

The Green Climate Fund's "No-Objection" Procedure and Private Finance: Lessons Learned from Existing Institutions





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Cover: Women of Njolo, Malawi, celebrate a new irrigation project to help them adapt to climate change. Photo credit: CIDSE-Catholic development agencies.

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Executive Summary

At the 2011 climate summit in Durban, South Africa, members of the UN Framework Convention on Climate Change (UNFCCC) requested that the board of the Green Climate Fund (GCF) develop a transparent no-objection procedure to ensure that financing through the GCF would be consistent with national strategies, country-driven, and effective.

The purpose of the no-objection procedure is two-fold: (i) to facilitate genuine country ownership and (ii) to ensure that the people living within a country, particularly individuals and communities affected by a GCF project or program, have the right to reject such an activity. The no-objection procedure should function as

a mechanism to prevent flawed projects from advancing to the GCF board for consideration. It should serve to filter out projects that are incompatible with national strategies, conflict with better programs and projects, or impose undue harm or costs upon host communities and their environment. It should serve to assure the international community that projects are welcome by their host communities and are of the highest caliber.

This briefing discusses lessons learned from procedures and structures at the International Finance Corporation (IFC), Clean Development Mechanism (CDM), and Global Environment Facility (GEF) that are similar in function or analogous to a no-objection procedure.

Key Findings

- Structures at the IFC, CDM, and GEF to allow countries to object or consent to projects have been largely ineffective. Therefore, the GCF should create clear, binding, and uniform standards and criteria – in line with best international practices – for no-objection procedures at national designated authorities. Unambiguous definitions, formalized procedures, compliance mechanisms, and evaluations should be included. This would then serve as the basis upon which national designated authorities would explicitly endorse or disapprove of projects. A premise that silence equals consent is insufficient to ensure consistency with national climate plans and a country-driven approach.
- The balance between country ownership, which accommodates national circumstances and allows for a degree of flexibility, and consistent, universal standards and definitions – for example, with regards to issues such as public consultation – is politically and logistically challenging but essential for building an effective, fair, and transformative fund.
- It is essential that civil society, particularly affected communities, be actively engaged in national no-objection procedures and able to avail themselves of formal processes that afford them the right to object to a project or program in a timely manner, not just during a narrow timeframe. The GCF board should establish specific standards and guidelines for public involvement in setting national priorities and identify how those priorities are reflected in the no-objection procedure.
- Efforts at the IFC to leverage private investment – a possible model for the GCF – have resulted in the prolific use of financial intermediaries, which in turn has presented challenges in transparency, safeguard implementation, and community consultation and consent. The challenges that accompany the increased use of financial intermediaries are likely to make implementation of a meaningful no-objection procedure at the GCF more difficult.



List of Acronyms

CAO - Office of the Compliance Advisor/Ombudsman of the International Finance Corporation

CDM – Clean Development Mechanism

CIFs – Climate Investment Funds of the World Bank

DNA – Designated national authority

FPIC – Free, prior, and informed consent

GCF – Green Climate Fund

GEF – Global Environment Facility

IFC – International Finance Corporation of the World Bank Group

NDA – National designated authority

NPFE – National portfolio formulation exercise

PDD – Project design document

PIF – Project identification form

UNFCCC – United Nations Framework Convention on Climate Change

1. Introduction

At the 2011 climate summit in Durban, South Africa, members of the UNFCCC requested that the board of the Green Climate Fund develop a transparent no-objection procedure to ensure that financing through the GCF would be consistent with national strategies, country-driven, and effective. This request reflected a specific concern that direct access to the fund by the private sector would allow investors to bypass national governments' priorities and regulations.

The purpose of a no-objection procedure is two-fold. First, it should help facilitate genuine country ownership of projects and programs that are financed through the Green Climate Fund. The no-objection procedure should be a tool that allows a host country to reject or halt any proposed or ongoing activity within its borders that it determines is in conflict with its development plans and priorities, strategies for addressing climate change, or national laws.

Second, a no-objection procedure should ensure that the people living within a country, particularly affected individuals and communities, can reject a GCF activity that would harm their interests and livelihoods. It is not unusual for politically and economically marginalized communities, who often experience climate change impacts first and worst, to face challenges in participating in national policy agenda setting.

In order to meet both of these goals, it is important that the GCF board design an overall policy architecture that establishes universal standards, criteria, and principles for national no-objection procedures. Certification that a country's no-objection procedure meets these standards, criteria, and principles should be used as part of an accreditation process for national designat-




Farmers in Njolo, Malawi, are making plans to adapt to erratic rains and long spells of drought brought on by climate change. Photo credit: CIDSE-Catholic development agencies.

ed authorities (NDAs),¹ and as a way of ensuring that NDAs implement robust, transparent, and substantive no-objection procedures in their respective countries.

Ultimately, the no-objection procedure should function as a mechanism to prevent flawed projects from advancing to the GCF board for consideration. Such a procedure must enable a developing country's NDA to block any activity proposed by the private sector or a foreign public institution, should it be deemed necessary to do so, according to established standards and criteria. Thus, the no-objection procedure will serve to filter out

¹ According to UNFCCC, Decision 3/CP.17, Launching the Green Climate Fund, Annex, paragraph 46, the national designated authority will "recommend to the Board funding proposals in the context of national climate strategies and plans, including through consultation processes. The national designated authorities will be consulted on other funding proposals for consideration prior to submission to the Fund, to ensure consistency with national climate strategies and plans."



projects that are incompatible with national strategies, conflict with better-conceived programs and projects, or impose undue harm or costs upon host communities and their environment. It will also serve to assure the international community that projects are welcome by their host communities and are of the highest caliber.

This briefing examines procedures and structures at the International Finance Corporation (IFC), Clean Development Mechanism (CDM), and Global Environment Facility (GEF) that are similar in function or analogous to a no-objection procedure. While not necessarily referred to as such, the respective processes of each institution grant host countries the right to object to a project or program facilitated by an international financial institution, including those in partnership with private sector investors. The aim of this briefing is to identify lessons learned and offer recommendations to the Green Climate Fund board as it develops a no-objection procedure for the GCF.

