

FCPF Carbon Fund Methodological Framework Discussion Paper # 8 Feedback and Grievance Redress Mechanism

WORKING DRAFT SOLELY FOR INPUT INTO AND DISCUSSION BY CARBON FUND WORKING GROUP
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*This paper is a work product of independent consultants,
managed and revised by the FCPF Facility Management Team and World Bank staff, and does
not reflect the opinion of the World Bank*

About this document: The FMT commissioned the development of this series of about a dozen topic-specific Discussion Papers (also known as “Issue Papers”) to serve as a common starting point for discussion on the Methodological Framework (MF). The Papers were circulated January-April 2013 to Carbon Fund Participants and to over 100 experts who participated in REDD+ Design Forums which channeled input into the Methodological Framework. For each topic, the corresponding Issue Paper first presents background research and major approaches, and then suggests initial thinking on how to translate that topic into the context of the Methodological Framework of the Carbon Fund.

Because each paper presents a wide range of options, developed at the very beginning of the MF development process, the original drafts do not capture the discussions during Summer 2013 or reflect the more recent drafts of the MF. For this reason, FMT has added an introductory chapter to each issue paper during August 2013 entitled “FMT Update.” This aims to identify further approaches and considerations that emerged since the original paper, though it is not a summary of formal deliberations. Section II of each paper denotes the original Issue Paper. These Issue Papers reflect important context and options for the Carbon Fund of the FCPF and also contain useful information and considerations for policymakers and others designing REDD+ frameworks.

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Acronyms

CAR	California Climate Action Reserve
CDM	Clean Development Mechanism
DRP	Dispute Resolution & Prevention Unit
ERPA	Emission Reduction Program Agreement
FCPF	The Forest Carbon Partnership Facility
GCF	Governor's Climate and Forests Task Force
GMR	Grievance Redress Mechanisms
PC	FCPF Participants Committee
R-PP	Readiness Preparation Proposal
RTWG REDD+	Technical Working Group
SESA	Strategic Environmental and Social Assessments

A. FMT UPDATE

A Grievance Redress Mechanism includes a formal feedback component.

The intention of a Grievance Redress Mechanism is not only to resolve grievances, but to have a feedback component where stakeholders can improve both the mechanism and the overall ER Program's responsiveness to citizen concerns. For this reason, in the draft MF, the Grievance Redress Mechanism is given the acronym (FGRM) for a "Feedback and Grievance Redress Mechanism" whereas the original paper refers to a GRM.

Relationship of GRM activities between the Readiness Fund and the Carbon Fund

The original issue paper below outlines useful steps to establish a GRM and highlights the importance of ER Programs having a GRM. Once a FGRM is established in the Readiness phase, Design Forum participants and others suggested that the MF emphasize that the ER Program's FGRM should build upon the mechanism established in Readiness and include certain key components (listed in Indicator 25.5 of September 5 version of MF).

B. ORIGINAL ISSUE PAPER

I. Key Questions

1) Should FCPF Carbon Fund really need to require CF countries to develop GRM? Or can it be optional for a country to decide whether to do or not to do?

Candidate approach: Yes, it should require. The paper explores practical ways of putting it into practice.

2) If it needs to be mandatory, is it necessary that GRM is fully developed before entering into ERPA (Emission Reduction Program Agreement) or can it be done after?

Candidate approach: A fully developed GRM is definitely desirable but it would not be realistic to expect that clients have all this before entering into an ERPA. What needs to happen before an ERPA is that clients

conduct an analysis of their existing mechanisms to identify gaps, and develop a plan to bridge the gaps.

3) Can a GRM vary from one ERPA to another in a same country? Or it needs to be the same for all ERPAs?

Candidate approach: A GRM should be context specific and does not need to be the same across a given country if particular cultures require different procedures.

4) Should FCPF Carbon Fund require the same standard of GRM for all CF countries? Does a country have flexibility to develop whatever type of GRM it wants to develop?

Candidate approach: Countries should be able to build on whatever they have on the ground. Each country can design the GRM they wish as long as it meets the basic criteria described in the document.

5) When Carbon Fund participants review ER proposals, what are the criteria or indicators they should look at with regard to proposed programs' GRM?

Candidate approach: They should look at following criteria: Legitimacy, accessibility, predictability, fairness, rights compatability, transparency, and capability (for details, see paragraph 20 below).

II. Methodological Questions

1. The purpose of this series of issue papers is to contribute to the development of a guidance document for the Carbon Fund Methodological Framework in order to provide adequate guidance to countries developing an Emission Reductions Program Identification Note. Specifically, this paper will explore the question: **What is the best approach for FCPF Country or Program level feedback and grievance mechanisms?** In order to answer this question the paper reviews the following areas: i) existing policies to address grievances implemented by other existing climate policy regimes; ii) international best practice for successful Grievance Redress Mechanisms (GRM); and iii) lessons from recent case studies, where OPCS' Dispute Resolution & Prevention Unit (DRP) has supported FCPF clients to improve their GRM.

III. Background: What are GRM and how do they support FCPF goals?

Definition and General Principles

2. GRM are established with the objective of receiving, assessing and resolving complaints of directly affected stakeholders about project related matter with a view to taking corrective action that makes implementation of a project consistent with its design. Typically, these mechanisms focus on flexible problem solving approaches to dispute resolution through

options such as fact-finding, dialogue, facilitation or mediation. A well-designed feedback and grievance mechanism should improve responsiveness to citizen concerns, help identify problems early, and foster greater trust and accountability. Using a GRM does not remove a complainant's right to use formal recourse options, including legal or administrative systems.

3. Well-functioning GRM offer: easy and reliable access; credibility among stakeholders; ownership by project decision makers; clear communication of process and service standards to users; quick resolution of complaints; expeditious communication of results to complainants; availability of options related to mediation and conciliation; and the possibility of accessing judicial mechanisms if users not satisfied with outcome.

