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# Decision of the Board on updated Terms of Reference of the Independent Redress Mechanism (Revised)

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**B.BM-2017/10**

25 September 2017

**Decision approved between meetings**

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## Decision of the Board on updated Terms of Reference of the Independent Redress Mechanism (Revised)

The Board, having considered document GCF/B.16/20 titled “Updated terms of reference of the Independent Redress Mechanism” and this document GCF/BM-2017/12 titled “Updated Terms of Reference of the Independent Redress Mechanism (Revised)”:

- (a) Adopts the updated terms of reference of the Independent Redress Mechanism, as set out in annex II to this document;
- (b) Decides that such updated terms of reference shall take effect on the date hereof; and
- (c) Also decides that pending the Board’s adoption of the detailed guidelines and procedures for the Independent Redress Mechanism, the interim procedures for the reconsideration of funding decisions adopted by decision B.13/24, paragraph (a), shall apply, mutatis mutandis, in relation to requests for reconsideration of funding decisions.

## Annex II: Updated terms of reference of the Independent Redress Mechanism

### I. Role and objectives

1. The Governing Instrument for the GCF mandates the Board to establish “an independent redress mechanism that will report to the Board. The mechanism will receive complaints related to the operation of the Fund and will evaluate and make recommendations”. The Independent Redress Mechanism (IRM) is not intended to be a court of appeals or a legal mechanism.
2. The IRM is a mechanism within the GCF that will:
  - (a) Address the reconsideration of funding decisions in accordance with paragraphs 6 to 10 of the Arrangements between the GCF and the Conference of the Parties;<sup>1</sup> and
  - (b) Address the grievances and complaints by a person or a group of two or more persons or communities who have been or may be affected by adverse impacts through the failure of a project or programme funded by the GCF to comply with applicable GCF operational policies and procedures, including environmental and social safeguards.<sup>2</sup>
3. In this context, the objectives of the IRM are to:
  - (a) Increase the effectiveness of the GCF’s operations;
  - (b) Be responsive to the concerns of people adversely affected by projects and programmes funded by the GCF;
  - (c) Be fair and equitable to all stakeholders;
  - (d) Be-independent and transparent;
  - (e) Be cost-effective and expeditious in the delivery of just redress;
  - (f) Be complementary to other supervision, audit, quality control and evaluation systems of the GCF; and
  - (g) Follow international best practices, consistent with these terms of reference and the detailed guidelines and procedures of the IRM.

### II. Governance and management structure

4. The IRM will have the highest professional and technical standards for its staff, consultants and operations and will be headed by a full-time head who shall be an expert with experience in running an accountability mechanism. The Head of the IRM should enjoy an impeccable reputation of honesty and integrity and be widely respected and regarded for his/her competence and expertise. The Head of the IRM will report to the Board and be accountable and responsible for the effective and efficient operation of the IRM.

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<sup>1</sup> Decision 5/CP.19, Annex, FCCC/CP/2013/10/Add.1.

<sup>2</sup> This includes Board-approved policies, frameworks and approaches regardless of title.

5. The Board will be responsible for:
  - (a) Appointing the Head of the IRM, in an open and transparent manner to be decided by the Board;
  - (b) Overseeing the activities of the IRM;
  - (c) Considering and approving the annual work plan and budget of the IRM;
  - (d) Taking appropriate actions in response to recommendations of the IRM, following the investigations; and
  - (e) Monitoring the implementation of (i) agreements reached by problem-solving methods, and (ii) the decisions taken under subparagraph (d) above of this paragraph.
6. The Head of the IRM shall prepare and submit an annual work plan and budget of the IRM to the Board through the Ethics and Audit Committee (EAC) and consult with the EAC on its implementation. Whenever the Head of the IRM recommends, pursuant to paragraph 16 below, reconsideration of relevant policies, procedures, guidelines and systems of the GCF to the Board, he/she shall do so through the EAC. Additionally, the Head of the IRM may consult with the EAC and seek its advice on other matters, as appropriate.
7. The tenure of the office of the Head of the IRM will be for three years, renewable once. To ensure independence of the office, the incumbent may not be removed from office during his/her term, except for cause. His/her terms and conditions of appointment will be decided by the Board. The Head of the IRM shall not be eligible for any type of employment by the GCF before the expiration of 18 months after the date of the end of his/her appointment.

### **III. Modalities for reconsideration of funding decisions**

8. A request can be filed by a developing country that has been denied funding for a specific project or programme in that country by the Board for reasons other than lack of available resources, when the denial was based on non-compliance by the Fund with a policy or procedure adopted by the Board of the Fund, including those adopted in response to guidance from the Conference of the Parties in relation to matters of policies, programme priorities and eligibility criteria. Such a request must identify the particular circumstances of non-compliance, demonstrate that such non-compliance could have resulted in denial of the funding proposal by the Board and confirm that the accredited entity which submitted the proposal is committed to implement the project or programme should the same be funded by the Board. Nothing in these Terms of Reference shall infringe on the authority of the Board with respect to funding decisions.
9. Having considered such a request, in accordance with the detailed guidelines and procedures referred to in paragraph 18 below, the IRM will prepare a report for the Board's consideration, including, where appropriate, recommendations on possible remedial actions.
10. The Board may consider the request in view of the report and may take steps to implement the recommendation of the IRM.