1.1 The context

Throughout the development of the Green Climate Fund, there have been countries, especially developed countries, that have insisted that the private sector be given direct access to finance from the GCF. In other words, they support the ability of private companies – whether multinational or domestic – to propose projects to the fund’s board and to directly receive financial support for implementing them. Under this “direct access” model, firms would not have to clear their activities with national climate agencies. Proponents argue that direct access for the private sector would streamline the GCF funding process, thus making it more attractive to private investment. They see this as key to “mobiliz-

The Challenge of the Informal Sector

The informal sector – including peasant farmers, waste pickers, construction laborers, domestic workers, home-based workers, street vendors, and many others – comprises more than half the labor force in many developing countries.³ As these populations are the most economically disadvantaged, they need priority access to climate funds, both for adaptation and for mitigation activities (such as recycling). Yet they are frequently excluded from national strategies and sometimes in conflict with private sector projects. One proposed solution is to allow the informal sector direct access to GCF, on par with the private sector.⁴ An ongoing challenge will be to ensure that a robust no-objection procedure does not become a further hurdle for informal sector integration.

ing” the large volumes of money that will be needed by developing countries to address climate change.²

Many developing countries, in contrast, have objected to direct access for the private sector because it could place the private sector in a position of creating de facto climate policies and programs, thus usurping the rightful role of government. They want to see national governments coordinate mitigation and adaptation actions by the public and private sectors to ensure that financing supports nationally identified climate-related priorities.

- 2 In 2009, the World Bank conservatively estimated that it would cost developing countries up to (US) \$100 billion per year to adapt to the impacts of climate change. The UN Department of Economic and Social Affairs’ 2009 UN World Economic and Social Survey estimated that (US) \$500-\$600 billion annually is needed for adaptation and mitigation in developing countries. Developed countries have committed to jointly mobilizing (US) \$100 billion dollars a year by 2020 to address the needs of developing countries.
- 3 “Men and Women in the Informal Economy,” International Labour Organisation, 2002.
- 4 “The Green Climate Fund: Effective Community Ally or Corporate Giveaway?” Global Alliance for Incinerator Alternatives, December 2011.



1.2 Durban decision mandating “no-objection”

In an attempt to balance private sector access and sovereignty concerns, a compromise was struck in Durban. While the GCF was granted the ability “to directly and indirectly finance private sector mitigation and adaptation activities at the national, regional and international levels” through a private sector facility, the UN decision also included a “no-objection” clause to establish national control over private (and public) finance:

[R]equests the Board to develop a transparent no-objection procedure to be conducted through national designated authorities... in order to ensure consistency with national climate strategies and plans and a country driven approach and to provide for effective direct and indirect public and private sector financing by the Green Climate Fund. Further requests the Board to determine this procedure prior to approval of funding proposals by the Fund.⁵

1.3 Limits of a no-objection procedure

The no-objection procedure cannot address inequalities in funding, such as the ongoing significant skewing of climate finance toward middle-income countries as opposed to lower-income countries, and toward mitigation over adaptation funding. The GCF will need additional measures to address such equity issues seriously.

1.4 Applying a no-objection procedure

There are presumably two scenarios by which funding proposals could be brought before the GCF board. First, the NDAs could “recommend to the Board funding proposals in the context of national climate strategies and plans.”⁶ Secondly, though the language of the

UNFCCC decision is a bit vague, it appears that the private sector could directly propose projects to the fund’s board through the private sector facility, with the caveat that NDAs “will be consulted on other funding proposals for consideration prior to submission to the Fund to ensure consistency with national climate strategies and plans.”⁷

In either scenario, a no-objection procedure should ensure that civil society is actively engaged in developing national climate strategies and plans. Should the second scenario be exercised, the no-objection procedure would also be a primary tool by which national governments could shape and direct GCF-supported private sector activities in their territories. The no-objection procedure would thus play a critical role in ensuring that state sovereignty and meaningful civil society engagement are central to any climate financing delivered by the GCF.

A poorly-designed or implemented no-objection procedure could lead to a severe deterioration of genuine country ownership, serious compromises in environmental integrity and/or social justice, and potential conflict with national law. As the GCF board creates the infrastructure for the no-objection procedure, it is instructive to gather lessons from similar mechanisms at the IFC, CDM, and GEF.

⁵ <http://unfccc.int/resource/docs/2011/cop17/eng/09a01.pdf>.

⁶ UNFCCC, Decision 3/CP.17, Launching the Green Climate Fund, Annex, paragraph 46.

⁷ Ibid.

2. International Finance Corporation (IFC)

2.1 Objections at the IFC

Objections by host country governments

The International Finance Corporation is the private sector lending arm of the World Bank Group. The GCF secretariat and many UNFCCC country delegates have indicated that the no-objection clause inserted in the GCF decision during the final days in Durban was modeled after similar procedures at the IFC and other multilateral development banks. Yet the IFC's own objection procedure is not well-delineated.

According to communications with IFC staff, the institution's equivalent of the GCF's no-objection clause is rooted in the IFC's Articles of Agreement, Article III, Section 3, Operational Principles,⁸ which states:

The operations of the Corporation shall be conducted in accordance with the following principles:... (ii) the Corporation shall not finance an enterprise in the territories of any member if the member objects to such financing.

IFC staff maintained that, theoretically, a country could object to a project at the IFC board level. As IFC member states are all represented on the board, they can ask questions, voice concerns, and raise objections prior to board approval of any project.⁹ The IFC also sends written notification of pending projects to the host country via its contact ministry, usually the

⁸ http://www1.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/about+ifc/articles+of+agreement/about+ifc+-+ifc+articles+of+agreement+-+article+iii.