GRM at the Bank and FCPF

4. As the governance and anticorruption (GAC) agenda moves forward, the Bank has increasingly recognized that well designed and implemented GRM can help enhance operational efficiency.¹ In 2010, an IEG evaluation of the effectiveness of Safeguards and Sustainability Policies concluded that the Bank should enhance its systems and instruments for accountability and grievance redress. Bank management has expressed agreement with this recommendation and taken several steps to move in this direction. In 2011, OPCS created the DRP as a centralized effort to improve the assessment of, response to, and resolution of conflicts in its operations. The Bank has developed various tools and guidelines on this topic, including those referenced in the bibliography below².
5. In line with these efforts, FCPF acknowledges that the complexity of issues and diversity of stakeholders involved in the REDD+ process may lead to numerous inquiries, and potentially, to grievances. Thus, FCPF governance documents recognize that the provision of mechanisms to address grievances and monitor compliance with standards is of critical importance to ensuring that FCPF meets its objectives in a transparent, legitimate, and effective way³. FCPF R-PP Template version 6 includes significant guidelines on setting

¹ Post and Agarwal, 2011. Feedback Matters: Designing Effective Grievance Redress Mechanisms for Bank-Financed Projects

² Support for recourse mechanisms has also gained traction in the international corporate – community relations field. Prof. Ruggie, Special representative of the UN Secretary-General for Business and Human Rights (SRSG), identified access to recourse and remedy as one the key principles to guide corporate efforts towards respecting human rights. Ruggie's work assumes that laws and standards have limited impact if there are no complementary mechanisms to address non-compliance and conflict. Hence the SRSG Framework (Ruggie, 2008)

³ FCPF Readiness Fund: Guidelines for Establishing Grievance and Redress Mechanism at the Country Level (R-PP v. 6 draft Revised (April 20, 2012)

feedback and grievance redress mechanism during readiness phase, which is described in paragraph 9 below. Furthermore, the recommendations of the Working Group on the Methodological and Pricing Approach⁴ have also provided initial guidance on need for application of grievance mechanism (Box 1).

Box 1: FCPF PC Working Group Recommendation on Grievance mechanism (June, 2012)

The ER Program meets World Bank social and environmental safeguards, promotes and supports the safeguards included in UNFCCC guidance related to REDD+, and provides information on how these safeguards are addressed and respected, including through the application of appropriate grievance mechanisms.

6. There are several benefits from helping FCPF clients establish a well-functioning GRM:
- *Identify and resolve implementation problems in a timely and cost-effective manner:* As an early warning system, well-functioning GRM help identify and address potential problems before they escalate, avoiding more expensive and time consuming disputes.
 - *Identify systemic issues:* GRM may help identify underlying systemic issues related to implementation capacity and processes that need to be addressed.
 - *Improve project outcomes:* Through timely resolution of issues and problems, GRM contribute to timely achievement of project objectives.
 - *Promote accountability among project staff:* GRM promote greater accountability of project staff to stakeholders, positively affecting overall project governance.

IV. Approaches of Major Initiatives

Clean Development Mechanism (CDM)

7. The CDM has several mechanisms for stakeholder engagement such as workshops, roundtables, and calls for public inputs. It also offers the possibility for stakeholders to “make a non-case specific request for clarification or feedback to the Board”. However, there are no publicly available guidelines on the steps taken by the Board to address such concerns. Neither does their website provide guidance about where and how to address case-specific concerns. Thus, currently CDM does not offer a GRM as per the definition and

⁴ FMT Note 2012-8. June 11, 2012. Recommendations of the Working Group on the Methodological and Pricing Approach for the Carbon Fund of the FCPF.

principles described in Section II. However, the CDM Policy Dialogue Report⁵, launched in September 2012, recommends that the CDM establish a grievance mechanism for local stakeholders to address environmental and social concerns and to facilitate the resolution of issues emerging after the registration of a project.

UNREDD

8. UNREDD recognizes that impartial, accessible and fair mechanisms for grievance, conflict resolution and redress must be established and accessible during the consultation process and throughout the implementation of REDD+ policies and activities. The UNREDD Program works with the FCPF to ensure harmonization of approaches. Along with FCPF, UNREDD has the most developed publicly available policy about grievance mechanisms found among the instruments surveyed.
9. UNREDD and FCPF share the Guidelines for Establishing GRM at the Country Level in component 1a of the Readiness Preparation Proposal (R-PP) template⁶. According to the guidelines National Programs are required to:
 - a. Conduct a rapid assessment of existing formal or informal feedback and grievance mechanisms, including an assessment of how existing mechanisms could be modified to ensure that the eventual mechanism is accessible, transparent, fair, affordable, and effective in responding to challenges in REDD+ implementation.
 - b. Develop a framework for the proposed GRM, including steps that will be taken to define the structure, functioning and governance of such a mechanism.
 - c. Describe how consultation on the proposed mechanism will occur.
10. Furthermore, in December 2011, UNREDD issued a public call for comments on their Program Guidelines on Free, Prior and Informed Consent. Within this document there is a significant section outlining policy for Grievance Mechanisms, which outlines current policy for project or country level GRM (as stated in the R-PP Guidance mentioned above), as well as policies for a future Global Accountability Mechanism as described in Annex 1.⁷

Verified Carbon Standard (VCSA)

⁵ Process launched in 2011 to make recommendations on how best to position the CDM to respond to future challenges and opportunities.

⁶ For FCPF Readiness Fund: Guidelines for Establishing Grievance and Redress Mechanism at the Country Level (R-PP v. 6 draft Revised August 09, 2012). For UNREDD please refer to Section 5 of the UN-REDD Program Guidelines on FPIC, in Annex 2

⁷ UN REDD. Program Guidelines on Free, Prior and Informed Consent. Draft for Comment -- December 2011

Project proponents, methodology element developers, validation/verification bodies and other stakeholders may submit enquiries to the VCSA at any time. In addition, the VCS Program provides a complaints procedure and an appeals procedure described in detail in Annex 1. In short the process requires that after receiving a complaint via email, VCSA appoint an appropriate person to analyze it and determine action (involving external experts, as required). Complaints about entities that provide services under the VCSA Program, such as validation/verification bodies, shall be pursued via the respective entity's complaint procedure.⁸

11. However, several aspects of the VCSA process do not follow GRM best practice standards. First, there is no publicly available guidance as to who will be selected to analyze the complaint, nor does the process described allow any predictability about how the claim will be analyzed. In addition, the practice to have complainants pay for the expenses incurred by VCSA in handling their complaints does not conform to commonly to GRM best practice.

