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Decision of the Board on the guidelines to facilitate Board consideration of Independent Redress Mechanism reports on reconsideration requests, grievances or complaints

B.BM-2021/16

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Decision approved without a meeting

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The Board, having considered document GCF/BM-2020/18/Rev.01 titled “Guidelines to facilitate Board consideration of IRM reports on reconsideration requests, grievances or complaints”:

- (a) Adopts the Guidelines as set out in annex I to this document; and
- (b) Agrees to delete:
 - (i) The words “as soon as possible or at the next Board meeting” from paragraph 19 of the Procedures and Guidelines of the Independent Redress Mechanism as adopted by the Board in decision B.22/22 (“Procedures and Guidelines”); and
 - (ii) The final sentence from paragraph 63 of the said Procedures and Guidelines.

Annex I: Guidelines to facilitate Board consideration of Independent Redress Mechanism reports on reconsideration requests, grievances or complaints

I. Objectives of Guidelines

- 1.1 Paragraph 3 of the Governing Instrument of the GCF, the 2017 updated Terms of Reference (TOR) of the Independent Redress Mechanism (IRM), and the Procedures and Guidelines (PGs) of the IRM, emphasize the importance of fairness, equity, independence, transparency, accountability and justice regarding the handling of complaints from project affected people, and requests for reconsideration of Board decisions denying funding that are filed by a developing country. These fundamental standards are further affirmed in the Policy on Ethics and Conflicts of Interest for the Board (decision B.09/03) (“the Policy”). Both the TOR and the PGs of the IRM state that the IRM should “be fair and equitable to all stakeholders” and “be independent and transparent” in its work.¹
- 1.2 The IRM, having followed procedures that meet such standards, makes findings and recommendations on requests for reconsideration of funding decisions or on complaints, and submits them to the Board for consideration and decision. Having considered the relevant report from the IRM regarding a request, grievance or complaint, and in accordance with the TOR and the PGs, the Board may take steps to implement the recommendations of the IRM.
- 1.3 In the interests of ensuring the credibility of the GCF and its reconsideration and grievance redress processes, it is critical for the Board to act in keeping with the same standards of fairness, equity, impartiality, transparency and justice in making any decisions on the IRM’s case findings and recommendations.
- 1.4 These guidelines address matters relating to Board proceedings and decision making when considering an IRM report on a complaint, grievance or reconsideration request. These guidelines are to be applied, in a manner consistent with the Rules of Procedure of the Board (Rules of Procedure) and other relevant Board decisions.

II. Principles

- 2.1 In considering reports on complaints and reconsideration requests presented by the IRM to the Board, the Board will:
 - (a) In accordance with the Rules of Procedure, expeditiously consider the IRM report, findings and any recommendations and decide whether to accept them or not;
 - (b) Not engage in a fresh (*de novo*) investigation of the complaint/grievance or request;
 - (c) Satisfy itself that all procedural steps prescribed in the Procedures and Guidelines of the IRM (decision B.22/22) have been followed by the IRM;
 - (d) Satisfy itself that the report, findings and recommendations fall within the mandate of the IRM, as set out in its Terms of Reference (decision B.BM-2017/10);

¹ See, for instance, paragraph 3(c) and (d) of the IRM’s terms of reference (decision B.BM-2017/10).

- (e) Satisfy itself that the IRM has conducted its proceedings and arrived at its findings and recommendations in a transparent, independent, timely and impartial manner;
- (f) Seek clarifications on the report, findings and recommendations from the IRM; and
- (g) Consider the report fairly, in an unbiased fashion with a view to providing redress, where appropriate.

III. Contents of Independent Redress Mechanism Case Reports

3.1 The contents of IRM reports are set out in paragraphs 18(d) and 58 of the PGs of the IRM adopted by the Board.

3.2 For reconsideration requests, the IRM report to the Board will contain:²

- (a) The original Board decision denying funding;
- (b) A summary of the request for reconsideration;
- (c) A summary of the steps taken, and decisions made by the IRM; and
- (d) The IRM's findings in relation to the request for reconsideration together with its recommendations.