⁹ It should be noted that not all board members are equal at the IFC. Voting is based on the economic weight of a country as expressed through its shareholding in the World Bank Group. Further, many countries may share one board member representing multiple national interests, while others countries have their own representative. For example, one particular African board member represents 21 countries, while the US represents only itself. The GCF, in contrast, has a board made up of 12 developed country and 12 developing countries representatives – each with equal voting power.



Recyclers' cooperative "Coopersoli" in Belo Horizonte, Brazil. Photo credit: Leslie Tuttle.

ministry of finance. However, there do not appear to be any cases in which a country has, at the board level, actually blocked a project in its territory from going through, nor does there appear to be a clear procedure by which this could happen.

There have been cases in which different arms of a government have internally disagreed about whether to participate in a World Bank/IFC financing program. In such circumstances, finance ministries, which are generally more powerful and better represented at the World Bank Group than other ministries, usually prevail. For example, when the World Bank's Climate Investment



Funds (CIFs) were being launched, India's finance and environment ministries took different positions regarding the country's potential involvement with the CIFs. While India's finance ministry appeared to welcome India's involvement with the CIFs' Clean Technology Fund, the environment ministry was more reticent, in part because of its preference for climate finance to be under the purview of the UNFCCC rather than the World Bank. As expected, the finance ministry prevailed and India joined the Clean Technology Fund.¹⁰

Objections by affected communities and civil society

As noted earlier, it is critical that civil society, particularly affected communities, be actively engaged in national no-objection processes and able to avail themselves of a formal process by which they can object to a GCF activity. The IFC attempts to address such concerns primarily through its Sustainability Framework, which includes an environmental and social sustainability policy, performance standards, and an access to information policy. Within this framework, the IFC requires that the activities it finances receive broad community support from affected communities, and the free, prior, and informed consent of Indigenous Peoples.

The IFC's eight "performance standards" apply to projects for which particular environmental and social safeguards are deemed relevant.¹¹ Implementing the performance standards is the responsibility of the client corporation, which is generally obliged to consult with affected communities and civil society. In addition, there

is an access to information policy that requires the IFC to disclose a summary of investment information for investment projects, and, for certain risk categories, a summary of an environmental and social review.¹² If a project is categorized as "high risk" (i.e., category A), a summary of project information is publicly disclosed on the IFC's website at least 60 days prior to the board meeting. Projects that are supposedly less risky must be disclosed for at least 30 days (although many of these are mis-categorized).¹³

In order to approve financing for projects with potentially significant adverse impacts on communities, or potentially adverse impacts on Indigenous Peoples, client corporations are supposed to conduct a process of "informed consultation and participation." The IFC then determines if this process leads to "broad community support," which, according to the IFC, is "a collection of expressions by Affected Communities, through individuals or their recognized representatives, in support of the proposed business activity."¹⁴ Such support does not require unanimity, and the requirement for broad community support has been criticized as an ill-defined standard.

Once the IFC board approves a project, the IFC is supposed to monitor the client corporation's compliance with environmental and social action plans or management plans, including activities that require the ongoing engagement of communities. For example, a client


10 Experiences like this are part of the reason that many developing country delegates at the UNFCCC insist that GCF personnel and board members not be limited to finance experts. While finance ministries have valuable expertise, they are also likely to have priorities that differ from environmental and development ministries.

11 The IFC's Performance Standards include Assessment and Management of Environmental and Social Risks and Impacts; Labor and Working Conditions; Resource Efficiency and Pollution Prevention; Community Health, Safety, and Security; Land Acquisition and Involuntary Resettlement; Biodiversity Conservation and Sustainable Management of Living Natural Resources Performance; Indigenous Peoples Performance; and Cultural Heritage.

12 For more information, see http://www1.ifc.org/wps/wcm/connect/CORP_EXT_Content/IFC_External_Corporate_Site/IFC+Projects+Database/Projects/Access+to+Information+Policy/.

13 A 2010 evaluation by the World Bank Group's own Independent Evaluation Group, "Safeguards and Sustainability Policies in a Changing World," found a major problem with the mis-categorization of the risk level of projects. The report found that "[a]lmost a third of projects with high-risk levels were incorrectly classified as category B [i.e. medium risk]." See http://siteresources.worldbank.org/EXTSAFANA/NDUSUS/Resources/Safeguards_eval.pdf.

14 "Update of IFC's Policy and Performance Standards on Environmental and Social Sustainability, and Access to Information Policy," IFC, April 14, 2011, http://www1.ifc.org/wps/wcm/connect/fca42a0049800aaaaba2fb336b93d75f/Board-Paper-IFC_SustainabilityFramework-2012.pdf?MOD=AJPERES.



corporation may be required to establish a grievance mechanism to help resolve community concerns and grievances related to the project.

The IFC's recent revision of its performance standards includes, for the first time, a limited application of the right to free, prior, and informed consent (FPIC) for affected communities of Indigenous Peoples. This is guided by Performance Standard 7: Indigenous Peoples.¹⁵ The IFC's interpretation of FPIC has been the subject of some criticism. Among the noted shortcomings, it does not meet the requirements of the UN Declaration on the Rights of Indigenous Peoples¹⁶ and its guidance for companies contains loopholes that potentially gut the principle.¹⁷

It is also possible for affected communities or individuals to try to prevent a potentially flawed project from going forward, or reverse an IFC financing decision by filing a complaint with the IFC's independent recourse mechanism, the Office of the Compliance Advisor/Ombudsman (CAO). The complaint must be based on environmental or social concerns. However, as described below, the CAO does not have the authority to stop a project.