#### IV. Modalities for redress for affected communities

11. A grievance or complaint can be filed by a person or group of two or more persons or communities who have been or may be affected by adverse impacts of a project or programme funded<sup>3</sup> by the GCF. Such a grievance or complaint may be filed and pursued on such person's or persons' behalf by their government or a representative, duly authorized to act in such capacity, in accordance with the detailed guidelines and procedures. The complainant may request that his/her identity be kept confidential by the IRM. Other kinds of grievances or complaints, such as allegations of corruption or misprocurement, will be handled by other units of the GCF, such as the Independent Integrity Unit.

12. If the IRM receives information from a credible source that a project or programme funded by the GCF has adversely impacted or may impact a community or person or a group of two or more persons, and where such information, if true, would pose a significant reputational risk to the GCF, the IRM may initiate proceedings under this modality only if the person[s] adversely impacted [is] or [are] unable to access the IRM. For the purposes of these terms of reference, this information will be considered a "grievance or complaint".

13. When considering such a grievance or complaint, the IRM will follow the steps set out below:

- (a) Evaluate if the grievance or complaint meets the eligibility criteria set out in paragraph 11 or 12 above;
- (b) If deemed eligible, address a grievance or complaint from those affected by the projects/programmes funded by the GCF;
- (c) Offer, and when appropriate, use problem-solving methods for addressing the grievance or complaint such as mediation to bring about a satisfactory resolution of the grievance or complaint;
- (d) Where such problem-solving efforts are not successful or appropriate, first determine, prima facie, if the project/programme-affected person has or persons or communities have encountered or may encounter adverse impacts through the failure of the project or programme funded by the GCF to comply with the GCF's operational policies and procedures, including environmental and social safeguards and, thereafter, conduct investigations and prepare a report for the Board's consideration, including, where appropriate, recommendations on possible remedial actions, taking into account the extent of the GCF's investment in a project or programme;
- (e) Monitor whether agreements resulting from problem-solving efforts and decisions taken by the Board following IRM recommendations have been implemented; and
- (f) Prepare and submit periodic monitoring reports to the Board, as and when required.

14. Recommendations of the IRM, following a compliance review, may include, but are not limited to:

- (a) Recommending that steps be taken by the GCF, accredited entity or project sponsor to bring the project or programme into compliance with the policies and procedures of the GCF, including environmental and social safeguards;
- (b) Recommending that a remedial plan be developed and implemented by the GCF, either itself or acting through the Secretariat, in conjunction with the relevant accredited entity and the IRM; and

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<sup>3</sup> Projects and programmes funded by the GCF includes projects and programmes being actively considered for funding by the GCF.

(c) Recommending that redress in the form of financial compensation be provided to the complainant[s].

15. The Board may consider the grievance or complaint in view of the report and may take steps to implement the recommendation of the IRM.

## **V. Lessons learned and public outreach**

16. The IRM will report to the Board on lessons learned and insights gained from handling cases under paragraph 2(a) and (b) and from good international practices, and may recommend reconsideration of relevant policies, procedures, guidelines and systems of the GCF, including environmental and social safeguards.

17. The IRM will provide education and outreach to relevant stakeholders and the public.

## **VI. Guidelines and procedures**

18. The detailed guidelines and procedures governing the work of the IRM will be approved by the Board. The procedures to be followed will be iterative.

## **VII. Work plan, budget, staffing, consultants and reporting**

19. To ensure the financial independence of the IRM, the Head of the IRM will propose a work plan, and budget for meeting the annual expenses and the Board will consider and approve this work plan and budget.

20. For administrative purposes only, the Head of the IRM will report to the Executive Director, but for all substantive work, he/she will be responsible to the Board.

21. All staff and consultant appointments and terminations of service in the IRM will be the sole responsibility of the Head of the IRM and not of the Secretariat. The policies and guidelines of the GCF, including the Code of Conduct, applicable to its staff and consultants shall also apply to the appointment and termination of the staff and consultants of the IRM.

22. The IRM will prepare an annual report on its work for presentation to the Board and dissemination to the public.

## **VIII. Delineation of roles and responsibilities of the Independent Redress Mechanism and those of the accountability mechanisms of implementing entities and intermediaries**

23. The IRM should closely cooperate with the relevant departments or units of implementing entities and intermediaries.

24. The relationship between the IRM and the corresponding body of implementing entities or intermediaries will be covered in agreements which will be entered into by the IRM with these implementing entities or intermediaries.

25. The IRM will share best practices and give guidance that can be helpful for the GCF's readiness activities and accreditation process and for supporting the strengthening of capacities of the accountability/redress mechanisms of direct access accredited entities.



## **IX. Review of the Independent Redress Mechanism**

26. The independent review of the IRM will be undertaken every five years, or at such other time decided by the Board, and may include a review of the terms of reference of the IRM and detailed guidelines and procedures.

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