California Climate Action Reserve (CAR)

12. CAR's website does not describe any mechanism to handle complaints and grievances. Information available about how they handle stakeholder relationships highlights their efforts to be transparent in terms of sharing project information to the public. However there is not mention of how complaints or potential grievances might be addressed.

Governor's Climate and Forests Task Force (GCF)

13. The GCF is a collaborative effort between 19 states and provinces from Brazil, Indonesia, Mexico, Nigeria, Peru, Spain, and the U.S. focused on developing the technical, legal, and institutional frameworks for comprehensive jurisdiction-wide programs to reduce emissions from deforestation and land use. GCF's website offers information on the projects in each province/state of the alliance. Each project describes its efforts to comply with expectations for free, prior and informed consent and to engage with stakeholders through different mechanisms. In their descriptions some projects mention existing community mechanisms to address conflict that could be used if necessary. There are no publicly available, specific GCF guidelines or policy on how projects should deal with potential grievances and conflict. However, some of these projects need to comply with UN REDD

⁸ VCSA website

guidelines, and thus will have to apply the guidelines for grievance redress mentioned above.

V. Options for the Carbon Fund

14. FCPF governance documents and World Bank policy (see OP 4.10 and 4.12) have recognized the importance of providing appropriate mechanisms for grievance redress to achieve better development outcomes. Hence, this paper assumes that the decision for the Carbon Fund to require countries to develop a GRM has already been made and is consistent with best practice. As a result the paper explores options for *how* GRM is best implemented at the project and country level. The options to be analyzed are:

- Project Management Level – provide onsite project specific grievance redress
- Country Level – new stand-alone grievance redress mechanism
- Country Level – build upon existing institutions and capacity for grievance redress

15. Before exploring these options, it is necessary to state that addressing potential grievances and disputes at FCPF will require a strategy that differentiates between the Readiness Preparation and the Carbon Fund Operation phases. At the Readiness stage, conflict is likely to result from the lack of: a coherent policy framework, rules for benefit sharing, clarity over tenure rights, territorial planning, and capacity for stakeholder consultation of national institutions. Prevention and resolution of this type of conflict should happen through the consultation and participation processes that should already be in place.

16. During Carbon Fund implementation, grievances are likely to arise around how REDD+ policies and mechanisms are being applied on the ground (e.g. Are the beneficiaries receiving what the law entitles them to? Is a group of people disputing the right to benefits in a given territory?). These types of disputes should be addressed by grievance mechanisms that should be designed or strengthened during the Readiness stage.

VI. Advantages/Disadvantages of each option

	Options	Advantages	Disadvantages
A	Management Level – provide project specific grievance redress at SESA and/or REDD+ coordinators	<ul style="list-style-type: none"> • Have an individual or office close to the affected communities that is able to receive and respond to the majority of complaints related to low risk project management issues. • Significantly strengthen the SESA process and policy development, by providing a 	<ul style="list-style-type: none"> • Does not offer enough degree of independence to address more complex complaints. • May lack credibility in the perception of certain stakeholders.

	level	<p>channel to collect feedback from community members and civil society.</p> <ul style="list-style-type: none"> • Can be complemented by a second level appeals mechanism, which can handle more complex complaints. • Does not require complex external structures and thus can offer a relatively simple and cost effective alternative to resolve smaller grievances. 	
B	Country Level – new stand alone GRM	<ul style="list-style-type: none"> • Allows for the design of a fresh GRM that can be tailored to best practice from the start, rather than having to adapt existing mechanisms, which may not be functional. • Potential for greater impact on natural resources management versus being FCPF/REDD-specific. 	<ul style="list-style-type: none"> • May be too ambitious and/or difficult for some countries to achieve. • If some grievance structures already exist, creating a separate, stand-alone GRM makes little sense.
C	Country Level – build upon existing grievance practice & institutions	<ul style="list-style-type: none"> • Allows flexibility and potential for increased ownership. • Likely to be more consistent with local culture and traditions. • GRM can be integrated to the sector or national management system (see Mexico case below), instead of creating a GRM process for each ERPA transaction. 	<ul style="list-style-type: none"> • May not be good-practice (i.e. accessible to all, credible to users, transparent, predictable). • Even if it builds upon existing practices, the new GRM may lack local ownership and commitment from decision makers.

Based on the brief summary of advantages and disadvantages, Options A and C could be implemented together at the country/program level in order to offer a good mix of grievance redress at different levels. In both instances, the emphasis is on working with existing institutions and individuals, not creating something new. This approach is more likely to be “owned” by the country and sustainable in the long-term. However, building on existing institutions does have drawbacks, namely that existing institutions may not reflect good practice (see basic principles bellow). Thus it is important that any decision to use existing systems be accompanied by a careful evaluation of those systems against some basic principles and procedures to ensure the systems are credible and effective to the users. There may be some instances – for example in a country with limited/no existing grievance capacity – where it would be desirable to build something from scratch. But this should be the exception. Recommendations and case studies below suggest a process and examples of how this can be done in practice.

VII. Potential Candidate Approach for the Carbon Fund -

Response to Key Questions That the MF Needs to Resolve to Provide Adequate Guidance on the Application of Feedback and Grievance Redress Mechanism Supported by the Carbon Fund

1) Should FCPF Carbon Fund really need to require CF countries to develop GRM? Or can it be optional for a country to decide whether to do or not to do?

Since Bank Policy (OP 4.10 and 4.12 require GRM) and since FCPF has already made a commitment to incorporate grievance redress mechanism in the readiness phase (it has even set apart funds to help countries set up GRM), the paper does not question whether CF should be asking countries to develop a GRM. We are exploring practical ways of putting it into practice. We have explicitly said this in the paper to clarify its focus.

2) If it needs to be mandatory, is it necessary that GRM is fully developed before entering into ERPA (Emission Reduction Program Agreement) or can it be done after?

No, it is not. A fully developed GRM is definitely desirable but it means that it has been designed with input from users, that it has been widely disseminated among potential users, that it receives and processes complaints, and that it collects data about them and learns from it. It would not be realistic to expect that clients have all this before entering into an ERPA.