2.2 IFC's accountability mechanism

While only interventions at the IFC board level can theoretically stop a project from going forward, there has been at least one case whereby community and other objections through the CAO¹⁸ led senior management to pull a project just prior to board consideration. This represents a rare event, as recourse mechanisms do

not normally pre-empt or stop projects. In the CAO's words, it is supposed to "[a]ddress the concerns of individuals or communities affected by IFC/MIGA [Multilateral Investment Guarantee Agency] projects; [e]nhance the social and environmental outcomes of IFC/MIGA projects; and [f]oster greater public accountability of IFC and MIGA."¹⁹

This particular project involved serious water resource concerns with the Agrokasa III agribusiness investment in Peru. According to the audit report of the CAO:

...against a backdrop of community objection, commercial pressure to expedite the project, and an absence of effective IFC management support, the professional advice of IFC's environmental and social specialists was effectively overruled. No clear mechanism or process seems to exist to reconcile professional differences and/or bring them to a final conclusion. Thus significant project risks remained outstanding beyond the Investment Review Meeting, with no clear procedures in place for their resolution before circulation to the Board. This resulted in the removal of the investment from Board circulation by senior management at a very late stage.²⁰

2.3 Effectiveness of objections at the IFC

The IFC's record tells a broad story about a lack of genuine country and community ownership, despite its Articles of Agreement and the institution's assertion that country ownership is critical to its stated commitment to poverty alleviation and environmental and social protection. There do not appear to have been any

15 See http://www1.ifc.org/wps/wcm/connect/1ee7038049a79139b845faa8c6a8312a/PS7_English_2012.pdf?MOD=AJPERES.

16 See <http://www.brettonwoodsproject.org/art-568878>.

17 See <http://politicsofpoverty.oxfamamerica.org/2012/01/23/new-year-new-ifc/>.

18 The Office of the Compliance Advisor/Ombudsman (CAO) was established as an independent recourse mechanism in 1999 for affected communities or individuals with social and environmental concerns about IFC projects. Since that time, the CAO has addressed 101 complaints out of a total 156 received.

19 See <http://www.cao-ombudsman.org/about/whoweare/>.

20 "CAO Audit of IFC's Investments in Agribusiness in the Ica Valley, Peru." Compliance Advisor/Ombudsman, February 2011, http://www.cao-ombudsman.org/cases/document-links/documents/CAO_Audit_Report_C_I_R9_Y10_F126_ENG.pdf.



cases at the IFC board where a government voiced a formal objection to an IFC investment within its borders. However, there are numerous examples of communities objecting to IFC projects in their countries.

For example, in 2000, Chadian civil society vigorously objected to the IFC financing the Chad-Cameroon Oil and Pipeline Project – amongst the largest private sector investments to date in sub-Saharan Africa – because of the project’s serious human rights, governance, and environmental risks.²¹ As predicted, the pipeline project proved to be nothing short of a disaster. Construction of the pipeline has been linked to increased impoverishment and violent conflict in the area, compelling the World Bank (i.e., the International Bank for Reconstruction and Development and the International Development Association) to withdraw from the project in 2008. Notably, the IFC continues to finance the failed initiative.

Furthermore, the rarity of CAO complaints leading to projects being aborted, despite a long list of projects that have actually caused serious harm to communities and the environment,²² attests to the inadequacy of the IFC’s mechanisms to stop flawed projects from advancing.

To complicate matters, IFC investment is increasingly channeled through developing country-based or -focused financial intermediaries (such as investment banks and private equity funds), which in turn finance “sub-projects.” This makes compliance with requirements for civil society and community consultation and/or consent even more difficult to verify. The outsourcing of development finance through financial intermediaries

has led to a deterioration of transparency and implementation of environmental and social standards. For example, the IFC largely relies on self-assessment, monitoring, and reporting from the financial intermediary itself. Neither the IFC nor its financial intermediaries provide much public information about high risk sub-projects (information about the locations, sectors, and names of the projects is shared once a year), and no information is made public about medium-risk sub-projects. This lack of transparency precludes even the possibility of knowing if safeguards are applied to these projects.²³

The current emphasis on leveraging private investment through the GCF could very well result in the prolific use of co-financiers and financial intermediaries. The greater the use of financial intermediaries, the more intrinsically difficult it will be to ensure implementation of, and compliance with, GCF environmental and social safeguards. Similarly, the proclivity of the financial sector to desire less disclosure, less liability, and less accountability for the environmental and social outcomes of their transactions is likely to make the NDA’s implementation of a no-objection procedure especially challenging.

21 For more information, see <http://www.bicusa.org/en/Article.11903.aspx>.

22 See, for example, World Development Movement, “Destructive World Bank projects around the world,” <http://www.wdm.org.uk/our-campaign-climate-justice/destructive-world-bank-projects-around-world>.

23 In 2009, 58% of IFC investments in financial intermediaries ultimately funded subprojects that were of high or medium social and environmental risk, a worrying trend given the flawed manner in which environmental, social, and transparency measures are applied. See The Bretton Woods Project and Ulu Foundation, *Out of sight, out of mind? The International Finance Corporation’s investments through banks, private equity firms and other financial intermediaries*, November 2010, <http://www.brettonwoodsproject.org/FI2010>.



3. Clean Development Mechanism

3.1 Approval process under the CDM

Like the GCF, the Clean Development Mechanism is an institution created under the UNFCCC with a goal of offering financial support for mitigation projects in developing countries.²⁴ Of equal importance is the CDM's goal of promoting sustainable development. The designated national authority (DNA) is the national agency responsible for approving a CDM project on sustainable development grounds, in a process analogous to the no-objection procedure of the GCF.²⁵

Letter of approval process

For a project to be considered by the CDM, it must receive a “letter of approval” from the DNA indicating that the project contributes to the host country's sustainable development. No further detail is required in the letter regarding how sustainable development is achieved, and there are no uniform standards, procedures, or criteria for assessing sustainable development. If the government objects to a proposed project, the DNA can refuse to issue the letter, thus preventing the project from proceeding under the CDM.

However, systemic weaknesses have rendered this procedure largely ineffective. Only a handful of DNAs have established strong screening criteria or procedures. In many countries, the letter of approval is a rubber stamp process. In India, for example, the DNA takes its responsibility so lightly that it does not even bother to keep records of the letters of approval it issues.²⁶ As a result, many projects with no discernible contribution to sustainable development (e.g., industrial gas

HFC projects) or strongly deleterious effects (e.g., waste incinerators) have received approval from DNAs. On the other hand, no project proposal appears to have been rejected by a DNA for failing to meet sustainable development criteria.²⁷ As shown by the CDM model, it is not enough to require active approval from host countries, when there are no clear standards and procedures by which host countries must evaluate and then approve or disapprove projects.

