change, whether adaptation or mitigation. It is necessary to complete the efforts made by the Ministry of Finance and Public Credit in the energy,



agriculture, forestry and water resources sectors to organize national accounts but with better classification systems in the national budget to provide the population general information on disaggregated budgeting and actual expenditure in a transparent manner.

14. The preparation of this study allowed us to provide information to the Fund for the Indigenous Peoples Development of

Latin America and the Caribbean and to the Central American Network of Indigenous Organizations on the Green Climate Fund. We hope this information will be shared at the Central American level.



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<sup>22</sup> In April 2017 an interview was made with the legal counsel of the Directorate of Climate Change of MARENA which confirmed that such commission has never been operative.

<sup>23</sup> JUSTIA-Nicaragua. <http://nicaragua.justia.com/nacionales/decretos-ejecutivos/reglamento-del-fondo-nacional-del-ambiente-oct-15-2001/gdoc/>.

<sup>24</sup> MAGFOR-FONADEFO.

<sup>25</sup> Idem.

<sup>26</sup> The General Directorate of Climate Change (DGCC) was created in January 2009 within the Ministry of Environment and Natural Resources, whose main function is to be the regulator, rector and leader in all processes of climate change management. This includes everything related to adaptation, mitigation, risk management, management of official development assistance, negotiation of a new global regime on climate change.

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**T**he discrepancies registered in some countries covered by this study between existing legislation on indigenous peoples and the capacity of National Designated Authorities and Accredited Entities to properly understand, own and fulfill obligations related to indigenous peoples... and their lack of awareness and low level of information on the GCF pose significant challenges. [T]hese would significantly jeopardize the potential opportunities deriving from indigenous peoples' engagement in the GCF activities and programs at the national level as well as GCF's capacity to fully acknowledge and facilitate the effective positive contribution of indigenous peoples in pursuing its transformational goals for mitigation and adaptation.