What needs to happen before an ERPA is that clients:

- conduct an analysis of their existing mechanisms to identify gaps. No matter how poor or informal, there is always something on the ground. Clients can use simple and practical World Bank tools for this.
- develop a plan to bridge the gaps and improve what the client has on the ground so that it aims to meet good standards as defined in bank tools but adapted to the local culture. The plan should indicate the resources that will be allocated for this effort. Potential users need to be consulted. Once the ERPA is in place, FCPF should monitor that the GRM is improved as planned. Monitoring should focus on the data on complaints received and processed.

3) Can a GRM vary from one ERPA to another in a same country? Or it needs to be the same for all ERPAs?

A GRM should be context specific and does not need to be the same across a given country if particular cultures require different procedures. However, it is convenient that all mechanisms gather data on complaints received and processed so that their performance can be compared.

4) Should FCPF Carbon Fund require the same standard of GRM for all CF countries? Does a country have flexibility to develop whatever type of GRM it wants to develop?

As described in the response to question 2, countries should be able to build on whatever they have on the ground. Each country can design the GRM they wish as long as it meets the basic criteria described in the document.

5) When Carbon Fund participants review ER proposals, what are the criteria or indicators they should look at with regard to proposed programs' GRM?

The same criteria described in the step 2 of this paper (see paragraph 20 below).

Recommended Process to enhance FCPF Country Program Grievance Mechanism⁹

STEP 0: ENSURE COUNTRY BUY-IN AND OWNERSHIP OF PROPOSED GRM

Practice shows that GRM are only effective when they are backed up by political will and support from the institutions that put them into practice. It is essential that county officials are not only aware of how a GRM operates but also, and most importantly, convinced that it will add value to their work and the citizens they serve. Sharing successful and relevant case studies and engaging in fruitful conversations about the value of a GRM should help government officials and FCPF staff develop a common understanding about how grievance redress can work in a given country and set shared goals. Without this initial exercise, there is little chance that a GRM will serve its purpose no matter how well designed it is.

STEP 1: IDENTIFY ISSUES AND STAKEHOLDERS WITH RISKS OF CONFLICT: What questions, grievances, and disputes are likely to come up in the country in each FCPF phase?

17. Conduct a rapid review of contentious issues, stakeholders, and institutional capacity, strongly relying on the information already produced by the countries and the Bank. The SESA should provide the basis for much of this work. Gaps will be filled with in-country interviews.
18. Start by understanding the *issues* that are -or are likely to be- at the heart of disputes related to REDD+, such as clarity over resource property or tenure rights, benefit distribution, cross-sectorial competing interests, decision-making processes, and opposing views over market-based solutions to environmental problems. Map the key *stakeholders* to these issues and what is the nature of the debate on REDD+ (informed, polarized, etc.). Note the local dispute resolution culture and, particularly, the capacity and track-record of stakeholders to settle disputes through constructive negotiation.

⁹ The suggested process builds upon the document Enhancing capacity for dispute resolution and grievance redress in FCPF countries prepared by DPR. It also suggests the use of specific tools that have been developed by DPR and are available on their resource site in Bank's intranet (<http://disputeresolution>).

19. Issues and stakeholder reviews will be mostly desk-based and will initially and primarily rely on the information contained in the R-PP components (1a, 1b, 1c) and SESA prepared for and by each country, as described in section 2a of their R-PP. Where SESAs do not provide sufficient input, the gaps should be bridged by strengthening the capacity of FCPF’s SESA team -through training and/or technical assistance- to gather additional information.

STEP 2: IDENTIFY WHAT INSTITUTIONS EXIST IN THE COUNTRY TO ADDRESS GRIEVANCES

20. The goal of this step is to survey the availability, credibility and capabilities of **national institutions** to address the issues that are at the heart of REDD+-related disputes. Hence, this step assesses the credibility of each of the institutions that are expected to deal with potential conflicts as identified in step 1, based on the following criteria¹⁰:

- Legitimacy: is its governance structure widely perceived as sufficiently independent from the parties to a particular grievance?
- Accessibility: does it provide sufficient assistance to those who face barriers such as language, literacy, awareness, cost, or fear of reprisal?
- Predictability: does it offer a clear procedure with time frames for each stage and clarity on the types of results it can (and cannot) deliver?
- Fairness: are its procedures widely perceived as fair, especially in terms of access to information and opportunities for meaningful participation in the final decision?
- Rights compatibility: are its outcomes consistent with applicable national and international standards? Does it restrict access to other redress mechanisms?
- Transparency: are its procedures and outcomes transparent enough to meet the public interest concerns at stake?
- Capability: does it have the necessary technical, human and financial resources to deal with the issues at stake?

21. Categorizing both risks of conflict associated with key REDD+ issues and institutional capacity to address those conflicts is central to this approach. Where capacity and credibility of national institutions are low and the stakes are high, the risk of grievances going unaddressed will be significant. Use the risk analysis table as a guide:

		Capacity of National Institutions			
		Local Community Boards or Councils	National Courts	National Human Rights Commission	National Ombudsman
How	Property/Tenure disputes	High/medium	High/low	High/High	

¹⁰ In reference to the report issued in 2008 by John Ruggie, the UN Special Representative of the Secretary General on Human Rights and Transnational Corporations and other business enterprises.

	Benefit Sharing				
	Participation in Decision-making				

22. It is also necessary to assess the process by which the institutions identified address grievances. Best practice suggests the following general process which can be used as a benchmark during the assessment:

- Uptake
- Sorting and Processing
- Acknowledgment and follow-up
- Verification, Investigation and Action
- Monitoring and Evaluation
- Feedback

23. Reviewing the capacity of national institutions to address REDD+ disputes requires both deskwork and in-country interviews. It will include and support, but not be limited to, the rapid assessments mentioned in section 1.a.8.a of the R-PP and the analysis of institutional capacity referred to in section 2.b.2.4 (feasibility assessment). It will also inquire how stakeholders view and trust the data compiled and produced under section 2.a. Preliminary findings will be shared with FCPF and national authorities to decide if a more thorough review is merited.