According to the Wuppertal Institute, “Most host countries have a rather general list of non-binding guidelines rather than clear criteria. This makes it easy to comply with the requirements: PDD [project design document] sections on sustainable development as well as validation reports tend to have vague wording avoiding concrete and verifiable statements.”²⁸ For example, Peru's criteria for measuring a project's contribution to economically sustainable development are: “Contribution to the economic and competitive improvement of Peru, measured through the investment, wealth, employment and technology transfer generated by the project.”²⁹ Such vagueness in defining sustainable development, plus the lack of prioritization of its various components (e.g., employment generation versus site remediation), renders the evaluation process totally subjective.

Objections by affected communities and civil society

The CDM subjects projects to two types of public consultation, one with local communities and the other with global stakeholders. The project sponsor must con-

24 Unlike the GCF, the CDM gives support in the form of carbon credits. The GCF's support modalities are not yet defined.

25 Except in the case of Brazil, DNAs do not usually assess the mitigation impact of proposed projects, which is the purview of the CDM Executive Board.

26 According to a response by the Ministry of Environment and Forests to a Right to Information Act request.

27 To arrive at this conclusion, the authors of this briefing wrote to all the DNAs (though many did not respond), checked with CDM Watch and other dedicated observers of the CDM; and reviewed the literature. The authors were not able to identify a single project that had been rejected for failing to produce sustainable development benefits, although Angola's DNA has discouraged several developers whose projects would not have passed a formal review.

28 Wolfgang Sterk et al., op cit. p.18.

29 Private communication, Eduardo Durand López Hurtado, Director General de Cambio Climático, Desertificación y Recursos Hídricos, Gobierno de Peru, February 2012.



Grassroots recyclers operating a biogas plant in Mumbai, India. Photo credit: Stree Mukti Sanghatana.

sult with local communities prior to applying to the CDM Executive Board for project registration. During this process, local communities may object to a project, but a project can move forward anyway.


Lambert Schneider, a former member of the CDM's Methodology Panel, found that although projects vary significantly in terms of the quality of local consultation, only 40 percent of projects even claim to have consulted all relevant stakeholders, and critical comments are often omitted or misrepresented.³⁰ If affected communities and other stakeholders are not consulted about – and, in many cases, not even made aware of – a potential CDM project, then they cannot possibly inform a project development process, let alone raise concerns that might lead to a formal objection to a proj-

ect. Similarly, global stakeholders have the opportunity to object to a CDM project by commenting on publicly disclosed project design documents. However, like the local consultation procedure, there is little evidence that even when some form of consultation process takes place stakeholder comments result in changes to the project.³¹

The purpose of consulting with stakeholders is not to give them an opportunity to exercise their free speech but to alter the project in ways that improve it or at least minimize its negative impact. It is notable that stronger consultation systems within other institutions often fail to result in meaningful changes in project implementation. In actuality, a system of community *consent*, not merely *consultation*, should be required.

30 Lambert Schneider, "Is the CDM fulfilling its environmental and sustainable development objectives? An evaluation of the CDM and options for improvement," WWF November 2007.

31 Wolfgang Sterk et al., op cit.



3.2 Effectiveness of the CDM's equivalent of a "no objection" procedure

Given that policy experts, affected communities, and even CDM executive board members have raised serious concerns about the lack of sustainable development benefits of several CDM projects, the fact that no DNA appears to have rejected a project on sustainable development grounds shows that the approval process is a failure as a filter of bad projects. The lack of consistent, measurable standards for sustainable development, coupled with the CDM's disavowal of any authority for reviewing sustainable development impacts, has meant that most approved CDM projects have made little-to-no contribution to sustainable development. Even worse, some projects have resulted in severely negative impacts on the environment, public welfare, and public health.³²

A 2007 analysis of a sample of CDM projects found that less than two percent of credits went to projects that benefited sustainable development.³³ Similarly a 2007 literature review of 200 peer-reviewed articles concluded that the CDM does not significantly contribute to sustainable development.³⁴ The review predated some of the most damaging findings of CDM projects, including the full extent of perverse incentives for industrial gas projects,³⁵ so the reality may be even

worse. What is clear is that the system established under the CDM does not achieve its intended purpose.³⁶

No verification

Another serious weakness is the lack of verification of either sustainable development or mitigation achievements. DNAs rarely conduct field visits to verify the claims in project design documents, and third-party validation firms are not empowered or funded to do so. Once the approval letter has been issued by the DNA, there is no system for ongoing monitoring of the project to ensure that it remains in compliance. The scope for misrepresentation, lack of follow-through on commitments, or outright fraud is therefore great. Indeed, such problems have been detected by comparing claims in project design documents with news reports or through site visits.³⁷

Conflict of interest

A country's DNA often has a conflict of interest. The same regulatory body charged with overseeing projects and ensuring their compliance with sustainable development criteria is also often responsible for promoting the CDM and facilitating companies' access to the host country. These functions should be separate to preserve environmental integrity.

32 For example, (1) McCully, P., *International Rivers, Bad deal for the planet, why carbon offsets aren't working and how to create a fair global climate accord*, 2008, <http://www.internationalrivers.org/node/2826>; and (2) *The CDM in Solid Waste Management: Lessons from Four Case Studies*, Global Alliance for Incinerator Alternatives, 2011, <http://www.no-burn.org/cdm-case-studies>.

33 Sutter, C. & Parreno, J.C., *Climate Change, Does the current clean development mechanism (CDM) deliver its sustainable development claim? An analysis of officially registered CDM projects*, July 2007, http://www.cleanairnet.org/caiasia/1412/articles-72508_resource_1.pdf.

34 Karen Holm Olsen, *The clean development mechanism's contribution to sustainable development: A review of the literature*, *Climatic Change* 84 (1), 59–73, 2007.

