

24 June 2013

To the Participants of the Carbon Fund meeting, Paris 24/25 June 2013,

The undersigned organisations are writing to express our concern with the Carbon Fund. As expressed in previous letters,<sup>1</sup> we believe the World Bank's Forest Carbon Partnership Facility (FCPF) is undermining its own objectives with developments in the Carbon Fund (CF).<sup>2</sup> Without clear conditions for funding, large projects in the pipeline risk damaging forests and forest peoples' rights. As a case in point, the DRC Emissions Reduction – Programme Idea Note (ER-PIN), which will be presented to the CF in Paris, includes project areas where communities are unaware a programme is being planned, and some organisations mentioned in the validation report were never consulted.<sup>3</sup>

In order to mitigate the risks posed to forest dependent peoples by the development of publically funded large scale Emissions Reduction (ER) Programs, the current drafting process for the Methodological Framework (MF) should identify actions which would make a program ineligible for financing or trigger the cessation of funding, if and when they fail to respect indigenous peoples' rights to lands, territories and resources.

We believe that the focus of ER Programs on results measured only as emission reductions, combined with reliance on World Bank safeguards - which are not designed to identify and address the unique collective rights and heightened vulnerabilities of indigenous peoples impacted by forest projects - presents a serious risk to the rights and livelihoods of the many indigenous peoples and forest dependent communities who will be impacted by ER Programs under the CF. These fundamental concerns have been consistently raised by indigenous peoples representatives and civil society organizations over the entire MF design process - for the FCPF to put forward a draft MF that ignores indigenous peoples' top priorities calls into question whether the CF's engagement of indigenous peoples is in good faith.

Existing World Bank safeguards fall below internationally recognized standards, and are insufficient for meeting the FCPF's obligations under the Cancun Agreements and the FCPF Charter with regards to the rights of indigenous peoples.<sup>4</sup> The Bank's policy on Indigenous Peoples, for example, is not consistent with minimum standards set out in the UN Declaration on the Rights of Indigenous

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<sup>1</sup> See: <http://www.fern.org/publications/ngo-statements/world-bank-carbon-fund-undermines-effective-action-halt-forest-loss>

<sup>2</sup> Carbon Fund Information Note - objectives of the Carbon Fund include: "Generate learning value by testing and demonstrating different approaches that are proposed by REDD+ countries, and learn from them in order to inform the international community on their feasibility."

<sup>3</sup> Letter from GTCR (Group de Travail Climat REDD de la Republique Democratique du Congo) to the PC of the FCPF, the FMT, and participants at the Paris CF meeting, signed by 20 civil society organisations in the DRC.

<sup>4</sup> The World Bank safeguards fall below internationally recognized standards on the rights of indigenous peoples, most notably in the area of self-determination and rights to lands, territories and resources (for example, OP 4.10 does not effectively ensure that projects fully respect indigenous peoples' collective ownership rights to their lands, resources and territories, and does not require free, prior and informed consent of indigenous peoples prior to initiation of projects on or involving their lands or resources).

Peoples (UNDRIP).<sup>5</sup> The WB safeguards currently state that the Bank will not finance project activities that contravene countries' obligations under international environmental treaties and agreements, but do not refer to countries' international human rights obligations.<sup>6</sup>

We therefore make the following recommendations for guidance to be incorporated into the MF to protect the rights of forest dependent peoples:

**1) The CF should make a clear statement that it will not finance ER programs that would contravene countries' international human rights and environmental obligations as identified in international human rights and environmental agreements, rulings of relevant tribunals, and customary international law.** This would fill a significant gap left by the World Bank safeguards and provide greater consistency with the FCPF Charter, which requires that FCPF activities respect the rights of indigenous peoples and forest dwellers "under national law and applicable international obligations."<sup>7</sup>

**2) The CF should provide additional guidance to clarify the implications of ER programs for the rights of indigenous peoples and forest dependent communities, and provide reporting instruments that are able to effectively identify and address rights implications, including assessing and reporting on risks of human rights impacts.** These should include the revision of the Strategic Environmental and Social Assessment (SESA) tool to ensure it is an adequate instrument for CF programs to assess and avoid harm to indigenous peoples and forest dependent communities.

At the same time, upgrading of the Bank's current Environmental Assessment policy to establish a general policy on social assessment, including additional requirements for the use of Human Rights Impact Assessment tools, must form part of the modernization of the Bank's safeguard policies that is currently underway (2012-14).

**3) CF safeguard guidance should emphasise the applicability and importance of international obligations to respect the rights of indigenous peoples - in stronger terms than those currently contained in the UNFCCC guidance, as both the UNFCCC and the WB guidance are not yet in line with international requirements.**

Sincerely,

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<sup>5</sup> For additional analysis see ILRC submission to the World Bank safeguards review, at <http://www.indianlaw.org/sites/default/files/ILRC%20WB%20Submission%20Final.pdf>. All submissions on the development of the Carbon Fund Methodological framework are available here: <https://www.forestcarbonpartnership.org/issues-papers-methodological-framework>

<sup>6</sup> World Bank Environmental Assessment Policy OP 4.01, Para 3; World Bank Forests Policy OP 4.36, Para 6; World Bank Physical Cultural Resources Policy OP 4.11, Para. 3.

<sup>7</sup> IBRD Charter Establishing the Forest Carbon Partnership Facility, May 11, 2011, art. 3, § 3.1.(d).