TOOL BOX [DRP intranet site: Cross Check your Project with GRM Principles – Questions to Ask.](#)
 [[To be further developed]] [[delete this]]

STEP 3: DISPUTE PREVENTION AND RESOLUTION PROPOSAL

24. The goal of this step is to determine how to make existing grievance redress systems work for REDD+ readiness and implementation and to put together a proposal that outlines a suggested GRM. The proposal should address the disputes that can arise during the readiness and the implementation stages.

Grievances/Disputes likely to arise during Readiness stage

25. The proposal should address how to strengthen the country’s readiness preparation process from a conflict-sensitive perspective, including:

- Ensuring appropriate staffing and resources tasked with receiving feedback and requests in order to support and improve consultation and participation processes during the preparation stage. The proposal will identify how staff capacity and resources could be leveled up.
- Offering recommendations to improve existing stakeholder consultation mechanisms. Recommendations could focus on: level and order in which contentious issues should be dealt with; kind of political support needed from highest authorities; essential parties that should sit at the table; how science should feed discussions; and, what, if anything, should be done to increase stakeholders' trust in data that will inform decision-making.
- Where necessary, suggesting the creation of additional ad-hoc spaces to address specific disputes that might exceed the capacity or mandate of those existing stakeholder consultation mechanisms.

26. The proposal may consider modifying the terms of reference of the staff involved in the Readiness phase in order to ensure that addressing grievances is part of their job description. The Liberia Case, presented in the next section provides an example of how TOR could be modified to ensure that grievance redress is part of the team's official responsibilities.

Grievances/Disputes likely to arise during Carbon Fund operations

27. Based on the assessment on the availability, credibility and capabilities of national institutions to deal with REDD+ related disputes, done in the previous step, the proposal will describe which and how existing institutions should be strengthened and/or which additional mechanisms would need to be established. A decision about which mechanisms to be established and where they should be located should be made together with national governments, based on consultation with stakeholders under the framework of the readiness process, and taking into account issues of credibility and potential conflicts of interest.

28. When putting together the proposal, take into consideration the following practical components for an effective institutional approach to grievance management:

- a. **An easily accessible and well-publicized focal point or user facing 'help desk'**. This can be within the relevant agency or government department, but must be in a location that is seen as credible. Typically, the user should be provided with a receipt and 'roadmap' telling him/her how the complaint process works and when to expect further information. This is the point where a grievance log or registry is opened. Recognizing

that many complaints may be resolved 'on the spot' and informally by project staff, there are opportunities to encourage these informal resolutions to be logged here to (i) encourage responsiveness; and (ii) ensure that repeated or low-level grievances are being noted in the system. Special attention should be given to making the complaints system available to vulnerable populations who live in rural areas, may have limited internet access, or may have other barriers of access.

- b. **A registry of complaints received, resolution and time to respond.** The GRM should build a data base that registers all the requests received, which units they were referred to, how they were responded and brought to closure, and how long it took. This information will be useful to the client to better understand which geographic areas and on thematic issues are subject of complaints, and also to know which units/teams respond in time to complaints and which are struggling with this.
- c. **Eligibility Review.** This should be a procedural step to ensure that the issue being raised is relevant to the REDD+ program. It is often better to ensure a relatively low barrier to entry with quick turn-around rather than to prevent users having their issues considered.
- d. **Categorization and Assignment.** This stage requires some technical capacity. Grievances should be categorized according to the type of issue raised and the effect on the environment/claimant if the impacts raised in the complaint were to occur. Based on this categorization, the complaint can be prioritized based on risk and assigned to the most appropriate institution or individual to address it. For example, claims relating to land may be referred to an existing land claims court if this has been identified as a credible institution for resolving these disputes. The process of assigning cases is generally more successful when it is done with the agreement of the user.
- e. **Appeals.** Repeated complaints or appeals should be dealt with through a defined process. One approach is to refer appeals to the national courts or other suitable process. Alternatively, for sensitive and challenging cases, the mechanism may also convene a senior and independent panel to seek appropriate resolution of the case. This panel may also play the role of providing strategic oversight and assurance of the mechanism through reviewing monitoring and tracking data.
- f. **Monitoring, tracking, and reporting on outcomes.** This step is essential to promote credibility of the mechanism to users and to encourage feedback and organizational

learning. Systemic trends or repeated implementation weaknesses can be more quickly identified.

29. The end result of this step is a proposal, agreed by FCPF and national authorities, which outlines how questions and grievances from stakeholders will be managed, as well as internal and external documents that describe this process.

TOOL BOX **DRP Intranet site: Grievance Redress Mechanisms Manual 1.1**

[[To be further developed]] [[delete]]

Sequencing of the Suggested Process and Emission Reduction Program Agreement (ERPA)

30. A fully developed GRM is definitely desirable, however it will often not be possible to achieve one before entering into ERPA. As outlined above, a well-developed mechanism requires: design with input from users; dissemination among potential users; processing of complaints; collection and analysis of data about complaints. Often, it will not be realistic to expect that clients have all this in place before entering into ERPA.
31. Therefore, before entering ERPA, FCPF should make sure that the client has at least: i) conducted an analysis of existing mechanisms and identified gaps using the tools and suggested above; and ii) developed a plan to bridge the gaps to meet good standards as defined above, yet adapted to the local culture. The plan should indicate the resources that will be allocated for this effort and the potential users who need to be consulted.
32. Once the ERPA is in place, FCPF should monitor that the client is improving the grievance policies as planned. Monitoring should use the data on complaints received and processed according to the process suggested above.

VIII. Application of Proposed Procedure in two FCPF Case Studies: Mexico and Liberia

Mexico – Applying Good Practices to Strengthen Existing Grievance Mechanisms

33. In FY12, Mexico embarked on the design of its GRM for REDD+ related disputes. The Bank's Dispute Resolution & Prevention Unit (DPR) provided technical support to the project team, who worked with CONAFOR (Mexico's government agency for forests) to build its GRM according to current best practices in the Bank and beyond. Based on guidance received, CONAFOR was able to identify gaps in their existing mechanisms and develop a plan to bridge them in order to provide citizens with an easily accessible and credible entry point to

log complaints.