35 As HFCs are cheap to produce and the CDM rewards their destruction, project developers have been increasing production (and, *inter alia*, accidental releases) of HFCs solely to destroy them and claim the carbon credits. The CDM has thus inadvertently rewarded behavior which worsens the situation it is supposed to address; this is known as a perverse incentive.

36 For more information, see, for example, (1) Karen Holm Olsen, "Is the CDM fulfilling its environmental and sustainable development objectives? An evaluation of the CDM and options for improvement," UNEP Risoe Centre. (2) CDM Watch, "CDM executive board call for public inputs on sustainability benefits," 3 July 2011. (3) Wolfgang Sterk et al., "Further Development of the Project-Based Mechanisms in a Post-2012 Regime," Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU), Germany, November 2009.

37 For example, see comments on Chinese incinerator projects, <http://www.no-burn.org/article.php?list=type&type=159>.



Better practices³⁸

There are a number of DNAs that have established practices distinctly better than their peers. Without a stronger framework of transparency, verification, and enforcement, it is not clear that these practices are sufficient to produce better results. However, they do indicate steps in the right direction.

- **Angola** requires projects to have “no negative contributions” to sustainable development and receive no negative comments in public consultations, thus establishing a particularly high do-no-harm standard.
- **Brazil’s** DNA has a reputation for conducting the CDM’s most rigorous oversight. This includes extensive consultation requirements, specifying the manner and timeframe for advising stakeholders, including NGOs and local governments. To aid transparency, the DNA maintains an email list of interested parties.
- **Colombia** has initiated procedures to revoke letters of approval for projects which violate national laws, despite the lack of provision for this under the CDM.
- **Malaysia** includes civil society representation on the DNA board that approves or rejects projects.
- **Panama** has a relatively extensive and detailed set of criteria by which to evaluate projects, which have successfully spurred project proponents to undertake more thorough evaluations of the ramifications and risks of projects.
- **The Philippines’** DNA has been singled out as being particularly open and accessible. It is regularly in communication and consultation with civil society groups, and is clear in its desire to derive the maximum sustainable development benefits from CDM projects. Its national website includes a relatively detailed set of sustainable development criteria, including minimum requirements for public consultation.

38 More detail is available in the Wuppertal report.



4. Global Environment Facility

4.1 Country endorsement at the GEF

The Global Environment Facility (GEF) was created in 1991 to finance global environmental protection and to promote environmentally sustainable development. In 1992 it became the financial mechanism of the UNFCCC.³⁹ To ensure that the activities it supports have country ownership, the GEF requires all proposals to have explicit country approval through a process of proactive endorsement. This process is analogous to the no-objection procedure of the GCF.

National endorsement

Any eligible individual or body (e.g., a domestic government agency, NGO, private company, or multilateral fund) can propose a project for GEF funding. As the GEF itself does not directly implement activities, project proponents work with GEF implementing agencies⁴⁰ and the host government to prepare a project identification form (PIF) that describes the project concept, identifies which GEF agency should implement the project, and identifies other funding sources.⁴¹ Before a PIF is submitted to the GEF secretariat for review, the project proponent must obtain the host country's explicit endorsement, communicated through a letter from the national operational focal point.⁴²

Each country has an operational focal point, usually housed in an environment-related ministry.⁴³ There are no clear criteria that dictate how a government selects its operational focal point, nor does the GEF spell out guidelines about the relationship between focal points and civil society.

Once project plans have been endorsed by the focal point, they are submitted to the GEF secretariat, which checks to see that they have met all relevant criteria and forwards them on to the GEF Council⁴⁴ for approval. Host country endorsement is required only once during the project cycle – upon submission of the PIF. However, a focal point may reserve the right to review and withdraw its approval for a project prior to submission of the final proposal to the GEF secretariat for endorsement by the CEO of the GEF if it is not satisfied with the final design.⁴⁵

Focal point as gatekeeper

The national operational focal point plays perhaps the most important role for maximizing country ownership in GEF projects. It serves in many ways as a gatekeeper. It coordinates GEF project activities, often chairing national steering committees and processes that set a country's environment and development priorities. Focal points verify that project proposals are consistent with host country plans and priorities, and can potentially halt projects that are not. They also confirm how GEF funding will be allocated to particular focal areas,⁴⁶ and thus to projects and implementing agencies.

39 The GEF also serves as the financial mechanism for the Convention on Biological Diversity, the Stockholm Convention, and the Convention to Combat Desertification, http://www.unece.org/fileadmin/DAM/operact/documents/GEF_TrustFund.pdf.

40 GEF implementing agencies include ADB, AfDB, EBRD, FAO, IDB, IFAD, UNDP, UNEP, UNIDO and the World Bank.

41 Responding to pressure to disburse more funding, in June 2012 the GEF expanded its definition of implementing agency and launched accreditation of 11 regional, national, and civil society agencies, <http://www.thegef.org/gef/news/gef-council-launches-accreditation-11-institutions-including-civil-society-organizations-serve->


42 [GEF Project and Programmatic Approach Cycles](#); see in particular paragraph 7, footnote 8 and Annex 1, paragraph 8.

43 In some countries, the operational focal point resides in the finance ministry, http://www.thegef.org/gef/focal_points_list.

44 The GEF Council is the primary governing body of the GEF and functions as a board of directors.

45 http://www.thegef.org/gef/focal_points.

46 The GEF focal areas include: biodiversity, climate change, international waters, land degradation, sustainable forest management, and chemicals, including persistent organic pollutants and ozone depleting substances.



The focal point's job became even more important when the GEF transitioned to a System of Transparent Allocation of Resources in 2009. The new system shifted much of the allocation of financial resources from global issue areas (a pot of money for climate, another for biodiversity, and a third for reducing chemical pollutants) to a national allocation system. Under this system, 80 percent of the funds available for projects dealing with climate change, biodiversity, and land degradation were given directly to countries to re-allocate.⁴⁷ With national focal points now more directly in control of access to funding, there has been a shift in the balance of power from implementing agencies to national governments in favor of greater country ownership.