3.3 For complaints and grievances, the IRM report to the Board will contain:³

- (a) A summary of the grievance or complaint and the issues raised;
- (b) A summary of the response from the GCF Secretariat;
- (c) A summary of applicable GCF operational policies and procedures;
- (d) A description of the procedures and investigative methods followed by the IRM;
- (e) A summary and evaluation of the relevant evidence;
- (f) The findings of the IRM on issues raised in the grievance or complaint;
- (g) Recommendations on remedial actions as appropriate; and
- (h) Additional information, lessons learned and recommendations as appropriate and in accordance with its TOR.

IV. Procedure for Considering Independent Redress Mechanism Case Reports

4.1 The Board procedure for consideration of the IRM's case reports are set out in the IRM's PGs. In the case of a report of the IRM on a request for reconsideration of a funding decision, paragraph 19 as amended of the PGs state:

- 19. The Board shall consider such report following the submission of the report by the IRM and, in view of such report, may consider the request and may then take steps to implement the recommendation of the IRM. If the Board

² See paragraph 18(d) of the IRM's PGs.

³ See paragraph 58 of the IRM's PGs.



considers the request, it shall communicate its decision to the Head of the IRM, who will then communicate the same to the requester and other relevant stakeholders, if any. If following its consideration of the request, the Board decides to fund the project or programme, the IRM will close the case and the GCF Secretariat will resume processing the project or programme in accordance with the relevant rules and procedures. If the Board refuses to reconsider its funding decision or rejects or does not approve funding for the project or programme, the IRM will close the case.

4.2 IRM reports on reconsideration requests would ordinarily be placed on the agenda of the next Board meeting.

4.3 In the case of agreements reached through problem solving which require a Board decision, paragraph 45 of the PGs state:

45. If an agreement reached through problem solving necessitate a Board decision concerning any project or programme, such agreement shall be submitted to the Board for approval.

4.4 In the case of IRM reports on grievances or complaints, paragraph 63 of the PGs as amended state:

63. The Board shall consider the final compliance report and may make such decision as it sees appropriate, based on the findings and any recommendations contained in the final compliance report. If the Board decides to consider the grievance or complaint in light of the final compliance report, it may also take steps to implement the recommendations of the IRM.

V. Board's Role in Considering Independent Redress Mechanism Case Reports

5.1 The Board's role is to give earnest consideration to IRM case reports, their findings and recommendations. Under the PGs, the IRM is required to submit a copy of the draft case report to the requester or complainant(s), the Secretariat, and the accredited entity for feedback before it is presented to the Board.⁴

5.2 It is important to note that the Board remains the final arbiter of the outcome of the complaint or request and applicable policy, and that it has full authority to agree or disagree with the findings or recommendations of the IRM. The Board is to make its decision in view of such report⁵ 'based on the findings and any recommendations contained in the final compliance report'.⁶ The Board's role is not to initiate a *de novo* review of the facts, but to base its decision on the IRM's report. The Board decisions based on IRM reports may serve to inform future cases for the IRM, the GCF Secretariat, requesters, complainants, national designated authorities, accredited entities and the interested public alike. As such, if the Board decides to consider an IRM report in closed

⁴ See paragraph 60 of the IRM's PGs.

⁵ Paragraphs 10 and 15 of the IRM's TOR and paragraph 19 as amended of the PGs.

⁶ Paragraph 63 as amended of the PGs.

executive session pursuant to paragraph 28 of the Rules of Procedure of the Board and the Board disagrees with a finding or recommendation of the IRM, the Board shall prepare a summary⁷ of the reasons given by Board members for such disagreement. The summary will be communicated to the IRM within 21 days of the Board meeting at which the decision was made. The IRM will publish such summary on its website.

- 5.3 In providing annual reports to the Conference of the Parties (COP) of the UNFCCC under paragraph 9 of the Arrangements between the COP and the GCF, the Board will include the IRMs Reports together with its decisions thereon.
- 5.4 When the Board has come to a decision on the IRM report, that decision, together with the notes of the Board meeting relevant to that decision, or the summary of reasons in the event of a closed executive session, should be made public by the IRM in accordance with the PGs and these Guidelines.

⁷The summary will be based on a confidential verbatim record of the closed-door meeting maintained by the Secretary to the Board.