34. A session was initially conducted with CONAFOR's team on what GRMs are, what their purpose is and what principles should inspire their design and implementation. DRP identified that CONAFOR already had three mechanisms with a mandate to address different types of citizen requests. One mechanism deals with corruption issues, another one provides access to public information, and a third one (Sistema de Información y Atención Ciudadana - SIAC) responds to requests of information related to CONAFOR daily operations. Using simple, useful and practical tools provided by DRP, CONAFOR assessed the quality of their three existing mechanisms, compared their scope and capacity, and identified gaps and overlaps. The main finding was that there was no formal channel for citizens to submit complaints about CONAFOR's operations that were unrelated to corruption charges. Representatives of all three mechanisms worked together with support from DRP to decide what modifications needed to be introduced to strengthen CONAFOR's capacity to receive and address complaints, and agreed this gap should be covered by SIAC. Not having a specific mandate set by law, it had the flexibility to enhance its scope of work. And its protocols would not require major modifications.
35. All complaints that do not fall within the mandate of other mechanisms will be channeled to and through the SIAC who will register their entry into the system, will assess them, and assign to the unit that should provide a response. All further communications between this unit and the citizen who submitted a request should copy SIAC so that progress is tracked and updated in a database until the request is answered. A way to combine existing databases from the three mechanisms to keep track of complaints is being discussed. SIAC's Manual is being modified to guide staff's actions when a complaint is received.
36. With respect to citizens who have lower chances of presenting requests or complaints, either because they live in remote areas and find it very costly to visit CONAFOR's offices, or because of literacy barriers, CONAFOR is trying to better understand how complaints are received and addressed informally today. It is likely that the "promotores forestales" (field workers) who interact with them more frequently are receiving and even addressing their concerns in an informal way and that this practice goes unnoticed in the institution. CONAFOR intends to make an effort to make them visible, by registering them at SIAC, and to improve how they are addressed.
37. In short, rather than creating a new mechanism, CONAFOR is revising its existing mechanisms to bring them up to speed with best practices and processes described above.

Although this was motivated by the FCPF project, it will benefit all of CONAFOR's activities, whether funded by the World Bank or not.

Liberia – Establishing a 2-tiered GRM

38. In October 2012 DRP travelled to Liberia with the FCPF team on a technical mission to start activities regarding a recently approved grant for the development of Liberia's REDD+ Strategy, including advancing in the preparation of a GRM.
39. The Mission met with various government Ministers and Officials, civil society organizations and donors. In these meetings, the DRP team made a preliminary assessment of the *issues*, which may be at the center of potential conflict. Consistently, stakeholders expressed concern about overlapping and contested land claims, which may potentially result in disputes related to REDD+. Also, several stakeholders pointed out severe weaknesses and lack of legitimacy of formal mechanisms to address land conflicts, which further confirmed the need for a well-designed GRM as part of the REDD+ process.
40. Moreover, during the mission the DRP team identified key *stakeholders* and made a preliminary assessment of the existing *grievance redress capacity and legitimacy* of some institutions. DRP identified existing initiatives with significant capacity in Dispute Resolution, including mediation, which could be useful when addressing complex disputes. DRP also identified civil society organizations that FCPF could partner with to collect and verify data on land claims, ensure informed participation in the SESA process, and have ownership over the final structure for handling grievances related to REDD+ and the FCPF project. The meetings also offered a space to engage key stakeholders in a discussion about different options for grievance redress that could be useful during REDD+ strategy preparation and implementation phases.
41. After a rapid assessment of the stakeholders, the issues, and the capacity DRP recommended establishing a 2-level grievance structure – built in to the existing national governance arrangements for REDD+. The first is at the level of the SESA and/or REDD+ coordinators and creates enhanced accountability and procedures for addressing grievances through day-to-day management. The second is at the level of the national steering committee or the REDD+ Technical Working Group (RTWG) and provides a more independent body for addressing more vexatious issues.
42. The goal of the first tier is to have an individual or office as close to the affected communities as possible that is able to receive and respond to the majority of complaints

related to the REDD+ preparation process. During readiness preparations, the FCPF program does not envisage financing specific forest-land transactions; accordingly the GRM is not expected to resolve transaction-related complaints at this stage. However, the GRM can significantly strengthen the SESA process and policy development, by providing a channel to collect feedback and constructively address complaints from community members and civil society. The second level grievance mechanism would handle those complaints that cannot be addressed at the lower level and which may need more independence for resolution.

43. The process to design a GRM needs to be completed by several additional steps. First, a consultant should be commissioned to explore, together with national stakeholders, the development of institutional arrangements for a sustainable, sector-based grievance mechanism to address complaints and feedback associated with implementation issues that are identified through the SESA process as presenting risks of conflict and disputes for example land allocation, verification, benefit sharing and issues of community consent. It is expected that the SESA consultation process should explore the preliminary 2 tiered option further and come to a final decision on the location(s) for grievance capacity including and how to channel local level feedback into the national policy dialogue. As a result of this work, a GRM manual will be created to outline the policies and processes for the GRM and communicate this to the public. Second, it is necessary to draft a grievance component into the Terms of Reference for the SESA and REDD+ coordinator positions, as well as the national steering committee or RTWG (see attachment 2 for details on responsibilities to be included in the TOR).
44. In short, in the Liberia case, the DRP was able to conduct a rapid assessment of potential conflict issues, key stakeholders and capacity for dispute resolution during their first mission to Liberia. As a result, a two-tiered GRM has been recommended, as an enhancement of existing governance arrangements. This initial assessment and recommendations should be furthered through the SESA process, and thoroughly discussed with relevant national authorities in order to: i) ensure ownership and buy-in; ii) identify a location for the grievance capacity; and iii) define specific grievance procedures. This will result in a GRM manual that will be publicly available at relatively low cost and with high effectiveness.

IX. Topics on Which Further Analysis is Needed:

Recommendations regarding GRM for FCPF at the Corporate Level

The Bank's DRP is in the process of outlining a Bank-wide process for grievance response, thus it is not the intention of this paper to propose a separate or different methodology for the FCPF. Nevertheless, it is necessary to note that FCPF will benefit from further exploring

providing its stakeholders with a channel to provide feedback and express grievances that are not project specific. UNREDD has already announced its intention to provide a Global GRM, confirming that FCPF's peers have already identified the need to offer a channel for non-project specific grievances. Details about this future mechanism are available in Section III and Annex 1.