Setting national priorities

When the GEF moved to a national allocation system, some parties criticized the country-level processes put in place to determine optimal fund distribution. In response, the GEF created a National Portfolio Formulation Exercise (NPFE)⁴⁸ in 2010 as a tool to aid countries in setting priorities and to assist GEF agencies.⁴⁹ While many relatively small developing countries were in support of a mechanism to help define national priorities, others insisted that it be non-compulsory.⁵⁰ As a result, the NPFE is a voluntary guide to best practices for identifying national priorities, not a prerequisite for funding.

The GEF project cycle stipulates that for host countries and implementing agencies that do not use NPFEs, project concepts in funding proposals should reflect priorities established through an “equivalent process,

such as ongoing dialogues or other national planning processes.”⁵¹ However, since there are no criteria for what an equivalent process should entail, it is left to each focal point to determine.

In addition, project proponents must describe, in the PIF, how the project is consistent with national strategies and plans or reports and assessments under relevant conventions (such as National Adaptation Plans drafted in accordance with the UN climate convention).⁵²

Public consultation

According to GEF staff, there is a general understanding among host countries and implementing agencies that a broad consultation process is necessary in order to effectively identify project ideas compatible with national development priorities and environmental objectives. Through the NPFE, the GEF encourages operational focal points to follow “[p]rinciples of transparency and inclusiveness of national stakeholders, including civil society and community based organizations.” It also suggests that the report generated by the NPFE describe the consultations that the operational focal point or the national steering committee held with GEF agencies and the public.⁵³

The GEF's main mechanism for promoting consultation is a 1996 public involvement policy. This document outlines principles of public involvement – defined as information dissemination, consultation, and stakeholder participation – but does not offer clear criteria or standards for such involvement.⁵⁴ The policy notes the importance of consultation in providing opportunities for communities and local groups to contribute to project design, implementation, and evaluation. But

47 <http://www.thegef.org/gef/sites/thegef.org/files/documents/c38-inf8-rev1-final.pdf>

48 http://www.thegef.org/gef/sites/thegef.org/files/documents/C.42.Inf..6_NPFE%20Council%20.pdf

49 The effectiveness of the NPFE tool is scheduled for evaluation by the GEF in 2013.

50 Approximately 30 countries have undertaken the process of completing NPFEs with financial support from the GEF, about 25 of which have been submitted to the secretariat for feedback.

51 <http://www.thegef.org/gef/sites/thegef.org/files/documents/C.39.Inf..3%20-%20GEF%20Project%20and%20Programmatic%20Approach%20Cycles.pdf>

52 <http://www.thegef.org/gef/node/1708>

53 http://www.thegef.org/gef/National_Portfolio_Formulation_Exercises

54 <http://www.gefngo.org/index.cfm?&menuid=77>



A farmer in the Salima district of Malawi works with neighbors to operate a treadle pump that irrigates her maize crops. Photo credit: Ilana Solomon, ActionAid.

it does not provide guidance as to how relevant issues should be taken into account at various project stages. It further states that the GEF secretariat will establish operational guidelines for assessing the effectiveness of public involvement activities in a project's design and implementation plan, but it appears that these have not been created. According to staff at the GEF-NGO Network, the GEF secretariat recently signaled support for the development of detailed public involvement guidelines.⁵⁵

In November 2011, the GEF adopted a Policy on Agency Minimum Standards on Environmental and Social Safeguards that potential implementing agencies

would have to meet in order to be accredited.⁵⁶ As a result, prospective implementing agencies now have to demonstrate that they have policies and systems in place to comply with eight "minimum standards."⁵⁷ Most of the minimum standards include some mention of consultation with civil society and affected communities.⁵⁸

The GEF currently does not require free, prior, and informed consent from affected Indigenous Peoples. However, there is a proposed policy that states that GEF implementing agencies will ensure that project executors document (i) the mutually accepted consultation process between the project proponent and affected indigenous communities and (ii) evidence of agreement between the parties as the outcome of the consultations. However, this only applies in countries that have ratified ILO C169 – Indigenous and Tribal Peoples Convention. The policy also states that there is no universally accepted definition of free, prior, and informed consent (FPIC), and that FPIC does not necessarily require unanimity and may be achieved even when individuals or groups within the community explicitly disagree.⁵⁹

Ultimately, GEF projects have to follow the standards of implementing agencies. The GEF relies on them to develop and implement guidelines and policies for

56 Safeguards at GEF agencies are only queried for compliance once – when the agency is accredited. However, agency accreditation will be reviewed every 2 to 3 years, which will presumably include some review of the effectiveness of each agency's safeguard mechanisms (no reviews have yet taken place because this policy was only recently put in place), http://www.thegef.org/gef/sites/thegef.org/files/documents/C.41.10.Rev.1.Policy_on_Environmental_and_Social_Safeguards_Final%20of%20Nov%2018.pdf.

57 The 8 minimum standards that all GEF implementing (also called partner) agencies will be expected to meet in order to implement GEF projects are: Environmental and Social Impact Assessment; Natural Habitats; Involuntary Resettlement; Indigenous Peoples; Pest Management; Physical Cultural Resources; Safety of Dams; and Accountability and Grievance Systems.

58 If members of civil society feel that they have not been properly consulted, they must first take their grievance through the implementing agency's grievance mechanism before the GEF's Conflict Resolution Commissioner (CRC) will hear their complaint. Even then, the CRC largely sees its role as managing the conflict between civil society and the implementing agency, not solving the content of the complaint.

59 http://www.thegef.org/gef/sites/thegef.org/files/documents/C.41.10.Rev.1.Policy_on_Environmental_and_Social_Safeguards_Final%20of%20Nov%2018.pdf.

55 www.gefngo.org/view_file.cfm?fileid=509.

public involvement and consultation in GEF-financed projects, as well as for other social and environmental safeguards.