Some other potential areas:

- 1) Further elaboration on the question how best to integrate project-level and national-level GRMs, which is cited as an option.
- 2) What the key challenges are to effective GRM implementation (recognizing widely varying contexts) and how to overcome them.
- 3) The paper touches on steps for ensuring that incentives are aligned for effective GRM implementation but this question could be developed further.
- 4) Will the GRM work undertaken in readiness phase be sufficient to a need of a specific ER Program?
- 5) Cost of GRM: who would cover such cost of setting up GRM in a country?

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Annex 1- Approaches of major other climate initiatives on this topic

UNREDD¹¹

Detailed Description of the Principles and other aspects of UNREDD Grievance Mechanisms

Principles: Grievance and accountability mechanisms must be based on principles that will enable their success. A mechanism established with the principles of independence, fairness, transparency, professionalism, accessibility, effectiveness, and subsidiarity is more likely to create the necessary trust in the process of the institutions' leadership, staff, operational partners, affected groups, and civil society stakeholders. The process must also be tailored to the institution.

- **Independence:** Independence requires that the mechanism be established and operate without undue influence from the institution's operational decision-makers, States, NGOs or complainants. Independence requires that those who address complaints to the mechanism would be screened and rejected if they have been involved in self-dealing or nepotism; they would recuse themselves if there is an actual or potential conflict of interest.
- **Fairness:** Fairness and objectivity require the mechanism to give equal weight to the arguments of all sides to conduct independent and impartial investigations. The mechanism's procedures should treat all parties fairly, and fairness should be an expectation of all outcomes.
- **Transparency:** The principle of transparency requires public comment and participation in the design and operation of the mechanism, and clear, demonstrable and publicly available rules of procedure. In addition, the mechanism should make public its methods of investigation, factual findings, non-confidential party submissions, and reports via a website and documents publicly available. Transparency also requires that the mechanism make efforts to bring public awareness to its existence and operations.
- **Professionalism:** The mechanism's decision-makers and staff should be expected to comport with international standards of discretion and professionalism; the mechanism should be able to hire consultants to bring specific expertise when needed.

Accessibility: In order to be accessible to affected people, the mechanism should maintain open lines of communications and provide information in languages and formats required to allow the greatest access practicable to affected people. Accessibility also requires that there are no unnecessary barriers to entering the mechanism's processes.

¹¹ Taken from UNREDD. Program Guidelines on Free, Prior and Informed Consent. Draft for Comment -- December 2011 (see Section 5 in Annex 2)

- **Effectiveness:** The mechanism should be evaluated against its effectiveness in objectively evaluating claims from affected communities and in communicating those findings back to the community, the institution, and the public. Effectiveness also requires that the mechanism operate in a timely and responsive manner.
- **Subsidiarity:** Assuming that a fair, effective and objective grievance mechanism is available, grievances should be addressed as close to the administrative level and the mechanism should use indigenous or local dispute-resolution processes whenever possible.
- **Tailored to the Institution:** The mechanism must be designed to take into account the particular features of the institution. The mechanism must be tailored, in this case, to the UN-REDD Programme's (and its agencies') organizational structure, type of operations, legal restrictions, relevant policies, existing accountability framework, and institutional culture.

Information Disclosure: Information disclosure is a key element required to ensure transparency and effectiveness for grievance and accountability mechanisms. Information that should be routinely disclosed includes: basic information and detailed rules of procedure for the compliance review and grievance process; instructions for how to file a complaint; a registry of complaints and their status; any compliance review or disclosable output from any grievance process; and annual reports describing the mechanism's activities.

Outreach: Establishing grievance and accountability mechanisms is only the first step; project-affected people still have to use it—and to use it, they need to know about it. Public outreach thus needs to be an important part of the mechanisms' mandate. Sufficient resources should be made available to ensure that the mechanism can be proactive in educating potential claimants about the compliance review mechanism and grievance processes. Outreach activities could include issuing information brochures and designing websites in multiple languages; ensuring clear website access from the institution's home page; speaking at conferences; meeting with civil society organizations; training staff to publicize the mechanism; and outreach workshops, including at the community level.

UNREDD Accountability at the Global Level: The UN-REDD Program is in the process of developing an accountability mechanism that will address grievances from individuals and communities as well as reports of non-compliance with its guidance and policies. The objectives of such program are:

- To provide an opportunity for hearing and resolving specific grievances of people affected by the UN-REDD Program;
- To provide access to processes that empower and protect the rights and interests of vulnerable groups and afford them greater voice and a fair hearing in the development and implementation of REDD+ strategies and programs;

- To strengthen and promote the use of existing local and national dispute resolution processes; and
- To enhance compliance with environmental and social guidance and policies applicable to the UN-REDD Program.

Specific activities of this Global mechanism are likely to include the following:

- Receiving and determining eligibility of requests;
- Conducting thorough and objective reviews of policy compliance, including in-country inspections, interviews of project-affected people, and comprehensive information gathering to allow a factual determination of the issues raised and a reliable basis for any recommendations made;
- Issuing reports with findings on policy compliance to UN-REDD Programme staff and requesters;
- Issuing draft recommendations for bringing the project into compliance to UN-REDD Programme staff and requesters;
- Receiving comments from, and consulting with, UN-REDD Programme staff, the requesters and host governments on any recommendations;
- Issuing final reports with findings and recommendations;
- Providing support for flexible dispute resolution processes, including third-party mediations, for grievances that are not adequately addressed at the national or project level;
- Monitoring implementation of decisions from the grievance and compliance mechanisms;
- Issuing reports that provide systemic advice based on lessons learned from past cases; and
- Conducting outreach to potentially affected persons explaining UN-REDD Programme grievance and compliance mechanisms.