4.2 Effectiveness of the GEF's national endorsement model

According to GEF staff, the national endorsement model has worked well as an approach to instill country ownership in the projects it funds. Their assessment is that the ability of national governments to veto potentially bad projects before they go forward has given countries greater ownership of programs. By definition, the host government has given the green light to every project that is approved and funded by the GEF.

A challenge identified by GEF staff and members of civil society is the inconsistency in the capacity, approaches, and level of engagement among operational focal points – the institutional structure that embodies national veto power. This means that the GEF process may be enacted in significantly different ways depending on the country concerned. It has also meant that civil society groups have had widely varying experiences interacting with their operational focal points. In some countries, focal points are sympathetic to the views of NGOs and Indigenous Peoples. In others, focal points have acted as a barrier to projects that civil society groups support.⁶⁰

The lack of a consistent, over-arching process to hold focal points to account has meant that national endorsement, in some cases, risks being merely a rubber stamp process. The combination of this inconsistency, the voluntary nature of national processes for assessing environmental and sustainable development priorities,



Community members raise a 1KWh turbine in Claridge, KwaZulu-Natal, South Africa. Photo credit: Jane Harley.

and the lack of concrete over-arching standards and operational policies for public consultation have made it difficult to ensure country ownership in a way that genuinely reflects the broader public interest.

A lesson learned for the design of the Green Climate Fund is that giving national governments veto power early in the project design process, and power over purse strings, can build country ownership in projects and programs. However, this power must be balanced with universal standards that have clear structures and processes to ensure consistency and accountability.

⁶⁰ Advocates have also pointed out that many focal points have been more apt to direct national allocation funds to projects proposed by national or sub-national agencies than to civil society-generated project proposals. In fact, according to GEF-NGO Network staff, civil society-led GEF projects have dropped by 70 percent since the adoption of STAP in 2009.

5. Recommendations for the GCF

According to its founding document, the Green Climate Fund aims to “promote the paradigm shift towards low-emission and climate resilient development pathways.” For this to occur, the GCF needs a no-objection procedure that builds and supports genuine country ownership and environmental integrity that is comprehensive in scope and effective in implementation at national, sub-national, and community levels. Especially in light of the austere fiscal environment globally, the GCF should support only the highest quality projects that are in line with the priorities and policies of developing countries. Given lessons learned from the IFC, CDM, and GEF models, we offer the following recommendations to the GCF board as it designs a robust, transparent no-objection procedure based on standards, criteria, and principles to be applied by each host country’s national designated authority.

5.1 For the Green Climate Fund Board:

- **Minimum standards.** The GCF Board should establish minimum standards for national no-objection procedures. These should include both substantive and procedural criteria (see list of standards below).
- **National Designated Authority accreditation, review, and re-accreditation.** A process should be established by which the GCF board accredits NDAs. In order to receive initial accreditation, an NDA must establish a no-objection procedure that meets minimum standards. The GCF should periodically review and evaluate NDA compliance with no-objection procedures. Failure to meet minimum standards would result in de-accreditation of the NDA. Additional reviews can be



Villagers in the Sirajganj district of northern Bangladesh display a map of adaptation plans implemented in their community. Photo credit: Ilana Solomon, ActionAid.

triggered by formal complaints regarding inefficacy of the no-objection procedure.

- **Conflict of interest.** Given the NDA’s responsibility for conducting the no-objection procedure, it should not play any role in promoting the GCF to the private sector.
- **Appeals mechanism.** The GCF should establish an appeals mechanism at the international level through which stakeholders (including local and national governments, civil society groups, Indigenous Peoples, and project-affected communities and individuals) can appeal the approval of a project or program via the no-objection procedure. Appeals should be heard on both substantive and procedural grounds.



- **Host country veto.** As a final back-stop to the no-objection procedure conducted by the NDA at the country level, the host country representative on the GCF board should hold veto power over any project or program within its jurisdiction.
- **Country ownership.** In order to secure an effective no-objection process for private sector proposals, country ownership will need to be comprehensively and consistently defined, assessed, and verified.
- **Sequencing of no-objection procedure.** A country should be able to exercise its right to object at any stage of GCF activity. It would be ineffective for a near-final project to be presented to the NDA by a private sector actor as a *fait accompli* for a rubber stamp. Similarly, an NDA should not lose the ability to object if a project's design passes a certain stage, as there will undoubtedly be cases whereby early no-objection certifications are based on incomplete information, or where projects as implemented do not conform to their approved design.

5.2 For national designated authorities:

To assure effective no-objection procedures, NDAs must ensure that any proposed GCF activity in their respective countries meets the following minimum standards in order to advance to the level of the GCF board for approval:

- **Observance of do-no-harm principle.** A project should not create new or additional sources of environmental degradation, economic dislocation, inequity, or social disruption.
- **Compliance.** NDAs must ensure that projects comply with all environmental and social safe-

guards and fiduciary standards, including for projects managed by financial intermediaries, if any.

- **Transparency and access to information.** NDAs should implement international best practice transparency standards and access to information policies, including for projects managed by financial intermediaries. Information about the proposed project should be made available in a timely manner, through popular media, and in the appropriate languages to anyone potentially affected by the project.
- **Inclusion of multiple government agencies.** NDA engagement must not be limited to a country's ministry of finance. For example, ministries of environment and development, national climate commissions, and relevant local government bodies must also consent to proposed projects.
- **Stakeholder consultation and consent.** Public consultations must be held according to international best practices, and the *consent* of the majority of stakeholders must be obtained in a process free of disinformation or intimidation and according to the international principle of free, prior, and informed consent. Stakeholders must have sufficient time to understand and raise objections to the project.
- **Legal requirements.** Projects must be evaluated for consistency with both national law and international legal obligations, including, but not limited to, the Convention on the Elimination of Discrimination against Women, Stockholm Convention, Basel Ban, Rotterdam Convention, and the Convention on Biological Diversity.

The Green Climate Fund's "No-Objection" Procedure and Private Finance: Lessons Learned from Existing Institutions