In terms of next steps, the UN-REDD Program has established an interagency working group to review the policies and procedures for grievance and compliance at FAO, UNDP and UNEP. Following this review, the group will prepare a proposal for establishing a global level accountability mechanism. The proposal will be shared for external consultation and revised based on comments received. The UN-REDD Program is also in the process of developing elaborated guidelines on national-level grievance mechanisms, which will also be shared for external consultation. In the interim, stakeholders may direct grievances to both the UN-REDD Programme Secretariat and the UN Resident Coordinator in country for review and appropriate action, in line with the principles outlined above.

Clean Development Mechanism

The CDM has several mechanisms for stakeholder engagement such as workshops, roundtables, and calls for public inputs. It also offers the possibility for stakeholders to “make a non-case specific request for clarification or feedback to the Board”.

During the call for public input to the CDM Policy Dialogue¹², several groups recommended that the CDM implements a GRM: “A robust grievance mechanism will ensure that those who may be negatively impacted by CDM project activities can raise their concerns and have them addressed in a timely manner.”¹³ The final report, launched in September 2012, recommends establishing independent mechanisms for appeals and grievances in which approvals and rejections can be questioned. Recommendations about the proposed mechanism include:

- i) grounds for appeal should be limited to procedural and substantive issues related to the CDM modalities and processes;
- ii) remedies should include confirming, reversing, and/ or modifying the decision.
- iii) the appellate body should be independent from the CDM Executive Board¹⁴.

Furthermore, the report recommends that the CDM establish a grievance mechanism for local stakeholders to address environmental and social concerns and to facilitate the resolution of issues emerging after the registration of a project, while respecting national sovereignty.

Verified Carbon Standard (VCSA)

Complaints Procedure: VCSA defines a complaint as “an objection to a decision taken by the VCSA or an aspect of how it operates the VCSA Program”. The procedure to file a complaint is:

¹² Process launched in 2011 to make recommendations on how best to position the CDM to respond to future challenges and opportunities.

¹³ CDM WATCH. 2012. Response To Call For Public Inputs On Issues To Be Addressed In The CDM Policy Dialogue. http://cdm.unfccc.int/public_inputs/2011/eb64_02/cfi/FBUK7MLJ68PU78TKMPQJ8CX541KV

¹⁴ CDM. 2012. Climate Change, Carbon Markets And The CDM: A Call To Action. Report of the High-Level Panel on the CDM Policy Dialogue.

- 1) The complaint shall be emailed to secretariat@v-c-s.org. The VCSA shall acknowledge receipt of the complaint. All information submitted by the complainant with respect to the complaint shall be kept confidential.
- 2) The VCSA shall appoint an appropriate person to handle the complaint. This person will analyze it (involving external experts, as required) and determine any appropriate action. The VCSA shall prepare a written response to the complainant.
- 3) Complaints about entities (by the clients of such entities) that provide services under the VCSA Program, such as validation/verification bodies, shall be pursued via the respective entity's complaint procedure. Where the complaint is not resolved to the satisfaction of the complainant the complainant may submit a complaint to the VCSA.
- 4) Where the outcome of a complaint or appeal is to overturn an earlier decision made by the VCSA, the entity filing the complaint will not be liable for covering such expenses.

Appeals Procedure: Where a complaint has not been resolved to the satisfaction of the complainant, as per the process described above, complainants are provided with the following appeals procedure:

- 1) The appeal shall include the complainant's basic information as well as details of including reference to the original complaint. VCSA will keep all information confidential.
- 2) The VCS Board shall prepare a written response and provide this to the appellant, copying in the VCSA CEO. The VCS Board's decision is final and binding.

Annex 2 - Detailed DRP Recommendations for GRM in Liberia

Responsibilities of the SESA co-ordinator and National REDD+ co-ordinator.

Co-ordinators will be responsible for:

1. Being accessible via email, sms, cellphone, in person, and in writing to potential complainants and ensuring that reasonable efforts are made to build culturally-appropriate awareness of opportunities for grievance redress to affected citizens. This should include effective use of public media and information campaigns.
2. Encouraging existing traditional and official administrations. including Community Forest Development Committees to address grievances locally, and to record and report citizen grievances relating to readiness preparations as part of national SESA consultations and participation efforts.
3. Maintaining a grievance database and back-office records of grievances, justification for action taken, timelines, and whether or not grievances are resolved in accordance with standards prescribed in the grievance manual. Preparing monthly or quarterly reports for consideration by the Grievance sub-committee, and with due regard to confidentiality of citizens, ensuring publication of grievance records on a regular basis in order to demonstrate credibility and responsiveness of the program to citizen concerns.
4. Making good-faith efforts to resolve grievances through dialogue, collaboration and, if necessary, by convening ad hoc working groups including the use of professional mediators/neutrals to promote fair and equitable outcomes as part of the dialogue and participation process.
5. Publishing and maintaining a short administrative manual or procedure for grievance redress that provides citizens with a clear understanding of how to lodge complaints and what to expect in terms of response. The procedure should specify key milestones (acknowledgment, communication, actions taken, agreement, escalation (if necessary) and monitoring/conclusion) and provide time limits for each stage.

6. Ensuring that all unresolved grievances are escalated to the Grievance sub-committee for their review in a timely manner.

Responsibilities of the Grievance Sub-Committee

The sub-committee will be made up of independent experts, civil society representatives, government, and the national REDD+ coordinator. A representative from the National Climate Change Committee will chair it. The responsibility of the sub-committee will be to review the performance of the grievance mechanism, publish quarterly reports of progress, and to address on an ad-hoc basis complaints that have escalated beyond the national coordinators. The sub-committee will have the resources and authority to seek reasonable and fair resolutions to complaints.

As part of the national dialogue for readiness preparation, it may use mediation/conciliation as well as facilitation to promote dialogue and collaborative outcomes that feedback into the overall policy development process. In addition, it may request independent technical and legal expertise to ensure that deliberations are well informed and constructive. The sub-committee provides an authoritative process for resolving complaints and disputes and seeks to enhance the credibility or sound functioning of the overall participatory nature of the policy development process. It will seek resolution of complaints within a specified time period and will act decisively in this period to either seek permission from all parties to continue resolution efforts (again with finite time limits), or to close complaints without resolution should that be necessary. The sub-committee will report on its own performance to the public.